

Payment of
funds to Benny
Benson.

Section 2. The sum hereby appropriated be paid by the Treasurer of the Territory of Alaska to the said Benny Benson.

Repealed.

Section 2. Sections 3, 4, 5 and 6, of Chapter 51, of the Session Laws of Alaska, 1929, are hereby repealed.

Emergency.

Section 3. An emergency is hereby declared to exist and this Act shall take effect immediately upon its passage and approval.

Approved March 8, 1939.

CHAPTER 53.

AN ACT

[H. B. 18]

To define an habitual criminal, and prescribing punishment for persons being such.

Be it enacted by the Legislature of the Territory of Alaska:

Habitual
criminals
defined.

Section 1. Every person convicted within this Territory of petty larceny or a misdemeanor wherein fraud or intent to defraud is an element, who, subsequently to the passage and approval of this Act, has been three times convicted in this Territory, or elsewhere, of such an offense as would come within the provisions of Sections 4796, 4797, 4799, 4800, 4801, 4802, 4805, 4812, 4813, 4843, 4846, of C. L. A. 1933, shall be adjudged an habitual criminal and must be sentenced to imprisonment in the penitentiary for a term of not less than three nor more than ten years.

Penalty for
misdemeanors.

Section 2. Every person convicted within the Territory of Alaska of a felony, who has previously been

Habitual
criminals
defined.

convicted of felony, within the Territory of Alaska or elsewhere, shall be punished as follows:

If the felony whereof such person is convicted would be punishable by imprisonment for any term less than his natural life, and such person has previously been convicted of one felony, then such person shall be sentenced to imprisonment in the penitentiary for not more than twice the longest term, prescribed for the felony whereof such person is convicted. ^{Penalty for felonies.}

If such person has previously been convicted of two felonies, then such person shall be sentenced to imprisonment in the penitentiary for not more than twice the longest term, herein prescribed for a second conviction of felony. ^{Penalty for two felonies.}

And if such person has previously been convicted of three or more felonies, then on the fourth conviction such person shall be adjudged an habitual criminal and sentenced to imprisonment in the penitentiary for the term of his natural life. ^{Penalty for three felonies.}

Section 3. In all cases where sentence provided by this Act is imposed, the crime charged shall be prosecuted by indictment; and the fact of previous conviction or convictions shall be alleged in such indictment sufficiently to show the nature and grade of the crime whereof such person is alleged to have been previously convicted, and the time and place of such previous conviction. The original final judgment, docket entries or record of conviction of any court of the United States, or of any State or Territory, or a copy thereof authenticated in accordance with the provisions of Section 2930 Compiled Laws of Alaska for 1933, shall be conclusive proof that the crime therein stated was committed, and that the person therein named was convicted thereof; and upon such proof being received in evidence the only fact in issue with respect to such ^{Conclusive proof of prior convictions.}

previous conviction or convictions shall be whether the person on trial is the same person alleged and so shown to have been previously convicted, which fact shall be determined by the jury, except on a plea of guilty, or on confession by the accused that he is the person alleged to have been previously convicted.

Evidence to
identify accused.

Section 4. The accused may be shown to be the same person previously convicted by any competent evidence; and for the purpose of showing or identifying the accused as the person previously convicted, the following is hereby declared competent, but not exclusive, evidence thereof:

Original
judgments.

(a) Original judgments, docket entries, records of convictions and commitments of any court of the United States or of any State or Territory; or by copy thereof certified in accordance with the provisions of Section 2930, Compiled Laws of Alaska for 1933 by any such court, or by any officer, person or warden in whose custody the originals thereof may be.

Photographs and
fingerprints.

(b) Original photographs and fingerprints of the person previously convicted, taken in connection with the arrest, trial, conviction, commitment or imprisonment of such person; or by copy thereof certified in accordance with the provisions of Section 2930, Compiled Laws of Alaska for 1933 by any court, officer, person or warden in whose custody the originals thereof may be.

Other
documents.

(c) Any other written, printed or photographed document, matter or thing taken, used or received in evidence in connection with the arrest, trial, conviction, commitment or imprisonment of the person previously convicted, and tending to identify the person previously convicted; or by copy thereof certified in accordance with the provisions of Section 2930, Compiled Laws of Alaska for 1933 by any court, officer, person or warden in whose custody the original thereof may be.

Section 5. If at any time, either before conviction or while sentence is effective, it shall appear that a person convicted of misdemeanor or felony with the Territory of Alaska has previously been convicted, and has not been charged thereof as herein provided, the District Attorney of the Judicial Division of the Territory in which such conviction was had may file an information in the District Court of such Division accusing said person of such previous conviction or convictions. Whereupon, the court in which such conviction was had shall cause the said person, whether confined in prison or other wise, to be brought before it and shall inform him of the allegations contained in such information and of his right to be tried as to the truth thereof according to law, and shall require such accused person to say whether he is the same person as charged in such information or not. If the accused acknowledges or confesses in open court, after being duly cautioned as to his rights, that he was previously convicted of the offenses so charged, or any of them, the court shall sentence him to the punishment hereinbefore provided, and shall vacate the previous sentence, deducting from the new sentence all time actually served on the sentence so vacated. If the accused says he is not the same person, or refuses to answer, or remains silent, or says he is not guilty, the court shall thereupon proceed to examine into the charge of previous conviction, which shall be the only matter in issue, in accordance with the provisions of Chapter CCXV, Compiled Laws of Alaska for 1933; and if it appears from the examination that there is sufficient cause to believe the accused has been previously convicted as charged in such information the accused shall be committed to await the action of the grand jury, which shall consider only the fact of previous conviction of the accused; and if indictment is found and returned by the grand jury charging the accused with previous conviction or convictions, and the accused pleads not guilty thereto, he shall be tried

Procedure when
prior convictions
discovered.

Committed to
await action of
grand jury.

Issue before
trial jury.

by jury in the District Court; and the only issue before the trial jury shall be whether the accused was previously convicted as charged; and said issue may be proved as hereinbefore provided. If the jury finds that the accused is the same person so charged with previous conviction, or if the accused acknowledges or confesses in open court, after being duly cautioned as to his rights, that he was previously convicted one or more times as charged, the court shall sentence him to the punishment hereinbefore provided, and shall vacate the previous sentence, deducting from the new sentence all time actually served on the sentence so vacated. The accused may be admitted to bail on said charge either while awaiting examination or the action of the grand jury, or while awaiting trial.

Bail.

Duty of officers
to notify District
Attorney of
previous
convictions.

Whenever it shall become known to any warden or prison, probation, parole or police officer that any person charged with or convicted of misdemeanor or felony in any court of the Territory of Alaska has previously been convicted within the meaning of this Act, it shall become his duty forthwith to report the facts thereof to the District Attorney of the Judicial Division wherein such person is charged or convicted.

Approved March 9, 1939.

CHAPTER 54.

AN ACT

[H. B. 122]

To amend Section 1 of Chapter 20, Session Laws of Alaska, 1937, by adding a paragraph thereto.

Be it enacted by the Legislature of the Territory of Alaska:

Amended.

Section 1. That Section 1 of Chapter 20, Session Laws of Alaska, 1937, be, and the same be amended by