

HOUSE BILL NO. 196

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES CLAMAN, Wilson

Introduced: 4/13/15

Referred:

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to sentencing procedures; and relating to credit toward a sentence of**
2 **imprisonment."**

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

4 *** Section 1.** AS 12.55.025(k) is amended to read:

5 (k) If a defendant intends to claim credit under AS 12.55.027 toward a
6 sentence of imprisonment for time spent in a [TREATMENT] program as a condition
7 of bail in connection with an offense for which the defendant is being sentenced, the
8 defendant shall file notice with the court and the prosecutor 10 days before the
9 sentencing hearing. The notice shall include the number of days the defendant is
10 claiming. The defendant must prove by a preponderance of evidence that the
11 requirements of AS 12.55.027 are met before credit may be awarded. Except as
12 provided in (l) of this section, except for good cause, a court may not consider a
13 request for credit made under this subsection more than 90 days after the sentencing
14 hearing.

1 * **Sec. 2.** AS 12.55.025(l) is amended to read:

2 (l) If a defendant intends to claim credit under AS 12.55.027 toward a
3 sentence of imprisonment for time spent in a [TREATMENT] program as a condition
4 of bail while pending appeal, the defendant shall file notice with the court and the
5 prosecutor not later than 90 days after return of the case to the trial court following
6 appeal. The notice shall include the number of days the defendant is claiming. The
7 defendant must prove by a preponderance of evidence that the requirements of
8 AS 12.55.027 are met before credit may be awarded. Except for good cause, the court
9 may not consider a request for credit made under this subsection after the deadline.

10 * **Sec. 3.** AS 12.55.027 is repealed and reenacted to read:

11 **Sec. 12.55.027. Credit toward a sentence of imprisonment.** (a) A court may
12 grant a defendant credit toward a sentence of imprisonment for time spent in a
13 program that furthers the reformation and rehabilitation of the defendant if the court
14 finds that the program places a substantial restriction on the defendant's freedom of
15 movement and behavior and is consistent with this section.

16 (b) A court may only grant credit under this section

17 (1) in the amount of one day of credit toward a sentence of
18 imprisonment for each full day the defendant spent in a reformation and rehabilitation
19 program; and

20 (2) if the court ordered the defendant to participate in and comply with
21 the conditions of the reformation and rehabilitation program before the defendant
22 entered the program.

23 (c) In granting credit toward a sentence of imprisonment for time spent in a
24 reformation and rehabilitation program, a court shall consider the following factors:

25 (1) the restrictions on the defendant's freedom of movement and
26 behavior;

27 (2) the circumstances under which the defendant was enrolled in the
28 program;

29 (3) the residency requirements of the program;

30 (4) the physical custody and supervision of the defendant at the
31 program;

1 (5) the circumstances under which the defendant is permitted to leave
2 the program's facility;

3 (6) the rules of the program and the requirement that the defendant
4 obey the orders of persons who have immediate custody or control over the defendant;

5 (7) the sanctions on the defendant for violating the program's rules or
6 orders;

7 (8) whether the defendant is subject to arrest for leaving the program's
8 facility without permission;

9 (9) the use of an electronic monitoring device;

10 (10) whether the program provides substance abuse treatment;

11 (11) the use of other technology that monitors or restricts the
12 defendant's movement and behavior;

13 (12) other factors that support the court's finding that the program
14 places a substantial restriction on the defendant's freedom of movement and behavior;

15 (13) other factors that support the court's finding that the program
16 furthers the reformation and rehabilitation of the defendant.

17 (d) If a defendant intends to claim credit toward a sentence of imprisonment
18 under this section for the time spent in a program either as a condition of probation or
19 as a condition of bail release after a petition to revoke probation has been filed, the
20 defendant shall file notice with the court and the prosecutor 10 days before the
21 disposition hearing. The defendant shall include in the notice the amount of time the
22 defendant is claiming. A court may not consider, except for good cause, a request for
23 credit under this subsection if the request is made more than 90 days after the
24 disposition hearing.

25 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 **APPLICABILITY.** AS 12.55.025(k) and (l), as amended by secs. 1 and 2 of this Act,
28 and AS 12.55.027, as repealed and reenacted by sec. 3 of this Act, apply to offenses
29 committed before, on, or after the effective date of this Act.