

HOUSE BILL NO. 165

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE GARA

Introduced: 3/23/15

Referred:

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to mitigation at sentencing in a criminal case for a defendant found by**
2 **the court to have been affected by sexual-assault-related post-traumatic stress disorder."**

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

4 *** Section 1.** AS 12.55.155(d) is amended to read:

5 (d) The following factors shall be considered by the sentencing court if proven
6 in accordance with this section, and may allow imposition of a sentence below the
7 presumptive range set out in AS 12.55.125:

8 (1) the offense was principally accomplished by another person, and
9 the defendant manifested extreme caution or sincere concern for the safety or well-
10 being of the victim;

11 (2) the defendant, although an accomplice, played only a minor role in
12 the commission of the offense;

13 (3) the defendant committed the offense under some degree of duress,
14 coercion, threat, or compulsion insufficient to constitute a complete defense, but that

1 significantly affected the defendant's conduct;

2 (4) the conduct of a youthful defendant was substantially influenced by
3 another person more mature than the defendant;

4 (5) the conduct of an aged defendant was substantially a product of
5 physical or mental infirmities resulting from the defendant's age;

6 (6) in a conviction for assault under AS 11.41.200 - 11.41.220, the
7 defendant acted with serious provocation from the victim;

8 (7) except in the case of a crime defined by AS 11.41.410 - 11.41.470,
9 the victim provoked the crime to a significant degree;

10 (8) before the defendant knew that the criminal conduct had been
11 discovered, the defendant fully compensated or made a good faith effort to fully
12 compensate the victim of the defendant's criminal conduct for any damage or injury
13 sustained;

14 (9) the conduct constituting the offense was among the least serious
15 conduct included in the definition of the offense;

16 (10) the defendant was motivated to commit the offense solely by an
17 overwhelming compulsion to provide for emergency necessities for the defendant's
18 immediate family;

19 (11) after commission of the offense for which the defendant is being
20 sentenced, the defendant assisted authorities to detect, apprehend, or prosecute other
21 persons who committed an offense;

22 (12) the facts surrounding the commission of the offense and any
23 previous offenses by the defendant establish that the harm caused by the defendant's
24 conduct is consistently minor and inconsistent with the imposition of a substantial
25 period of imprisonment;

26 (13) the defendant is convicted of an offense specified in AS 11.71 and
27 the offense involved small quantities of a controlled substance;

28 (14) the defendant is convicted of an offense specified in AS 11.71 and
29 the offense involved the distribution of a controlled substance, other than a schedule
30 IA controlled substance, to a personal acquaintance who is 19 years of age or older for
31 no profit;

1 (15) the defendant is convicted of an offense specified in AS 11.71 and
2 the offense involved the possession of a small amount of a controlled substance for
3 personal use in the defendant's home;

4 (16) in a conviction for assault or attempted assault or for homicide or
5 attempted homicide, the defendant acted in response to domestic violence perpetrated
6 by the victim against the defendant and the domestic violence consisted of aggravated
7 or repeated instances of assaultive behavior;

8 (17) except in the case of an offense defined by AS 11.41 or
9 AS 11.46.400, the defendant has been convicted of a class B or C felony, and, at the
10 time of sentencing, has successfully completed a court-ordered treatment program as
11 defined in AS 28.35.028 that was begun after the offense was committed;

12 (18) except in the case of an offense defined under AS 11.41 or
13 AS 11.46.400 or a defendant who has previously been convicted of a felony, the
14 defendant committed the offense while suffering from a mental disease or defect as
15 defined in AS 12.47.130 that was insufficient to constitute a complete defense but that
16 significantly affected the defendant's conduct;

17 (19) the defendant is convicted of an offense under AS 11.71, and the
18 defendant sought medical assistance for another person who was experiencing a drug
19 overdose contemporaneously with the commission of the offense;

20 (20) except in the case of an offense defined under AS 11.41 or
21 AS 11.46.400, the defendant committed the offense while suffering from a condition
22 diagnosed

23 (A) as a fetal alcohol spectrum disorder, the fetal alcohol
24 spectrum disorder substantially impaired the defendant's judgment, behavior,
25 capacity to recognize reality, or ability to cope with the ordinary demands of
26 life, and the fetal alcohol spectrum disorder, though insufficient to constitute a
27 complete defense, significantly affected the defendant's conduct; in this
28 subparagraph, "fetal alcohol spectrum disorder" means a condition of impaired
29 brain function in the range of permanent birth defects caused by maternal
30 consumption of alcohol during pregnancy; [OR]

31 (B) as combat-related post-traumatic stress disorder or combat-

1 related traumatic brain injury, the combat-related post-traumatic stress disorder
2 or combat-related traumatic brain injury substantially impaired the defendant's
3 judgment, behavior, capacity to recognize reality, or ability to cope with the
4 ordinary demands of life, and the combat-related post-traumatic stress disorder
5 or combat-related traumatic brain injury, though insufficient to constitute a
6 complete defense, significantly affected the defendant's conduct; in this
7 subparagraph, "combat-related post-traumatic stress disorder or combat-related
8 traumatic brain injury" means post-traumatic stress disorder or traumatic brain
9 injury resulting from combat with an enemy of the United States in the line of
10 duty while on active duty as a member of the armed forces of the United
11 States; nothing in this subparagraph is intended to limit the application of (18)
12 of this subsection; or

13 (C) as sexual-assault-related post-traumatic stress disorder,
14 the sexual-assault-related post-traumatic stress disorder substantially
15 impaired the defendant's judgment, behavior, capacity to recognize
16 reality, or ability to cope with the ordinary demands of life, and the
17 sexual-assault-related post-traumatic stress disorder, though insufficient
18 to constitute a complete defense, significantly affected the defendant's
19 conduct.