



Alaska State Legislature

Senate Majority Web: www.akrepublicans.org

Sponsor: Senator Gene Therriault
Current Version: CCS SB 56
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Fact Sheet for: Senate Bill 56

Short Title: CRIMINAL LAW/PROCEDURE/SENTENCING

Summary:

- Amends current presumptive sentencing, from a set term to a range of terms, to conform Alaska law with the federal constitution as a result of the *Blakely v. Washington* decision.
- Except for offenses defined by AS 11.41 or AS 11.46.400, or if a defendant has previously been convicted of a felony, mitigating factors exist when the defendant: (1) is found to suffer from a mental disease or defect; or (2) is actively participating in or has completed a state-approved treatment program at sentencing.
- Allows an additional aggravator when a defendant has prior criminal history of five or more class A misdemeanor convictions.
- Limits the ability of judges to order “periodic” sentences in which the offender periodically leaves and returns to prison.
- Stipulates the authority of police officers to detain or arrest probationers and parolees for certain violations of conditions imposed by the courts or parole board.
- Provides a defendant the right to petition the Court of Appeals on grounds of excessiveness when a sentence is handed down within a range.

Benefits:

- Simplifies and improves sentencing by giving judges more discretion and removes current confusions in the aftermath of the *Blakely* decision.
- Criminal Law and Procedure:
 - Allows Correctional Facilities to better manage the prison population and better supervise offenders by limiting the abuse of periodic sentencing.
 - Improves public safety by clarifying that police officers have the authority to arrest violators of parole or probation.

Background:

- The Supreme Court ruled in June 2004 that, under the Sixth Amendment, a defendant has the right to have a jury—rather than the sentencing judge—determine whether aggravating circumstances exist to justify increasing a defendant’s sentence above the statutorily-prescribed term. The *Blakely* decision has created confusion in the Alaska courts, and has affected Alaska differently than most other states. Alaska’s presumptive sentencing system limits judicial discretion to a single, definite term. Therefore, to impose an appropriate sentence, or even to impose probation supervision, a judge must find specific aggravating factors. Most other states with similar systems provide the judge with a sentencing range that provides some measure of judicial discretion.