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FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSSB85(STA)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Department of Corrections
 Title Good Time Deductions for Sexual Offenses BRU Administration & Operations
 Component _____
 Sponsor Senator French
 Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	0.0	0.0	0.0	*	*	*
Travel	0.0	0.0	0.0	*	*	*
Contractual	0.0	0.0	0.0	*	*	*
Supplies	0.0	0.0	0.0	*	*	*
Equipment	0.0	0.0	0.0	*	*	*
Land & Structures	0.0	0.0	0.0	*	*	*
Grants & Claims	0.0	0.0	0.0	*	*	*
Miscellaneous	0.0	0.0	0.0	*	*	*
TOTAL OPERATING	0.0	0.0	0.0	*	*	*
CAPITAL EXPENDITURES	0.0	0.0	0.0	*	*	*
CHANGE IN REVENUES ()	0.0	0.0	0.0	*	*	*

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	*	*	*
1003 GF Match	0.0	0.0	0.0	*	*	*
1004 GF	0.0	0.0	0.0	*	*	*
1005 GF/Program Receipts	0.0	0.0	0.0	*	*	*
1037 GF/Mental Health	0.0	0.0	0.0	*	*	*
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	*	*	*
TOTAL	0.0	0.0	0.0	*	*	*

Estimate of any current year (FY2003) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

The Department of Corrections does not expect additional costs as a result of changes to sentencing in SB 85 in the first three years after enactment. For years beyond FY 07, there may be a cost to the department due to the increase in the length of sentences and the elimination of good time deductions for repeat sexual offenders, but it cannot be determined with any precision. Please see attached.

Prepared by: Jerry D. Burnett, Director Phone 465-3339
 Division: Administrative Services Date/Time 4/29/03 11:41 AM
 Approved by: Portia C.K. Parker, Deputy Commissioner Date 4/29/2003
 Agency: Department of Corrections

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. CSSB 85(STA)

ANALYSIS CONTINUATION

In an attempt to determine the potential impact on the Department of Corrections (DOC), the DOC Research Section researched the re-offend rate of sex offenders in the department's custody. The research section reported that there were 727 sex offenders in the department's custody on April 2, 2003.

Number of the 727 sex offenders who are repeat offenders (in the department's custody for any reason previously):

- In DOC custody on a sex offense	727	100%
- In DOC previously and released at some point	581	80%
- Average number of times sex offender admitted to DOC (up to 11/11/2001)	6.24 times	
- Percent admitted to DOC 10 or more times (581= 100%)	302	52%

Major offenses committed when admitted to DOC (by the 727 sex offenders in custody on 04/02/03):

- Parole/Probation/Court violations, etc.	25%
- All sex offenses (sex assault/abuse/etc.)	15%
- All alcohol (DUI/Minor Consuming/etc.)	13%
- All Assaults	16%
- Theft/Burglary/Larceny/Robbery	11%
- All traffic	5%
- All Other	15%

Given the high level of recidivism for all offenses among this group of sex offenders, it is likely that many of the inmates who would receive a longer sentence under the provisions of SB 85 already would spend a significant portion of that time in prison for some charge regardless of passage of this legislation. Keeping this group of sex offenders in prison for longer periods for a single crime, and thus incarcerated in lower cost, long-term facilities, may reduce or contain costs for booking/intake, inmate transportation and may help contain increasing demands for pre-trial bed space.

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 2/26/03

FURTHER: Judiciary

Date of 5-Day Notice: 4/2/03
 (in accordance with Uniform Rule 23)

DATE TURNED IN TO OFFICE: 4/11/03

State Affairs Committee considered SENATE BILL NO. 85

SB 85 REPEAT SERIOUS SEX OFFENSES

"An Act relating to sentencing and to the earning of good time deductions for certain sexual offenses."

and recommends:

- be replaced with _____ CS SB85 (STA)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

- Senate Bill:**
 same title
 new title
- House Bill:**
 same title
 technical title
 new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DOC	4/1/03		✓	1
DOL	4/2/03		✓	2

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
CHAIR: <i>[Signature]</i>	✓			

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB85
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Department of Corrections
 Title Good Time Deductions BRU Administration & Operations
for Sexual Offenses Component _____
 Sponsor Senator French Component No. _____
 Requester _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1007 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

While this legislation has the potential to result in additional incarceration of inmates, it is not possible for the Department to quantify the number of additional inmates in the first five years. We believe that the number would be small. The longer term sentences contained in SB 85 may result in the need for additional bed space in the correctional system 5-20 years in the future and beyond. Again, it is not possible for the Department to define the numbers of additional beds required in the future as this legislation may result in changes in law enforcement, judicial or offender behavior in the long run.

Prepared by: Jerry D. Burnett, Director
 Division: Administrative Services
 Approved by: Portia C.K. Parker, Deputy Commissioner
 Agency: Department of Corrections

Phone 465-3339
 Date/Time 4/1/03 2:27 PM
 Date 4/1/2003

SPONSOR STATEMENT – CS SB 85 ()

An Act relating to sentencing and to the earning of good time deductions for certain sexual offenders

SB 85 – “An Act relating to sentencing and the earning of good time deductions for certain sexual offenders” addresses a pressing public safety issue in Alaska. Our state has long had one of the highest rates of reported rapes per capita in the nation, ranking first among all states for 19 of the last 26 years, including 2001. It is time to do something about this undistinguished -- and shameful -- rating and to provide additional protection for Alaska’s women and children, the most frequent victims of sexual crimes. SB 85 addresses this issue by focusing on the worst of the worst – repeat sexual offenders, those who have been convicted of a sex offense and subsequently commit another sexual crime.

CS SB 85 () has two purposes: first, to increase the penalties for repeat sex offenders and, second, to add repeat sexual offenders to the list of those who are not eligible to earn a “good time” reduction of their terms.

SB 85 is designed to treat repeat sex offenders differently from other repeat felons. Research has shown that sexual offenders are not like other offenders. As noted in a National Institute of Justice (NIJ) research report on managing adult sex offenders, sex crimes flourish in secrecy. Many offenders are otherwise highly functioning and use their social skills to commit their crimes and to manipulate both victims and criminal justice officials. Offenders are often very accomplished at presenting a facade designed to hide the truth about themselves. Many sex offenders commit a wide range and large number of sexually deviant acts during their lives and show a continued propensity to offend. The NIJ study concludes that adult offenders who commit sex crimes should be managed, treated, and supervised differently from other criminals.

Current statutory guidelines in Alaska, however, treat all two-time felons as though they were the same, that is, all prior felony convictions are given equal weight when an individual is sentenced on a new offense. For example, a judge sentencing a person convicted of a second forgery or a second sexual offense has to operate under the same sentencing guidelines. SB 85 establishes a separate, and more stringent, set of sentencing guidelines for those who commit second or

subsequent sexual offenses or commit a sexual felony after a prior felony conviction.

The other proposed change in the law in CS SB 85 () is to add repeat sexual offenders to the list of those who are not eligible to earn “good time” or a reduction in their prison terms for good behavior. Under current law, most prisoners, including sexual offenders, can earn a one-third reduction of their sentences for good behavior. CS SB 85 () would require repeat sexual offenders to serve the full length of their sentences; they would not be eligible for parole.

By increasing sentences for repeat sexual offenses and actual time served for these offenses, SB 85 will help to protect Alaska’s women and children from some of the most heinous crimes against them, sexual felonies.

I urge your support of this legislation.

Senator Hollis French
April 6, 2003

SECTIONAL ANALYSIS -- CS SB 85 ()

An Act relating to sentencing and to the earning of good time deductions for certain sexual offenses

- Section 1** Amends AS 12.55.12(c) to bring it into conformance with the new AS 12.55.125(i) enacted by this bill.
- Section 2** Amends AS 12.55.12(d) to bring it into conformance with the new AS 12.55.125(i) enacted by this bill.
- Section 3** Amends AS 12.55.12(e) to bring it into conformance with the new AS 12.55.125(i) enacted by this bill.
- Section 4** Corrects a reference to a subsection repealed in earlier legislation.
- Section 5** Establishes a separate, and more stringent, sentencing schedule for individuals convicted of "sexual felonies" (see below, Section 9). Increases maximum term for first offenses. Establishes new maximum and presumptive sentences (see Attachment A) for conviction of a second or subsequent sexual felony. Under current law, sentencing for a second felony, whether it is sexual felony or another type of felony, is controlled by the same statutory requirements for maximum and presumptive sentences.
- Section 6** Provides guidelines on how to consider prior convictions in Alaska or other jurisdictions when imposing sentences.
- Section 7** Corrects a reference to a subsection repealed in earlier legislation.
- Section 8** Corrects a reference to a subsection repealed in earlier legislation.
- Section 9** Provides a definition for "sexual felony."
- Section 10** Adds repeat sexual felons to the list of those not eligible for a "good time" reduction in their term of imprisonment.
- Section 11** Establishes that the provisions of the bill are applicable to sentencings and calculation of "good time" for offenses committed on or after the effective date of the Act.

Sentencing Guidelines for Repeat Sexual Offenders

Current Law and CS SB 85 () Proposal

CRIME	UNCLASSIFIED FELONIES	CLASS A FELONIES	CLASS B FELONIES	CLASS C FELONIES
	Sexual Assault 1 Sexual Abuse of Minor 1	Attempted Sexual Assault 1 Attempted Sexual Abuse of Minor 1	Sexual Assault 2 Sexual Abuse of Minor 2	Sexual Assault 2 Sexual Abuse of Minor 3
CURRENT LAW PRESUMPTIVE SENTENCES				
First felony offense	8	5	1 to 4	0
One prior felony	15	10	4	2
Two prior felonies	25	15	6	3
MAXIMUM SENTENCE	30	20	10	5
PROPOSAL PRESUMPTIVE SENTENCES				
First felony offense	8	5	1 to 4	0
One prior felony	15	10	5	2
One prior sex felony	20	15	10	3
Two prior felonies	25	15	10	3
Two prior sex felonies	30	20	15	6
MAXIMUM SENTENCE	40	30	20	10

SITKANS AGAINST FAMILY VIOLENCE

P.O. Box 6136 • Sitka, Alaska 99835
(907) 747-3370 • Fax 747-3450 • Crisis Line 1-800-478-6511



April 10, 2003

Senator French
Room 504
State Capitol Building
Juneau AK 99801

Dear Senator French:

I am writing to support SB85. We have learned that repeat sex offenders are very likely to continue to offend. I applaud your efforts to increase jail time for repeat sex offenders. Being raped causes so many scares and is such a trauma. It takes years of healing and never is forgotten. I support this bill in hopes that there will be fewer victims.

In Sitka SAFV is part of the Sexual Assault Response Team. We know only too well the trauma that victims experience and the struggle they have in reclaiming their lives. These crimes need to be responded to in a very serious manner and this bill address that.
Thank you

Sincerely,

A handwritten signature in cursive script that reads "Grace Brooks".

Grace Brooks
Executive Director

cc: Senator Gary Stevens ✓
Senator Cowdry
Senator Dyson
Senator Guess
Senator Hoffman



Member of the Alaska Network on Domestic Violence and Sexual Assault
United Way Member Agency

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 85
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title "An Act relating to sentencing and to the earning BRU Criminal Division
of good time deductions for certain sexual offenses." Component All
 Sponsor Senator French
 Requester Senate State Affairs Committee Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
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--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This bill increases the presumptive sentences and decreases the amount of good time that may be earned during imprisonment for persons convicted of certain felony sexual offenses.

Passage of this legislation is not anticipated to have a fiscal impact on the Department of Law.

Prepared by: Joan M. Kasson Phone (907) 465-5370
 Division: Attorney General's Office Date/Time 4/2/03 1:07 PM
 Approved by: Kathryn Daughetee for Gregg D. Renkes, Attorney General Date 4/2/2003
 Agency: Department of Law

23-LS0512AS
Luckhaupt
4/8/03

CS FOR SENATE BILL NO. 85()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS FRENCH, Ben Stevens, Dyson, Bunde, Guess, Ellis, Elton, Lincoln, Davis

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to sentencing and to the earning of good time deductions for certain**
2 **sexual offenses."**

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

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

5 (c) Except as provided in (i) of this section, a [A] defendant convicted of a
6 class A felony may be sentenced to a definite term of imprisonment of not more than
7 20 years, and shall be sentenced to the following presumptive terms, subject to
8 adjustment as provided in AS 12.55.155 - 12.55.175:

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

11 (2) if the offense is a first felony conviction

12 (A) other than for manslaughter and the defendant possessed a
13 firearm, used a dangerous instrument, or caused serious physical injury during
14 the commission of the offense, or knowingly directed the conduct constituting

1 the offense at a uniformed or otherwise clearly identified peace officer, fire
2 fighter, correctional employee, emergency medical technician, paramedic,
3 ambulance attendant, or other emergency responder who was engaged in the
4 performance of official duties at the time of the offense, seven years;

5 (B) for manslaughter and the conduct resulting in the
6 conviction was knowingly directed towards a child under the age of 16, seven
7 years;

8 (C) for manslaughter and the conduct resulting in the
9 conviction involved driving while under the influence of an alcoholic
10 beverage, inhalant, or controlled substance, seven years;

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

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

14 * Sec. 2. AS 12.55.125(d) is amended to read:

15 (d) Except as provided in (i) of this section, a [A] defendant convicted of a
16 class B felony may be sentenced to a definite term of imprisonment of not more than
17 10 years, and shall be sentenced to the following presumptive terms, subject to
18 adjustment as provided in AS 12.55.155 - 12.55.175:

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

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

21 [(3) REPEALED]

22 * Sec. 3. AS 12.55.125(e) is amended to read:

23 (e) Except as provided in (i) of this section, a [A] defendant convicted of a
24 class C felony may be sentenced to a definite term of imprisonment of not more than
25 five years, and shall be sentenced to the following presumptive terms, subject to
26 adjustment as provided in AS 12.55.155 - 12.55.175:

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

28 (2) if the offense is a third felony conviction, three years; [.]

29 (3) [REPEALED]

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

1 * Sec. 4. AS 12.55.125(g) is amended to read:

2 (g) If a defendant is sentenced under (c), (d)(1), (d)(2), (e)(1), (e)(2), (e)(3)
3 [(e)(4)], or (i) of this section, except to the extent permitted under AS 12.55.155 -
4 12.55.175,

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

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

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

8 * Sec. 5. AS 12.55.125(i) is amended to read:

9 (i) A defendant convicted of

10 (1) sexual assault in the first degree or sexual abuse of a minor in the
11 first degree may be sentenced to a definite term of imprisonment of not more than 40
12 [30] years [,] and shall be sentenced to the following presumptive terms, subject to
13 adjustment as provided in AS 12.55.155 - 12.55.175:

14 (A) [(1)] if the offense is a first felony conviction and does not
15 involve circumstances described in (B) [(2)] of this paragraph
16 [SUBSECTION], eight years;

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

20 (C) [(3)] if the offense is a second felony conviction and does
21 not involve circumstances described in (D) of this paragraph, 15 years;

22 (D) if the offense is a second felony conviction and the
23 defendant has a prior conviction for a sexual felony, 20 years;

24 (E) [(4)] if the offense is a third felony conviction and the
25 defendant is not subject to sentencing under (F) of this paragraph or (l) of
26 this section, 25 years;

27 (F) if the offense is a third felony conviction, the defendant
28 is not subject to sentencing under (l) of this section, and the defendant has
29 two prior convictions for sexual felonies, 30 years;

30 (2) attempt, conspiracy, or solicitation to commit sexual assault in
31 the first degree or sexual abuse of a minor in the first degree may be sentenced to

1 a definite term of imprisonment of not more than 30 years and shall be sentenced
2 to the following presumptive terms, subject to adjustment as provided in
3 AS 12.55.155 - 12.55.175:

4 (A) if the offense is a first felony conviction and does not
5 involve circumstances described in (B) of this paragraph, five years;

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

9 (C) if the offense is a second felony conviction and does not
10 involve circumstances described in (D) of this paragraph, 10 years;

11 (D) if the offense is a second felony conviction and the
12 defendant has a prior conviction for a sexual felony, 15 years;

13 (E) if the offense is a third felony conviction, does not
14 involve circumstances described in (F) of this paragraph, and the
15 defendant is not subject to sentencing under (I) of this section, 15 years;

16 (F) if the offense is a third felony conviction, the defendant
17 is not subject to sentencing under (I) of this section, and the defendant has
18 two prior convictions for sexual felonies, 20 years;

19 (3) sexual assault in the second degree, sexual abuse of a minor in
20 the second degree, unlawful exploitation of a minor, or distribution of child
21 pornography may be sentenced to a definite term of imprisonment of not more
22 than 20 years and shall be sentenced to the following presumptive terms, subject
23 to adjustment as provided in AS 12.55.155 - 12.55.175:

24 (A) if the offense is a second felony conviction and does not
25 involve circumstances described in (B) of this paragraph, five years;

26 (B) if the offense is a second felony conviction and the
27 defendant has a prior conviction for a sexual felony, 10 years;

28 (C) if the offense is a third felony conviction, does not
29 involve circumstances described in (D) of this paragraph, 10 years;

30 (D) if the offense is a third felony conviction, and the
31 defendant has two prior convictions for sexual felonies, 15 years;

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(4) sexual assault in the third degree, incest, indecent exposure in the first degree, possession of child pornography, or attempt, conspiracy, or solicitation to commit sexual assault in the second degree, sexual abuse of a minor in the second degree, unlawful exploitation of a minor, or distribution of child pornography, 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) if the offense is a second felony conviction and does not involve circumstances described in (B) of this paragraph, two years;

(B) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, three years;

(C) if the offense is a third felony conviction and does not involve circumstances described in (D) of this paragraph, three years;

(D) if the offense is a third felony conviction and the defendant has two prior convictions for sexual felonies, six years.

* Sec. 6. AS 12.55.145(a) is amended to read:

(a) For purposes of considering prior convictions in imposing sentence under

(1) AS 12.55.125(c), (d)(1), (d)(2), (e)(1), or (e)(2)[, OR (i).]

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

(B) a conviction in this or another jurisdiction of an offense having elements similar to those of a felony defined as such under Alaska law at the time the offense was committed is considered a prior felony conviction;

(C) two or more convictions arising out of a single, continuous criminal episode during which there was no substantial change in the nature of the criminal objective are considered a single conviction unless the defendant was sentenced to consecutive sentences for the crimes; offenses committed while attempting to escape or avoid detection or apprehension after the commission of another offense are not part of the same criminal episode or

1 objective;

2 (2) AS 12.55.125(l),

3 (A) a conviction in this or another jurisdiction of an offense
4 having elements similar to those of a most serious felony is considered a prior
5 most serious felony conviction;

6 (B) commission of and conviction for offenses relied on as
7 prior most serious felony offenses must occur in the following order:
8 conviction for the first offense must occur before commission of the second
9 offense, and conviction for the second offense must occur before commission
10 of the offense for which the defendant is being sentenced;

11 (3) AS 12.55.135(g),

12 (A) a prior conviction may not be considered if a period of five
13 or more years has elapsed between the date of the defendant's unconditional
14 discharge on the immediately preceding offense and commission of the present
15 offense unless the prior conviction was for an unclassified or class A felony;

16 (B) a conviction in this or another jurisdiction of an offense
17 having elements similar to those of a crime against a person or a crime
18 involving domestic violence is considered a prior conviction;

19 (C) two or more convictions arising out of a single, continuous
20 criminal episode during which there was no substantial change in the nature of
21 the criminal objective are considered a single conviction unless the defendant
22 was sentenced to consecutive sentences for the crimes; offenses committed
23 while attempting to escape or avoid detection or apprehension after the
24 commission of another offense are not part of the same criminal episode or
25 objective;

26 (4) AS 12.55.125(i),

27 (A) a conviction in this or another jurisdiction of an offense
28 having elements similar to those of a sexual felony is a prior conviction for
29 a sexual felony;

30 (B) a felony conviction in another jurisdiction making it a
31 crime to commit any lewd and lascivious act upon a child under the age of

1 16 years, with the intent of arousing, appealing to, or gratifying the sexual
2 desires of the defendant or the victim is a prior conviction for a sexual
3 felony;

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

11 * Sec. 7. AS 12.55.155a is amended to read:

12 (a) If a defendant is convicted of an offense and is subject to sentencing under
13 AS 12.55.125(c), (d)(1), (d)(2), (e)(1), (e)(2), (e)(3) [(e)(4)], or (i) and

14 (1) the presumptive term is four years or less, the court may decrease
15 the presumptive term by an amount as great as the presumptive term for factors in
16 mitigation or may increase the presumptive term up to the maximum term of
17 imprisonment for factors in aggravation;

18 (2) the presumptive term of imprisonment is more than four years, the
19 court may decrease the presumptive term by an amount as great as 50 percent of the
20 presumptive term for factors in mitigation or may increase the presumptive term up to
21 the maximum term of imprisonment for factors in aggravation.

22 * Sec. 8. AS 12.55.165(a) is amended to read:

23 (a) If the defendant is subject to sentencing under AS 12.55.125(c), (d)(1),
24 (d)(2), (e)(1), (e)(2), (e)(3) [(e)(4)], or (i) and the court finds by clear and convincing
25 evidence that manifest injustice would result from failure to consider relevant
26 aggravating or mitigating factors not specifically included in AS 12.55.155 or from
27 imposition of the presumptive term, whether or not adjusted for aggravating or
28 mitigating factors, the court shall enter findings and conclusions and cause a record of
29 the proceedings to be transmitted to a three-judge panel for sentencing under
30 AS 12.55.175.

31 * Sec. 9. AS 12.55.185 is amended by adding a new paragraph to read:

1 (17) "sexual felony" means sexual assault in the first degree, sexual
2 abuse of a minor in the first degree, sexual assault in the second degree, sexual abuse
3 of a minor in the second degree, unlawful exploitation of a minor, distribution of child
4 pornography, sexual assault in the third degree, incest, indecent exposure in the first
5 degree, possession of child pornography, and felony attempt, conspiracy, or
6 solicitation to commit those crimes.

7 * Sec. 10. AS 33.20.010(a) is amended to read:

8 (a) Notwithstanding AS 12.55.125(f)(3) and 12.55.125(g)(3), a prisoner
9 convicted of an offense against the state or a political subdivision of the state and
10 sentenced to a term of imprisonment that exceeds three days is entitled to a deduction
11 of one-third of the term of imprisonment rounded off to the nearest day if the prisoner
12 follows the rules of the correctional facility in which the prisoner is confined. A
13 prisoner is not eligible for a good time deduction if the prisoner has been sentenced
14 [TO A]

15 (1) to a mandatory 99-year term of imprisonment under
16 AS 12.55.125(a) after June 27, 1996; [OR]

17 (2) to a definite term under AS 12.55.125(l); or

18 (3) for a sexual felony under AS 12.55.125(i) and has one or more
19 prior sexual felony convictions as determined under AS 12.55.145(a)(4).

20 * Sec. 11. The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 APPLICABILITY. (a) The changes made to AS 12.55.125 and 12.55.145 by this Act
23 apply to sentencings for offenses committed on or after the effective date of this Act. All
24 references to prior or previous convictions in AS 12.55.125 and 12.55.145, as amended by
25 this Act, apply to convictions occurring before, on, or after the effective date of this Act.

26 (b) The changes made to the earning of good time deductions under AS 33.20.010
27 apply to offenses occurring on or after the effective date of this Act. References to prior
28 convictions under AS 33.20.010(a) apply to offenses occurring before, on, or after the
29 effective date of this Act.

CHANGES FROM SB 85 TO CS SB 85 ()
[Work Draft ; 23-LS0512\S, Luckhaupt, 4/8/03]

1. p. 3, line 31 – delete “attempted”
2. p. 4, line 8 – add “serious” before “physical”
3. p. 4, line 25 -- replace “four” with “five”
4. p. 4, line 29 – replace “six” with “ten”
5. p. 8, lines 7-22 – replace with new Section 10, p. 9 , lines 7-19

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OPINION

COMPASS: Points of view from the community

Get tough with repeat offenders

By SEN. HOLLIS FRENCH

Like most Alaskans, I am proud of our state. However, a recent news article disturbed me. The article reported that the rates of sex assault in Anchorage, and in Alaska as a whole, are among the highest in the nation. Since 1976, the state has ranked in the top five in the nation for reported rapes per capita.

I got to thinking about that and the question I kept coming back to is this: What am I going to say to the people of my district and the people of this state when I am rightly asked, "What did you do to stop this?" Did I help to strengthen the laws? Did I raise the community's awareness? Did I help get money for a shelter or help fund a study that would look at the pattern of the cases?

We can't go on leading the nation in sex assault. I feel ashamed about that. We must use all our power to get our rates down and keep them down.

Gov. Murkowski promised during the campaign and in his State of the State address to get tough on crime. I welcome the governor's attitude. I would encourage him to focus on the truly bad actors in the criminal justice system — on the individuals who, in just a few minutes of outrageous behavior, can inflict a lifetime of damage on a victim.

I have three proposals.

First, we must strengthen the laws on repeat sex offenders. We must carefully target those individuals who have been convicted of sex crimes in the past, and when they commit another sex crime we must



There's no Democratic way to feel about this, nor is there a Republican way to feel. There's only one way to feel, and that's outraged.

hammer them and hammer them hard.

The law as it stands treats all repeat felons the same. For example, if you commit a sex assault, do your prison time and upon release commit another sex assault, the law treats that first conviction as if it were the same as stealing a car or forging a check. All two-time felons are the same, according to the law. I would argue, however, that a two-time rapist is different. A two-time rapist needs to spend a long time in a small place where he can't hurt anyone else. I'll be proposing a change to the sentencing laws to deal with these hard-core repeat offenders.

My second idea jelled when I read about Carlos Rodriguez, who was released from prison recently. Rodriguez made his criminal career enticing young boys 12 to 14 years old with drugs and alcohol, then forcing sex on them. Most were too ashamed to go to the police. Several of his victims committed suicide over the years. Now Rodriguez is out of prison and in the care of an overworked parole officer.

Back in 1983, when he was convicted, Rodriguez was sentenced to 24 years in prison. So 1983 plus 24 should equal 2007.

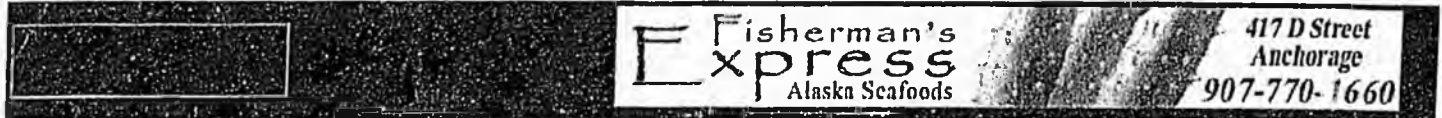
Why was he released early? Good time. Prisoners earn good time for obeying the rules in prison. Good time is why Carlos Rodriguez is out on the streets. Repeat sex offenders should not get the same good time reduction as other repeat offenders.

We also need to know state-wide what has been proposed to provide demographic information about rape victims and offenders in Anchorage and to provide more details about the actual assaults. The same questions should be researched statewide.

The overwhelming majority of sex assaults committed in this state are inflicted upon women and children. There's no political angle to this subject. There's no Democratic way to feel about this, nor is there a Republican way to feel. There's only one way to feel, and that's outraged.

Please join me in sharing that feeling of outrage. Please join me in supporting legislation and funding to address Alaska's problems in this area. Always, we must lead the nation in sex assaults. This is one area in which every Alaskan would be proud to be in last place.

Sen. Hollis French represents District M in Anchorage.



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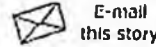
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TOP ALASKA STORIES

Local rape rates are increasing

ANCHORAGE: City had 5th highest number of reported sexual assaults in nation.

By Tataboline Brant
Anchorage Daily News
(Published: February 15, 2003)

Anchorage had the fifth highest rate of reported rape among 274 metropolitan areas in the United States, according to 2001 statistics released Friday by city officials.

The numbers are based on the FBI's 2001 Uniform Crime Reports and were condensed into a report by the SAFE City Program, part of the Municipality's Department of Health and Human Services.

Anchorage police presented the statistics, along with some of their own, on Thursday to the Alaska Native Women's Sexual Assault Committee, a volunteer task force that meets monthly. The committee had asked police to make the presentation, said committee member Karen Lee, program director for the Alaska Native Justice Center.

What they heard was alarming, she said: "We were surprised to see such a dramatic increase over the last three years."

According to Anchorage police statistics, the number of reported rapes in Anchorage per 100,000 population has been on the rise in recent years after dropping to 59.5 in 1999. It climbed to 75.2 in 2000 and 81.3 in 2001. That put the city fifth behind Rapid City, S.D.; Bremerton, Wash.; Panama City, Fla.; and Benton Harbor, Mich., according to SAFE City statistics.

The 2002 rate is not yet tabulated, but police told committee members they expect another increase, Lee and others said.

Rape is not a new problem in Alaska. Since 1976, the state has ranked in the top five states in the nation for the highest rate of reported rape per capita, according to SAFE City statistics. For 19 out of the last 26 years -- including 2001 -- Alaska ranked highest in the nation, SAFE's numbers show.

Anchorage Assemblywoman Anna Fairclough, executive director of STAR, Standing Together Against Rape, said she wasn't surprised that the state ranked highest in 2001.

"We've always known at STAR that we have held the No. 1 spot," she said.

What was alarming were the statistics about Anchorage, Fairclough said. When you look at the overall rate for major crimes in the city -- homicide

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when you look at the overall rate for major crimes in the city -- homicide, rape, burglary, aggravated assault, theft, robbery -- Anchorage looks like a pretty safe place to live compared with the rest of the nation. But look at the rape category alone and Anchorage "just screeches to the top," she said.

Fairclough did not know what may have caused the rate of reported rapes in Anchorage to rise in the last few years: "It would be a guess as to why."

Committee members Lee and Denise Morris, president of the Alaska Native Justice Center, said they too could only speculate on why the numbers have gone up.

The Alaska Native Women's Sexual Assault Committee was formed in 1999, after police released statistics indicating that more than 50 percent of the reported cases of sexual assault occurring in Anchorage had been reported by Alaska Native women, Morris said. Perhaps the committee had something to do with why the rates rose in 2000 and 2001, Lee said. "What happens sometimes when you bring awareness is people feel empowered to report," she said. "But that's only one scenario."

The committee will continue to study the issue and try to come up with solutions, said Morris, the committee chair. The task force already does "meet and greet" campaigns about three times a year, targeting Alaska Native women, Morris said. It hands out literature about how to stay safe.

"I think there's more that could be done," Morris said.

SAFE City wants to do a comprehensive study on sexual assaults in Anchorage, said Rhonda Grove, a statistical analyst with the program.

Funding for the study has not yet been secured, but officials already have plans to develop the methods for the study in the next year, she said.

The study would likely provide demographic information about rape victims and offenders and more details about the actual assaults, among other things, she said, which could be used to fight the problem.

Reporter Tataboline Brant can be reached at tbrant@adn.com and 907-257-4321.