

SB

11

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 1/19/99

FURTHER: Finance

Date of 5-Day Notice: 2/1/99
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 2/22/99

Judiciary Committee considered

SENATE BILL NO. 11

"An Act relating to good time credits for prisoners serving sentences of imprisonment for certain murders, attempted murders, or conspiracies to commit murder."

and recommends:

be replaced with _____ CS SB 11 (JUD)

adopt previous _____ CS _____ (_____)

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to the _____ Committee

Senate Bill:

same title
 new title

House Bill:

same title
 technical title
 new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>David Donley</i>	<input checked="" type="checkbox"/>	<i>John Joseph</i>	<input checked="" type="checkbox"/>		
CHAIR: <i>Rick Halford</i>	<input checked="" type="checkbox"/>	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
<i>DOC</i>	<i>2/16</i>	<input checked="" type="checkbox"/>	

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

SB + CS

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. SB 11

Revision Date/Time (Note if correction) _____ 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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

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 (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Senate Bill 11 will reduce the amount of good time credits currently awarded to those offenders who are convicted of murder 1, attempted murder 1, murder 2, or conspiracy to commit murder 1. 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 SB 11 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 2/16/99 4:58 PM
 Approved by Commissioner Margaret M. Pugh *Margaret M. Pugh* Date 2-16-99
 Agency Department of Corrections

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FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. SB 11

Revision Date: _____
 Title: "An Act relating to good time credits for prisoners serving sentences for certain murders..."
 Sponsor: Senator Donley
 Requestor: (S) JUD

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

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						
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 98) 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 degree, attempted first degree murder, or conspiracy to commit first degree murder. 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) 2 4-4414
 Date: _____

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

Date: 2/16/99

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1-LS0148VD
Luckhaupt
2/18/99

CS FOR SENATE BILL NO. 11()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS DONLEY, Leman, Taylor

A BILL

FOR AN ACT ENTITLED

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

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

4 * Section 1. AS 12.55.125(f) is amended to read:

5 (f) If a defendant is sentenced under (a) or (b) of this section,

6 (1) imprisonment for the prescribed minimum or mandatory term may
7 not be suspended under AS 12.55.080;

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

9 (3) imprisonment for the prescribed minimum or mandatory term may
10 not be reduced, except as provided in (j) of this section or AS 33.20.010.

11 * Sec. 2. AS 12.55.125(g) is amended to read:

12 (g) If a defendant is sentenced under (c), (d)(1), (d)(2), (e)(1), (e)(2), (e)(4),
13 or (i) of this section, except to the extent permitted under AS 12.55.155 - 12.55.175,

14 (1) imprisonment may not be suspended under AS 12.55.080;

- 1 (2) imposition of sentence may not be suspended under AS 12.55.085;
2 (3) terms of imprisonment may not be otherwise reduced, except as
3 provided in AS 33.20.010.

4 * Sec. 3. AS 33.20.010(a) is repealed and reenacted to read:

5 (a) Except as otherwise provided in this section, a prisoner convicted of an
6 offense against the state or a political subdivision of the state who follows the rules
7 of the correctional facility in which the prisoner is confined is entitled to a deduction
8 of one-third of the term of imprisonment rounded off to the nearest day if the prisoner

9 (1) was sentenced to a term of imprisonment of at least three days;

10 (2) was not sentenced to a mandatory 99-year term of imprisonment
11 under AS 12.55.125(a) after June 27, 1996, or a definite term under AS 12.55.125(l);
12 and

13 (3) was not convicted after the effective date of this Act of murder in
14 the first or second degree.

15 * Sec. 4. AS 33.20.010 is amended by adding a new subsection to read:

16 (c) A prisoner convicted after the effective date of this Act of murder in the
17 first or second degree who is not sentenced to a mandatory 99-year term of
18 imprisonment under AS 12.55.125(a) or a definite term of imprisonment under
19 AS 12.55.125(l) is entitled to a deduction of the term of imprisonment equal to one-
20 half of the deduction provided to other prisoners under (a) of this section rounded off
21 to the nearest day if the prisoner follows the rules of the correctional facility in which
22 the prisoner is confined.



SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

Sponsor Statement for Senate Bill 11 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 "good time" sentence reduction by one-half for individuals convicted of the most heinous forms of homicide and attempted murder:

- murder in the first degree;
- murder in the second degree;
- attempted murder in the first degree; or
- conspiracy to commit murder in the first 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

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June-December: 716 W. 4TH AVE. • STE. 430 • ANCHORAGE, AK • 99501 • (907) 269-0234 • FAX: (907) 269-0238

Vice-Chair, Senate Finance Committee • Chairman, Capitol Budget Subcommittee •
MEMBER: Senate Judiciary Committee • Senate Labor & Commerce Committee • Legislative C



SENATOR DAVE DONLEY
ALASKA STATE LEGISLATURE

MEMORANDUM

To: Senator Robin Taylor
Chair, Senate Judiciary Committee

From: Senator Dave Donley *DB*

Re: Hearing Request for SB 11 -- "Reducing Good Time Credit for Serious Murders"

Date: February 3, 1999

I request that you schedule Senate Bill 11, an act reducing good time sentence reductions for certain serious murder convictions, for a hearing in your committee.

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.

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.

If you have any questions, please contact James Armstrong of my staff at 3887.

DD/jja

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Produced in House

REQUESTOR'S
STATEMENT

PUBLIC DEFENDER AGENCY
900 W. 5TH AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
264-4400
FAX 269-5476



CONFIDENTIAL !!!
IF RECEIVED IN ERROR PLEASE SEND BACK
IMMEDIATELY TO ADDRESS ABOVE!
THANK YOU .

PLEASE DELIVER THE FOLLOWING PAGES TO:

SENATOR DAVE DONLEY
NAME: SENATOR ROBIN TAYLOR DATE: 2/16/99
SENATOR JOHNNY ELLIS
AGENCY: STATE CAPITOL
TELEPHONE: 465-3892 / 465-3873 FAX: 465-6595
465-3704 / 465-3922
Number of pages sent (including cover sheet) 3 465-2529
FROM: Sue Hedge / BLAIR M'CURIE
AGENCY: PUBLIC DEFENDER
SENDER PHONE: 264-4413

PLEASE CALL ON RECEIPT

Comments: _____

ALASKA PUBLIC DEFENDER AGENCY

900 West Fifth Avenue, Suite 200
Anchorage, Alaska 99501

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FAX

TO: Senator Dave Donley
Alaska State Senate
Fax No.:

Senator Robin Taylor
Alaska State Senate
Chairman, Senate Judiciary Committee
Fax No.:

Senator Johnny Ellis
Alaska State Senate
Fax No.:



FROM: Blair McCune, Deputy Public Defender

RE: SB 11 – Prison Time Credits for Murderers
Senate Judiciary Hearing – Wed, Feb. 17th

DATE: February 15, 1999

=====

The Public Defender has several comments on this bill.

There May Be an Equal Protection Challenge to the Bill

The bill singles out certain offenses such as murder, attempted murder, and conspiracy to commit murder for disparate treatment. Defendants convicted of these offenses will receive only half the good time credits other defendants get.

These are certainly all very serious offenses. Of course, the legislature has the authority to reduce good time awards for more serious offenses if it wants to do so. However, in the past, Alaska courts have found equal protection violations when the legislature has singled out certain offenses rather than classes of offenses.

Good Time Credits Enforce Prison Discipline

Part of the reason for good time credits is to enforce prison discipline and participation in rehabilitative programs. If the current one-third time off for good behavior is reduced, there is less of an incentive for good behavior and participation in rehabilitative programs. Although prison sentences for these defendants are usually very high, the added incentive will be lost.

Prisoners Released Because of Good Time Credits Are Not Released Free and Clear. They Are Released on Conditions To the Jurisdiction of The Parole Board.

The committee should be aware that prisoners who receive more than two years good time credits are not simply released free and clear. They are released on Mandatory Parole to the jurisdiction of the Parole Board and the supervision of a probation officer. The Parole Board can and does place restrictive conditions on these prisoners. Mandatory Parole can be revoked for violations of law, but also for technical violations such using alcohol or drugs or not participating in rehabilitative programs ordered by the Board.

The Mandatory Parole system is a good way of transitioning prisoner who have spent a long time in jail. Prisoners who don't make it often end up serving all their time.

If this bill is enacted, there would be less time for transitioning prisoners who are doing well. Prisoners who are dangerous to public safety, usually end up in jail anyway.

There Will Be a Considerable Fiscal Impact If This Bill Is Passed

Obviously, this bill will result in more time to serve for some of the defendants who already have lengthy sentences. Most sentences for first and second degree murder generally are now running about 60 years to serve. 99 year sentences are being imposed more frequently.

Under current law, a defendant receiving 60 years would receive 20 years of good time credits. Under the bill, the prisoner would receive 10 years resulting in 10 more years jail time.

Obviously, it costs a lot of money to keep someone in jail for 10 years.