

SB

268

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. SB 268

Revision Date: _____
 Title: "An Act relating to mandatory 99-year terms of imprisonment for persons convicted of 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 2001	FY 2002	FY 2 003	FY 2004	FY 2005	FY 2006
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
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						
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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	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 00) cost: \$ -0- _____

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill would mandate a 99-year sentence if the defendant is convicted of first degree murder and personally caused someone's death in the course of a robbery. The mandatory sentence would not apply if the person who is killed was one of the participants in the robbery.

The addition of a mandatory sentence in this type of case is not expected to impact the Public Defender Agency financially.

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: 2/22/00

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FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. SB 268

Revision Date/Time (Note if correction) _____	Dept. Affected <u>Department of Corrections</u>
Title <u>An Act relating to mandatory 99-year terms of imprisonment for persons convicted of certain murders.</u>	BRU <u>Administration and Operations</u>
Sponsor <u>Senator Donley</u>	Component <u>All</u>
Requester <u>Senate Judiciary Committee</u>	Component No. <u>#0694</u>

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
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						
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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 (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

If passed, this legislation will require a mandatory 99 year sentence for those who are convicted of murder in the first degree and personally caused the death of the person during a robbery. This legislation removes judicial discretion in sentencing for this particular crime as well as the offender's eligibility for parole. The result of that will be an increase in geriatric inmates at a dramatic increase in cost for those inmates in the out years.

Current sentencing laws allow for a sentence of twenty to ninety-nine years for murder in the first degree unless the victim was a uniformed or clearly identified peace officer, fire fighter, or correctional employee who was engaged in their official duties at the time of the murder; or has previously been convicted of murder or homicide.

A review of sentencing in the past five years for offenders convicted of both murder in the first and robbery indicate that these individuals are already sentenced beyond 99 years. Therefore the Department of Corrections is submitting a zero fiscal note.

Prepared by: <u>Candy Brower, Legislative Liaison</u>	Phone <u>465-3307</u>
Division <u>Commissioner's Office</u>	Date/Time <u>2/19/00 1:26 PM</u>
Approved by: <u>Commissioner Margaret M. Pugh</u> <i>Margaret M. Pugh</i>	Date <u>2-19-00</u>
Agency <u>Dept. of Corrections</u>	

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

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SENATE COMMITTEE REPORT First Committee of Referral

DATE: 2/11/00

FURTHER: Finance

Date of 5-Day Notice: 2/17/00
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered SENATE BILL NO. 268

"An Act relating to mandatory 99-year terms of imprisonment for persons convicted of certain murders."

and recommends:

- be replaced with _____ CS _____ (_____)
- 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>Rick Halford</i>	✓				
<i>Don Touhy</i>	✓				
CHAIR: <i>Chris L. Taylor</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

ADMINISTRATION	2/22	✓	
CORRECTIONS	2/19	✓	

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

Brinkley, 681 P.2d 351 (Alaska Ct. App. 1984); Cleary v. State, 548 P.2d 952 (Alaska 1976); Salazar v. State, 562 P.2d 694 (Alaska 1977); Cleary v. State, 564 P.2d 374 (Alaska 1977); Amidon v. State, 565 P.2d 1248 (Alaska 1977); Black v. State, 569 P.2d 804 (Alaska 1977); Sumabat v. State, 580 P.2d 323 (Alaska 1978); Hansen v. State, 582 P.2d 1041 (Alaska 1978); Kanipe v. State, 620 P.2d 678 (Alaska 1980); Hintz v. State, 627 P.2d 207 (Alaska 1981); State v. Hooper, 750 P.2d 840 (Alaska Ct. App. 1988).

Inclusion of improper reference to unverified police contacts did not require remand for resentencing before different judge. — See Parks v. State, 571 P.2d 1003 (Alaska 1977).

Reference to unverified police contacts in a presentence report does not require a remand for resentencing where the record indicates that the sentencing judge was not unduly or improperly influenced by reference to the unverified police contacts. Pascoe v. State, 628 P.2d 547 (Alaska 1980).

Case remanded for resentencing. — See Neal v.

State, 628 P.2d 19 (Alaska 1981).

Case remanded for sentence review. — Although a sentence of 15 years' imprisonment with eligibility for parole at the discretion of the parole board upon conviction of manslaughter was not excessive, since the trial court had sentenced defendant as if his conviction had been obtained within one year of the crime and therefore substantially ignored his subsequent history of steady employment, his meritorious service in the army, and his lack of involvement in any criminal activity other than a few traffic offenses in the 12 years since the commission of the crime, the case was remanded for the purpose of permitting the trial court to review the sentence it imposed, in light of all available information concerning defendant without excluding the time period commencing one year from the time of the killing until the present. Padie v. State, 594 P.2d 50 (Alaska 1979).

Cited in Williams v. State, 928 P.2d 600 (Alaska Ct. App. 1996).

Sec. 12.55.125. Sentences of imprisonment for felonies. (a) A defendant convicted of murder in the first degree shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years. A defendant convicted of murder in the first degree shall be sentenced to a mandatory term of imprisonment of 99 years when

(1) the defendant is convicted of the murder of a uniformed or otherwise clearly identified peace officer, fire fighter, or correctional employee who was engaged in the performance of official duties at the time of the murder;

(2) the defendant has been previously convicted of

(A) murder in the first degree under AS 11.41.100 or former AS 11.15.010 or 11.15.020;

(B) murder in the second degree under AS 11.41.110 or former AS 11.15.030; or

(C) homicide under the laws of another jurisdiction when the offense of which the defendant was convicted contains elements similar to first degree murder under AS 11.41.100 or second degree murder under AS 11.41.110; or

(3) the court finds by clear and convincing evidence that the defendant subjected the murder victim to substantial physical torture.

(b) A defendant 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.

(c) A defendant convicted of a class A felony may be sentenced to a definite term of imprisonment of not more than 20 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

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

(2) if the offense is a first felony conviction, other than for manslaughter, and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, or knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, fire fighter, correctional employee, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the offense, seven years;

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

(4) if the offense is a third felony conviction and the defendant is not subject to sentencing under (i) of this section, 15 years.

(d) A defendant convicted of a class B felony may be sentenced to a definite term of imprisonment of not more than 10 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

a 1981).

sentence review. — Al-
years' imprisonment with
he discretion of the parole
manslaughter was not exces-
had sentenced defendant as
obtained within one year of
substantially ignored his
dy employment, his merito-
and his lack of involvement
other than a few traffic
since the commission of the
mandd for the purpose of
t to review the sentence it
ailable information concern-
cluding the time period com-
e time of the killing until the
94 P.2d 50 (Alaska 1979).
ite, 928 P.2d 600 (Alaska Ct.

(a) A defendant con-
term of imprisonment
icted of murder in the
ent of 99 years when
l or otherwise clearly
o was engaged in the

11.15.010 or 11.15.020;
AS 11.15.030; or

offense of which the
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defendant subjected the

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apping, or misconduct
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to a definite term of
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5.155 — 12.55.175:

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manslaughter, and the
used serious physical
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ace officer, fire fighter,
ambulance attendant,
nce of official duties at

lant is not subject to

d to a definite term of
nced to the following
5.155 — 12.55.175:

(1) if the offense is a second felony conviction, four years;

(2) if the offense is a third felony conviction, six years.

(3) [Repealed, § 6 ch 6 SLA 1996.]

(e) A defendant convicted of a class C felony may be sentenced to a definite term of imprisonment of not more than five years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(1) if the offense is a second felony conviction, two years;

(2) if the offense is a third felony conviction, three years.

(3) [Repealed, § 6 ch 6 SLA 1996.]

(4) if the offense is a first felony conviction, and the defendant violated AS 08.54.720(a)(15), one year.

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

(1) imprisonment for the prescribed minimum or mandatory term may not be sus-
pended under AS 12.55.080;

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

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

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

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

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

(3) terms of imprisonment may not be otherwise reduced.

(h) Nothing in this section or AS 12.55.135 limits the discretion of the sentencing judge
except as specifically provided. Nothing in (a) of this section limits the court's discretion
to impose a sentence of 99 years imprisonment, or to limit parole eligibility, for a person
convicted of murder in the first or second degree in circumstances other than those
enumerated in (a).

(i) A defendant convicted of sexual assault in the first degree or sexual abuse of a minor
in the first degree may be sentenced to a definite term of imprisonment of not more than
30 years, and shall be sentenced to the following presumptive terms, subject to
adjustment as provided in AS 12.55.155 — 12.55.175:

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

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

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

(4) if the offense is a third felony conviction and the defendant is not subject to
sentencing under (l) of this section, 25 years.

(j) A defendant sentenced to a (1) mandatory term of imprisonment of 99 years under
(a) of this section may apply once for a modification or reduction of sentence under the
Alaska Rules of Criminal Procedure after serving one-half of the mandatory term without
consideration of good time earned under AS 33.20.010, or (2) definite term of imprison-
ment under (l) of this section may apply once for a modification or reduction of sentence
under the Alaska Rules of Criminal Procedure after serving the greater of (A) one-half of
the definite term or (B) 30 years. A defendant may not file and a court may not entertain
more than one motion for modification or reduction of a sentence subject to this
subsection, regardless of whether or not the court granted or denied a previous motion.

(k) A first felony offender convicted of an offense for which a presumptive term of
imprisonment is not specified under this section may not be sentenced to a term of
unsuspended imprisonment that exceeds the presumptive term for a second felony
offender convicted of the same crime unless the court finds by clear and convincing
evidence that an aggravating factor under AS 12.55.155(c) is present, or that circum-
stances exist that would warrant a referral to the three-judge panel under AS 12.55.165.



SENATOR DAVE DONLEY
ALASKA STATE LEGISLATURE

SPONSOR STATEMENT
SENATE BILL 268

**"AN ACT RELATING TO MANDATORY 99-YEAR TERMS OF IMPRISONMENT
FOR PERSONS CONVICTED OF CERTAIN MURDERS."**

Senate Bill 268 would require those convicted of murder in the first degree to be sentenced to a mandatory term of imprisonment of 99 years when the defendant convicted of the murder personally caused the death of a person, other than a participant, during a robbery.

SB 268 is in direct response to the recent increase in murders of late night restaurant workers and taxi drivers and was introduced at the request of the Alaska Hospitality Association. A clear message needs to be sent to would be robbers who believe it necessary to take another life during a robbery. Any such action is not going to be tolerated by the people of Alaska. The lives of our mothers, daughters, sons and fathers who work these late shifts are too precious for us to stand idly by and watch as this trend continues.

Senate Bill 268 would add this new standard to three existing provisions of law authored by Senator Donley in 1990 that also require the mandatory 99 year sentence when:

- The defendant is convicted of the murder of a uniformed or otherwise clearly identified peace officer, fire fighter or correctional employee who was performing professional duties at the time of the murder;
- The defendant has been previously convicted of a murder in the first degree; or
- The court finds clear and convincing evidence that the defendant subjected the victim to substantial physical torture.

By brutally taking lives during robberies, these offenders have demonstrated their wanton disregard for life. Such people need to know such evil actions will have serious consequences. SB 268 sends a clear message to potential future robbers not to kill.

DD/hm

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

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