



LAWS OF ALASKA

1976

Source

CSHB 775 (Rules) am S

Chapter No.

171

AN ACT

Relating to unlawful absence from custody or confinement.

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

* Section 1. AS 11.30.090 is repealed and re-enacted to read:

Sec. 11.30.090. ESCAPE. (a) A person commits an escape if without lawful authority he

(1) wilfully removes himself from official detention; or

(2) commits an unlawful evasion under sec. 93 of this chapter and leaves or attempts to leave the state.

(b) An offense charged under (a) of this section is punishable as an escape in the first degree if

(1) the official detention is on a charge of a felony;

(2) the official detention is for extradition; or

(3) the person, during the escape or at any time before his being restored to official detention, has in his possession a deadly weapon.

(c) An attempt to escape under (a)(1) of this section which under (b)(1), (2) or (3) of this section is an escape in the first degree is punishable as an escape in the second degree.

(d) Any other escape or attempted escape is punishable as an escape in the third degree.

* Sec. 2. AS 11.30 is amended by adding new sections to read:

Sec. 11.30.093. UNLAWFUL EVASION. (a) A person commits an unlawful evasion if he wilfully fails to return to official detention, as defined in sec. 100 of this chapter, following temporary leave granted for a specific purpose or limited period including but not limited to privileges granted under AS 33.30.150, 33.30.250 or 33.30.-260.

(b) An offense charged under (a) of this section is punishable as an unlawful evasion in the first degree if the official detention is on a charge of a felony.

(c) An offense charged under (a) of this section is punishable in the same manner as an escape in the first degree if the person during the time of unlawful evasion or at any time before his being restored to official detention has in his possession a deadly weapon.

(d) Any other offense under this section is punishable as an unlawful evasion in the second degree.

Sec. 11.30.095. PENALTIES FOR ESCAPE AND UNLAWFUL EVASION. (a) A person convicted of escape in the first degree is punishable by imprisonment for not less than one year nor more than five years.

(b) A person who is convicted of escape in the second degree is punishable by imprisonment for not less than six months nor more than two years.

(c) A person who is convicted of escape in the third degree is punishable by imprisonment for not less than three months nor more than one year.

(d) A person who is convicted of unlawful evasion in the first degree is punishable by imprisonment for not less than three months nor more than one year.

(e) A person who is convicted of unlawful evasion in the second degree is punishable by imprisonment for not less than 30 days nor more than one year.

(f) Under this section suspensions of imposition or execution of sentence or granting of parole shall be governed by the following considerations:

(1) when satisfied that the ends of justice and the best interests of the public as well as the defendant will be served, the court may suspend the imposition or execution of a portion of the sentence greater than the minimum sentence authorized under this section, and place the defendant on probation.

(2) execution of sentence may not be suspended nor may probation or parole be granted until the minimum imprisonment provided under this section has been served, nor may imposition of sentence be suspended, except upon the condition that the defendant be imprisoned for no less than the minimum period provided under this section, nor may the minimum penalty provided for in this section be reduced under AS 11.05.150, except upon a finding by the court that

the escape or evasion was for the purpose of avoiding a clear and present danger of physical abuse or cruel and unusual conditions caused either wilfully or by neglect.

(g) Terms of imprisonment required under this section are consecutive to sentences then existing or which may be imposed pursuant to the official detention from which the person has escaped.

(h) When an offender has escaped or has committed an unlawful evasion and voluntarily surrenders himself to a peace officer or employee of the division of corrections, under circumstances when there is no imminent likelihood of his being apprehended, (f)(2) of this section is inapplicable.

(i) If the sentencing court finds that imposition of the minimum term, as provided in this section, (1) would result in a clear and manifest injustice to the accused, and (2) would not substantially further public protection, the court shall make written findings in the matter and cause these findings to be certified to the presiding judge or, if he himself is the presiding judge, to the administrative director of courts. The presiding judge or administrative director of courts shall forthwith constitute a panel consisting of three judges of appropriate jurisdiction to hear the matter. Sentencing in such case shall be imposed only by a majority of the three-judge court after consideration of all pertinent files, records, and transcripts, including the findings and conclusions of the judge who originally heard the matter. The three-judge court may, in its discretion, hear oral testimony. The threejudge court may, in the interest of justice, sentence the defendant to less than the minimum provided for in this section.

* Sec. 3. AS 11.30.100 is repealed and re-enacted to read:

Sec. 11.30.100. DEFINITIONS RELATING TO ESCAPE AND UNLAWFUL DETENTION. As used in secs. 90 - 95 of this chapter, unless the context otherwise requires,

(1) "cruel and unusual conditions" mean those conditions evidencing a shocking deviation from the conditions commonly acceptable for official detention;

(2) "official detention" means arrest, custody following surrender in lieu of arrest, detention in any facility for custody of persons under charge or conviction of crime or alleged or to be delinquent, detention for extradition or deportation or any other detention for law enforcement purposes; but "official detention" does not include supervision on probation or parole, or constraint incidental to release on bail.

* Sec. 4. AS 33.30.150 is amended to read:

Sec. 33.30.150. VISITATION PRIVILEGES. An honor prisoner with good behavior serving a sentence of one year or more may be permitted as a privilege and not as a right to visit with his family at a place other than his place of confinement and at his own expense for a period not exceeding one week nor more frequently than once each six months

under rules and regulations adopted by the commissioner and in his sole discretion. The wilful failure of a prisoner to return to the place of confinement not later than the expiration of a period during which he is authorized to be away from the place of confinement under this section is an unlawful evasion under AS 11.30.093.

* Sec. 5. AS 33.30.250(f) is amended to read:

(f) The wilful failure of a prisoner to return to the place of confinement not later than the expiration of any period during which he is authorized to be away from the place of confinement under this section, is an unlawful evasion under AS 11.30.093.

* Sec. 6. AS 33.30.260 is amended to read:

Sec. 33.30.260. REHABILITATION FURLOUGHS. The commissioner may authorize a prisoner to participate in educational, training, medical, psychiatric, or other rehabilitation programs approved by the commissioner. When the prisoner is not participating in a rehabilitation program, he shall be confined in the jail unless the commissioner directs otherwise. If the prisoner violates the conditions established for his conduct or custody, the commissioner may order the balance of the prisoner's sentence to be spent in actual confinement. The wilful failure of a prisoner to return to the place of confinement not later than the expiration of any period during which he is authorized to be away from the place of confinement under this section, is an unlawful evasion under AS 11.30.093.