

**SPONSOR STATEMENT
HOUSE BILL 380**

AGGRAVATING FACTORS FOR DRUG OVERDOSE SALE

“An Act relating to aggravating factors at sentencing.”

House Bill 380 adds a sentencing aggravator for illegal drug sales that result in a fatal overdose. If a defendant is convicted of an offense specified under AS 11.71, then a judge may apply a sentence of no less than the presumptive term, and no more than the maximum term.

In a case last year, the Alaska Court of Appeals was asked to consider a case that involved a defendant who was convicted of selling heroine, a felony crime. The defendant later confessed to selling heroine to a person who was found dead by police from a drug overdose. The judge, during sentencing, determined that the death was a direct result of the criminal action, and applied a sentencing aggravator to the five-year presumptive term.

Current Alaska sentencing laws allow for increases (aggravators) and decreases (mitigators) in required sentences, if a judge finds an aggravator or a mitigator that justifies a deviation from the normal sentence. The aggravator that was used by the judge in the case of the convicted drug dealer says a defendant can be punished more severely if “a person, other than an accomplice, sustained physical injury as a direct result of the defendant’s conduct.”

The question that faced the Alaska Court of Appeals was whether the death could be considered a direct result of the defendant’s action. [HB 380](#) would clarify this in statute. Under HB 380, the fatal overdose would be considered a direct result of the defendant’s illegal action, and would permit a judge to increase a sentence for a crime involving the distribution of controlled substances.

If a defendant is convicted of felony charges for misconduct involving a controlled substance, then there should be an allowable deviation from the normal sentencing if the drugs that were sold were the cause of a death. HB 380 allows for a judge to decide if the sentencing for an illegal act should be increased because the result of the initial crime resulted in the death of a person.