

Alaska State Legislature

Legislative Research Agency




130 Seward Street, Suite 218
Juneau, Alaska 99801-2196

Phone: (907) 465-3991
Fax: (907) 463-3351

February 25, 1993

MEMORANDUM

TO:

FROM: Marwood D. Harris 
Legislative Analyst

RE: **History of Death Penalty in Alaska**
Research Request 93.151

You asked this agency to find out how many people were executed in Alaska before capital punishment was prohibited in 1957 and the race of those executed. You also asked for information about national trends regarding the death penalty.

According to research compiled by the Alaska Historical Library, eight people were executed in Alaska between 1900 and 1957. These executions were by hanging. Of those executed, there were three Caucasians, three Alaska Natives and two African-Americans. Records before 1900 are spotty: apparently seven people were hanged between 1869 and 1900. Of those whose race is mentioned, four were Alaska Native and one was Caucasian.

A recent memorandum by this agency discusses national issues regarding the death penalty. We hope it answers your questions. Should you need additional information, please contact this office.

Attachment

ALASKA LEGISLATION PERTAINING TO CAPITAL PUNISHMENT

1974

HB 675

Prime Sponsor: A.M. Saylor

Referred to Judiciary; Committee Substitute passed Jud., failed to pass House (CS made minor text changes only)

- A – —Mandated the death penalty for first degree murder if the murder was 1) intentional and carried out under an agreement; 2) the victim was a peace officer intentionally killed in the course of duty; 3) the murder was committed during the commission or attempted commission of robbery under AS 11.15.240, kidnapping under AS 11.15.260, rape, or burglary under 11.20.080–130; 4) the convicted person was, at the time of the murder, confined in prison or had escaped from prison; or 5) the victim was a witness to a crime who was murdered for the purpose of preventing his or her testimony in a criminal proceeding.
- B – —Rule 35, Rules of Criminal Procedure was changed to eliminate the power of the court to reduce sentences in the case of certain murder convictions.

1981

SB 73

Prime Sponsor: Brad Bradley

Referred to State Affairs and Judiciary; Died in State Affairs

- A – —Classified murder in the first degree as a capital felony punishable by a prison term of 20–99 yrs or death.
- B – —Set procedure for automatic review by the supreme court for capital punishment sentences and listed determinations to be made by the court, including whether: sentence was imposed under the influence of passion, prejudice or other arbitrary factor; the evidence supported the finding of an aggravating factor; and the sentence was excessive or disproportionate to the penalty imposed in similar cases. If the judgment of conviction and death sentence was upheld, the court would specify the time, place, and manner of execution.
- C – —Set out the sentencing procedure for a capital felony, which included a separate proceeding before a jury including any evidence presented to the jury as to mitigating or aggravating factors the court considered to have probative value, followed by an advisory sentence by a jury which would include findings as to whether aggravating factors existed to justify the death sentence, mitigating factors existed which outweighed the aggravating factors and whether the sentence should be imprisonment or death. The court, after considering evidence and the advisory sentence would impose sentence. If it was death, the court would make written findings of aggravating and/or mitigating factors considered.
- D – —Defined the following as aggravating factors: defendant's conduct manifested deliberate cruelty in that it involved torture or aggravated battery; the conduct created a risk of imminent physical injury to three or more persons, other than accomplices; defendant had a prior felony conviction involving the use of violence; defendant committed the offense pursuant to an agreement for gain; defendant was on release for another felony charge or conviction having assault as an element; defendant knowingly directed the offense at an active or former officer of the court, judicial officer, prosecuting attorney, law enforcement officer, correctional employee, or fireman because of or during official duty; or defendant was a member of an organized group and the offense was committed to further the group's criminal objectives.
- E – —Defined the following as mitigating factors: defendant committed the offense under some degree of duress, coercion, threat or compulsion insufficient to constitute a defense, but which affected his conduct; the conduct of a youthful defendant was influenced by a more mature person; defendant had provocation from the victim; or defendant assisted authorities detect or apprehend other persons who committed the offense.

ALASKA LEGISLATION PERTAINING TO CAPITAL PUNISHMENT

HB 458 Text was the same as Senate Bill 73

Prime Sponsor: Vern Hurlbert
Referred to Judiciary; Died in Judiciary

1983

SB 121 Text was the same as Senate Bill 73, 1981, with the exception listed below.

Prime Sponsor Fritz Pettyjohn
Co-Sponsors Tim Kelly, Paul Fischer, and Jan Faiks
Referred to Judiciary and Finance; Died in Judiciary

The jury imposed sentence rather than issuing an advisory sentence for the court's imposition of sentence.

HB 140 Text was the same as SB 73, 1981

Prime Sponsor Sam Pestinger
Co-Sponsors Jerry Ward, Joe Flood, John Liska, Dick Shultz
Referred to Judiciary and Finance, Committee Substitute passed Judiciary, Died in Finance.

CSHB 140(Jud) Added the following provisions:

- A – –A person convicted of a capital offense may not be released on bail before sentencing or pending appeal.
- B – –Transferred responsibility for issuing the time, place and manner of execution from the supreme court to the commissioner of corrections.
- C – –Gave defendant a choice of execution by lethal injection or by firing squad.
- D – –Stated an execution by firing squad would be carried out at a state prison by a firing squad of six peace officers.
- E – –Stated that the commissioner of corrections in consultation with a physician would select a method of injection and a drug or combination of drugs for use in an execution by lethal injection.
- F – –Stated that the commissioner could invite up to 9 citizens 19 years of age or older to attend the execution, including the prosecuting and defense attorney, relatives, friends or religious representatives designated by the defendant. No more than 6 media members could attend and were to serve as a pool for other members of the media; and that photographic or recording equipment would not be allowed until the site was restored to an orderly condition.
- G – –Stated that if, after sentence was imposed, the defendant was found to be incompetent or pregnant, the court and attorneys would be notified and the execution of sentence would be stayed pending further order of the court. If pregnant, the death sentence would be stayed until the defendant was no longer pregnant. At that time the court would issue another warrant specifying a date of execution not less than 30 days nor more than 60 days after the date of the warrant. If found to be incompetent, an order for commitment as provided under AS 12.47.110 would be issued. If competent, the supreme court would issue another warrant specifying the date of execution not less than 30 days nor more than 60 days after the date of the warrant.

ALASKA LEGISLATION PERTAINING TO CAPITAL PUNISHMENT

HB 235

Prime Sponsor Charlie Bussell

Co-Sponsors Rick Uehling, John Liska, Dick Shultz

Passed the House; Referred to Senate State Affairs and Judiciary; Died in Senate State Affairs

Provided for an advisory vote at the next election on whether the legislature should enact a law providing for capital punishment for murder in the first degree.

1985

SB 119 Text was the same as CS HB 140 (Jud), 1983 with the provision below added.

Prime Sponsor Paul Fischer

Co-Sponsors Tim Kelly, Ann DeVries, Jack Coghill, Jan Faiks, and Mitch Abood

Referred to HESS, Judiciary and Finance; Died in HESS.

Added a provision for an advisory vote at the next election on whether or not capital punishment for murder in the first degree should go into effect 08/15/87

HB 163 Text was the same as Senate Bill 73, 1981, with the three exceptions listed below.

Prime Sponsor Fritz Pettyjohn

Co-Sponsors Roger Jenkins, Dick Shultz, Robin Taylor, Andre Marrou, Max Gruenberg

Referred to HESS, Judiciary and Finance; Died in HESS

- A – –the jury imposed sentence rather than issuing an advisory sentence for the court's imposition of sentence.
- B – –If the death penalty was imposed, the defendant was considered to have applied for modification of the verdict or findings under Criminal Rule 35.
- C – –The execution would be carried out at a state correctional facility by either hanging or by continuous, intravenous administration of a lethal dose of sodium thiopental.

1987

SB 7 Text was practically the same as CS HB 140(Jud), 1983, with the exceptions listed below.

Prime Sponsor Mitch Abood

Co-Sponsors Tim Kelly, Jan Faiks, Paul Fischer

Referred to HESS, Judiciary, and Finance; Died in Judiciary

- A – –Stated that death warrant was to specify date of execution which was to be no less than 30 nor more than 60 days after the date of the warrant.
- B – –Omitted the guidelines by which the firing squad would be selected and the form of lethal injection would be determined. Simply stated that regulations were to be adopted.
- C – –Omitted the guidelines concerning attendance at executions. Simply stated that regulations were to be adopted.

ALASKA LEGISLATION PERTAINING TO CAPITAL PUNISHMENT

D – –Changed the aggravating factors to be considered to the following: defendant's conduct manifested deliberate cruelty in that it involved sexual assault in the first degree, kidnapping or assault in the first degree; defendant's conduct caused the death of two or more persons, other than accomplices; defendant had a prior conviction for murder; defendant knowingly directed the conduct at the President of the U.S. or governor of the state; defendant knowingly directed the conduct at a law enforcement, judicial officer, or correctional officer during or because of official duties; defendant killed a child 9 years of age or younger during the commission of the offense; defendant committed the offense under an agreement for gain; defendant committed the offense while avoiding lawful arrest or escaping from lawful confinement; or defendant committed the offense after escaping from the lawful custody of a peace officer or place of lawful confinement.

CSSB 7(HESS) Added the following provisions

A – –Amended AS 11.31.100(d) and AS 11.31.110(c) to include capital felonies in the definition of class A felonies

B – –Inserted the guidelines from CSHB 140 (Jud) by which the firing squad would be selected and the form of lethal injection would be determined.

C – –Inserted the guidelines from CSHB 140(Jud) concerning attendance at executions.

D – –Made the following revisions to the list of aggravating factors: 1) added torture and aggravated battery to the list of actions manifesting deliberate cruelty; 2) added a prior conviction for a felony involving the use of violence to the factor citing prior murder convictions; 3) added prosecuting attorneys and firemen to the list of people the defendant may have knowingly directed the offense at; 4) added defendant's conduct created a risk of imminent physical injury to 3 or more persons other than accomplices; 5) deleted the factor citing the killing of a child of 9 years of age or younger; and 6) revised the factors concerning the committing the offense while avoiding arrest or escaping from confinement to say that the defendant was on release for another felony charge or conviction having assault as a necessary element. All these revisions made the list of aggravating factors practically the same as those in CS HB 140 (Jud).

E – –Added a provision for an advisory vote at the next election on whether or not capital punishment for murder in the first degree should go into effect 08/15/89

SB 31 Text was the same as CSHB 140(Jud), 1983, with the following provision added.

Prime Sponsor Paul Fischer

Co-Sponsors Tim Kelly and Jan Faiks

Referred to HESS, Judiciary and Finance; Died in HESS

Added a provision for an advisory vote at the next election on whether or not capital punishment for murder in the first degree should go into effect 08/15/89

ALASKA LEGISLATION PERTAINING TO CAPITAL PUNISHMENT

1989

SB 17 Although arranged differently, text was practically the same as CSSB 7 (HESS), 1987, with the following additions.

Prime Sponsor Paul Fischer

Co-Sponsors Tim Kelly, Drue Pearce, Rick Halford and Jan Faiks

Referred to Judiciary and Finance; Died in Judiciary.

- A – –Amended AS 12.30.020(a) to exclude a capital felony from the requirement of bail and release.
- B – –Amended AS 12.30.020(a) to exclude persons charged with a capital felony from the provision prohibiting new charges against a defendant who remains incompetent for five years after the charges have been dismissed under the subsection.
- C – –In the section regarding the review of judgment of conviction, adds to the issues the court shall determine "any other issue the defendant may raise as a point on appeal."
- D – –Adds sections regarding the applicability of various sections of the bill to criminal and appellate rules.

CSSB 17 (Jud)

- A – –Added a section of Legislative Findings
- B – –Added a section stating that it was up to the prosecuting attorney to determine whether or not to seek the death penalty. If the death penalty was to be sought, the court, defendant and defendant's counsel were to be notified within 10 days of arraignment.
- C – –Deleted the section providing for execution by firing squad.

CSSB 17 (Jud)(ct rules & efds fld)

- A – –Deleted the sections regarding the applicability of sections of the bill to criminal and appellate rules.
- B – –Deleted the sections regarding the effective dates of the bill's sections.

1991

SB 13

Prime Sponsor Paul Fischer

Co-Sponsors Steve Frank, Drue Pearce and Rick Halford

Referred to Judiciary and Finance; currently in Judiciary.

Provides for an advisory vote at the next general election on whether the legislature should enact a law providing for capital punishment for murder in the first degree.

Source: Individual legislation, bill histories, and final status of bills and resolutions for the respective years.

Prepared by the Legislative Research Agency, February 1993 (93.151).