

# ALASKA ANIMAL CRUELTY LAWS

Ben Sheppard<sup>1</sup>

## **Introduction**

Alaska's criminal animal protection laws can be found in Title 11 (Criminal Law) and Title 3 (Agriculture, Animals, and Food). Title 11 contains the state's main animal cruelty statute (§ 11.61.140), as well as the statute criminalizing animal-fighting exhibitions (§ 11.61.145). Title 3 contains general definitions (§ 03.55.190), minimum standards of animal care (§ 03.55.100), investigation of cruelty complaints (§ 03.55.110), seizure (§ 03.55.120), and destruction and adoption (§ 03.55.130). Alaska case law relates almost entirely to the main cruelty statute (§ 11.61.140). This document also included relevant case law and statutes related to wild animals. Finally, the document contains relevant information concerning sentencing.

## Overview of Statutory Provisions

**1. Cruelty to Animals:** ALASKA STAT. § 11.61.140

**2. Investigation and Law Enforcement:** ALASKA STAT. §§ 03.55.110, 03.55.120, 03.55.130, 03.55.100, 03.55.190

**3. Animal Fighting:** ALASKA STAT. § 11.61.145

**4. Wild Animals:** ALASKA STAT §§ 16.30.010, 16.30.012, 16.30.015, 16.30.017, 16.30.020, 16.30.030, 16.35.200, 16.35.210, 16.40.050

**5. Sentencing:** ALASKA STAT. §§ 12.55.125, 12.55.135

---

<sup>1</sup> Ben Sheppard produced this document as an undertaking of the George Washington University (GWU) Law School's Animal Welfare Project and worked under the guidance of the Project's founder and faculty director, Professor Joan Schaffner. Ben will graduate from GW Law School in 2021.

## 1. CRUELTY TO ANIMALS

ALASKA STAT. § 11.61.140 Cruelty to animals.

(a) A person commits cruelty to animals<sup>2</sup> if the person

(1) knowingly inflicts severe or prolonged physical pain or suffering on an animal;

(2) has a legal duty to care for the animal and, with criminal negligence, fails to care for an animal and, as a result, causes the death of the animal or causes severe physical pain or prolonged suffering to the animal

(3) kills or injures an animal by the use of a decompression chamber;

(4) intentionally kills or injures a pet or livestock by the use of poison;

(5) knowingly kills or injures an animal, other than as provided in (1) or (3) of this subsection, with the intent to intimidate, threaten, or terrorize another person;

(6) knowingly

(A) engages in sexual conduct with an animal; or

(B) under circumstances not proscribed under AS 11.41.455,

(i) photographs or films, for purposes of sexual gratification, a person engaged in sexual conduct with an animal; or

(ii) causes, induces, aids, or encourages another person to engage in sexual conduct with an animal; or

(7) intentionally permits sexual conduct with an animal to be conducted on any premises under the person's control.

---

<sup>2</sup> "[A]nimal' means a vertebrate living creature not a human being, but does not include fish." AS 03.55.100 - 03.55.190(1).

(b) Each animal that is subject to cruelty to animals under (a) of this section shall constitute a separate offense.

(c) It is a defense to a prosecution under this section that the conduct of the defendant

(1) was part of scientific research governed by accepted standards;

(2) constituted the humane destruction of an animal;

(3) conformed to accepted veterinary or animal husbandry practices;

(4) was necessarily incidental to lawful fishing, hunting or trapping activities;

(5) conformed to professionally accepted training and discipline standards.

(d) In (a)(2) of this section, failure to provide the minimum standards of care for an animal under AS 03.55.100 is prima facie evidence of failure to care for an animal.

(e) This section does not apply to generally accepted dog mushing or pulling contests or practices or rodeos or stock contests.

(f) In this section, “sexual conduct” means any

(1) touching or fondling by a person, either directly or through clothing, of the genitals or anus of an animal or any transfer or transmission of semen by the person on any part of the animal for the purpose of sexual gratification or arousal of the person;

(2) contact, however slight, between the mouth, genitals, or anus of a person and the sex organ or anus of an animal, or any intrusion, however slight, of any part of the body of the person into the sex organ or anus of an animal, or any intrusion of the genitals or anus of the person into the mouth of the animal for the purpose of sexual gratification of the person.

(g) Except as provided in (h) of this section, cruelty to animals under (a)(2), (5), (6), or (7) of this section is a class A misdemeanor. The court may also

(1) require forfeiture of any animal affected to the state or to a custodian that supplies shelter, care, or medical treatment for the animal;

(2) require the defendant to reimburse the state or a custodian for all reasonable costs incurred in providing necessary shelter, care, veterinary attention, or medical treatment for any animal affected;

(3) prohibit or limit the defendant's ownership, possession, or custody of animals for up to 10 years.

(h) Cruelty to animals under (a)(1), (3), or (4) of this section is a class C felony. Cruelty to animals is also a class C felony if the person is convicted under (a)(2), (5), (6), or (7) of this section and the person has been previously convicted on one or more separate occasions within 10 years of the date of the present offense of a crime under this section, AS 11.61.145(a)(1) or (2), or a law or ordinance of another jurisdiction having elements similar to those offenses. For a conviction under this subsection, the court may also

(1) require forfeiture of any animal affected to the state or to a custodian that supplies shelter, care, or medical treatment for the animal;

(2) require the defendant to reimburse the state or a custodian for all reasonable costs incurred in providing necessary shelter, care, veterinary attention, or medical treatment for any animal affected;

(3) prohibit or limit the defendant's ownership, possession, or custody of animals for up to 10 years.

Applicable Case Law:

*Mitchell v. Heinrichs*, 27 P.3d 309 (Alaska 2001).

**Facts:** Defendant Heinrichs shot Plaintiff Mitchell's dog ostensibly to protect herself and her livestock, as the dog was on her property. Defendant offered to pay Plaintiff for a new dog; plaintiff declined. Plaintiff sued seeking compensatory damages, punitive damages, and damages for intentional infliction of emotional distress. Superior court determined that a defendant's conduct "must be outrageous such that it gives rise to an inference of malice," in order for a plaintiff to recover punitive damages; the court found that Defendant's conduct was not outrageous, and granted summary judgment for plaintiff on claims of intentional infliction of

emotional distress and punitive damages. Court allowed compensatory damages in the amount of the dog's fair market value, but dismissed Plaintiff's claim for compensatory damages because Plaintiff said that her dog did not have a fair market value. Plaintiff appealed.

**Holding:** Supreme Court reversed and remanded, dismissing the intentional infliction of emotional distress and punitive damages claims; no award based on dog's sentimental value to Plaintiff. However, it held that "a pet's actual value to the owner may exceed its fair market value," and that the actual value should be the measure of the dog's value (including "reasonable replacement costs").

**Mahan v. State, 51 P.3d 962 (Alaska Ct. App. 2002).**

**Facts:** Defendant Mahan kept 130 animals on her property; Alaska Equine Rescue entered her property to check on animals, found them to be in poor condition, and removed the animals to foster homes. Defendant was convicted of "one consolidated count of cruelty to animals." Defendant appealed, claiming that the court "erred in denying her application for a writ of assistance, her motion for a change of venue, and that the trial court abused its discretion in ordering forfeiture of her animals, and in imposing restitution payable to an animal rescue organization."

**Holding:** Appellate court held that (1) "because defendant's probation forbid her from owning more than one animal, it followed that the trial court could order defendant to divest herself of the animals"; and (2) "defendant was not entitled to a credit for monetary donations received by the rescue organization for the care of the animals."

**Sentencing:** Court found that a ten year probation term and the conditions that Defendant was not allowed to own and/or care for more than one animal during probation, and not allowed to own or care for a horse reasonable.

**Rich v. State, Alas. App. LEXIS 122 (Alaska Ct. App. Sept. 3, 2014):** Trial court was not clearly mistaken by imposing a probationary term of ten years for animal cruelty where defendant provided inadequate care for dogs in his kennel.

Sickell v. State, 363 P.3d 115 (Alaska Ct. App. 2015) Holding 1: Defendant was properly convicted of cruelty to animals (horses) because while the statute did not define a duty to care for particular animals the parties recognized that the statute applied to all person who had undertaken responsibility for an animal.

Holding 2: As 11.61.140(a)(2) applies only to people who have resumed responsibility for the care of an animal.

Mollet v. State, 2019 Alas. App. LEXIS 47 (Alaska Ct. App. Mar. 20, 2019): District court properly held that the state's expert veterinarian could testify regarding a horse's death based on his background, training, and experience despite not conducting a necropsy.

## **2. INVESTIGATION AND LAW ENFORCEMENT**

ALASKA STAT. § 03.55.110 Investigation of cruelty to animals complaints.

(a) A person who believes that cruelty to animals has taken place or is taking place may file a complaint with a public or private animal control agency or organization, the department,<sup>3</sup> or a peace officer. An agency or organization or the department may refer the complaint to a peace officer.

(b) A peace officer who receives a complaint of animal cruelty may apply for a search warrant under AS 12.35 to the judicial officer in the judicial district in which the alleged violation has taken place or is taking place. If the court finds that probable cause exists, the court shall issue a search warrant directing a peace officer to proceed immediately to the location of the alleged violation, search the place designated in the warrant, and, if warranted, take property, including animals, specified in the warrant. The warrant shall be executed by the peace officer and returned to the court.

---

<sup>3</sup> "[D]epartment' means the Department of Environmental Conservation." ALASKA STAT. § 03.55.190(3).

(c) Before a peace officer may take an animal and place it into protective custody, the peace officer shall request an immediate inspection and decision by a veterinarian licensed under AS 08.98 that placement into protective custody is in the immediate best interest of the animal. If a veterinarian is not available to perform an inspection, before a peace officer may take an animal, the peace officer shall communicate with a veterinarian who has, after hearing a description of the condition of the animal and its environment, decided it is in the immediate best interest of the animal that it be placed into protective custody. If the peace officer is not able to communicate with a veterinarian, before the officer may take an animal, the officer shall decide it is in the immediate best interest of the animal that it be placed into protective custody.

No Applicable Case Law.

ALASKA STAT. § 03.55.120. Seizure of animals.

(a) A peace officer shall place an animal in protective custody before removing the animal from the location where it was found. If the animal is removed, the peace officer shall place the animal with a veterinarian licensed under AS 08.98 or, if a veterinarian is not readily available and willing to accept the animal, then with a responsible public or private custodian to be sheltered, cared for, and provided necessary medical attention.

(b) A peace officer who has removed an animal shall immediately notify the animal's owner in writing of the removal and of the owner's right to petition the court under AS 03.55.130 for return of the animal. Notification may be delivered in person, posted at the owner's residence, or mailed to the owner.

(c) If a removed animal's owner is unknown and cannot be ascertained with reasonable effort, the animal shall be considered a stray or abandoned.

(1) the animal shall be considered a stray or abandoned; and

(2) the notice required in (b) of this section shall be conspicuously posted at the premises from which the animal was seized.

(d) The state, a municipality, or a person, that supplies shelter, care, veterinary attention or medical treatment for an animal seized under this section shall make a reasonable effort to locate the owner.

(e) The owner of an animal seized under (a) of this section may not recover damages for injury to or death of the animal occurring while the animal is in the custody of the state, a municipality, or a person under this section, unless the owner shows that the injury or death was caused by gross negligence or reckless or intentional misconduct.

No Applicable Case Law.

ALASKA STAT. § 03.55.130 Destruction and adoption of animals.

(a) If a determination is made by a veterinarian licensed under AS 08.98, by a peace officer in consultation with a veterinarian licensed under AS 08.98, or by a peace officer who is unable to locate or communicate with a veterinarian licensed under AS 08.98 that an animal seized under AS 03.55.100 - 03.55.190 is injured or diseased to such an extent that, in the opinion of the veterinarian, it is probable the animal cannot recover, the veterinarian or the peace officer may humanely destroy the animal or arrange for the animal's humane destruction.

(b) Upon diagnosis and recommendation of a veterinarian licensed under AS 08.98, a public or private custodian may humanely destroy or arrange for the humane destruction of a severely injured, diseased, or suffering animal that has been seized under AS 03.55.100 - 03.55.190.

(c) An owner of an animal destroyed under this section may not recover damages for the destruction of the animal unless the owner shows that the destruction was not reasonable under the facts as known to the veterinarian or the peace officer authorizing the destruction.

(d) Except as provided in (a) or (b) of this section, the custodian of an animal may not adopt, provide for the adoption of, or euthanize the animal within 10 business days after the animal is taken into custody. An owner or custodian may prevent the animal's adoption or destruction by petitioning the court of the judicial district in which the animal was seized for the animal's return, subject to court-imposed conditions.

(e) The court may, on its own accord or upon a filing by the custodian, the owner of the animal, or the entity that seized the animal, enter an order for the cost of care of the animal pending final disposition of the custody of the animal. An order under this section may include a requirement that the owner of the animal post a bond or other security to guarantee that the cost of care of the animal is received and maintained. If, without justifiable cause, the owner of the animal fails to comply with an order under this section, the court may order that the animal be forfeited.

(f) The state may not be required to reimburse a public or private agency, organization, or person that voluntarily assists with the seizure of an animal or receives custody of an animal seized under this section for the cost of care of the animal.

(g) Nothing in (d) or (e) of this section shall shift the burden of proof from the party who would otherwise have that burden.

No Applicable Case Law.

### **3. ANIMAL FIGHTING**

ALASKA STAT § 11.61.145 . Promoting an exhibition of fighting animals.

(a) A person commits the crime or offense, as applicable, of promoting an exhibition of fighting animals if the person

(1) owns, possesses, keeps, or trains an animal with intent that it be engaged in an exhibition of fighting animals;

(2) instigates, promotes, or has a pecuniary interest in an exhibition of fighting animals; or

(3) attends an exhibition of fighting animals.

(b) The animals, equipment, vehicles, money, and other personal property used by a person in a violation of (a)(1) or (2) of this section shall be forfeited to the state if the person is convicted of an offense under this section.

(c) [Repealed, § 103 ch 13 SLA 2019.]

(d) Promoting an exhibition of fighting animals

(1) under (a)(1) or (2) of this section is a class C felony;

(2) under (a)(3) of this section is

(A) a violation

(i) for the first offense;

(ii) punishable by a fine of not more than \$1,000 for the second offense; and

(B) a class A misdemeanor for the third and each subsequent offense.

No Applicable Case Law.

ALASKA STAT § 03.55.100. Minimum standards of care for animals.

(a) The minimum standards of care for animals include

(1) food and water sufficient to maintain each animal in good health;

(2) an environment compatible with protecting and maintaining the good health and safety of the animal; and

(3) reasonable medical care at times and to the extent available and necessary to maintain the animal in good health.

(b) Any determination as to whether or not the standards of this chapter are met shall be based on the professional opinion of a veterinarian licensed under AS 08.98.

(c) The department may adopt regulations to implement this section.

No Applicable Case Law

ALASKA STAT § 03.55.190. Definitions.

In AS 03.55.100 — 03.55.190,

(1) “animal” has the meaning given in AS 11.81.900;

(2) “cost of care” means the cost of shelter, care, veterinary assistance, and medical treatment rendered to the animal;

(3) “cruelty to animals” includes acts constituting cruelty to animals under AS 11.61.140(a), acts promoting an exhibition of fighting animals under AS 11.61.145(a)(1) or (2), and other serious acts of animal cruelty warranting protective actions under AS 03.55.100 — 03.55.190, whether or not they are specifically listed in AS 11.61.140 or 11.61.145;

(4) “custodian” means a person responsible by law for the care, custody, or control of animals;

(5) “department” means the Department of Environmental Conservation;

(6) “peace officer” means

(A) an officer of the state troopers;

(B) a member of the police force of a municipality;

(C) a village public safety officer; or

(D) a regional public safety officer.

No Applicable Case Law

## **4.WILD ANIMALS**

ALASKA STAT. § 16.30.010. Wanton waste of big game animals and wild fowl.

(a) It is a class A misdemeanor for a person who kills a big game animal or a species of wild fowl to fail intentionally, knowingly, recklessly, or with criminal negligence to salvage for human consumption the edible meat of the animal or fowl.

(b) If a person is convicted of violating this section and in the course of that violation failed to salvage from a big game animal at least the hindquarters as far as the distal joint of the tibia-fibula (hock), the court shall impose a sentence of imprisonment of not less than seven consecutive days and a fine of not less than \$2,500.

(c) The imposition or execution of the minimum sentence prescribed in (b) of this section may not be suspended under AS 12.55.080 or 12.55.085. The minimum sentence prescribed in (b) of this section may not be reduced.

Applicable Case Law:

*Knutson v. State*, 736 P.2d 775, (Alaska Ct. App. 1987): Codefendants can be convicted under accomplice liability theory and the factfinder need not first find that either defendant had actually killed the animal.

*Lewis v. State*, 9 P.3d 1028 (Alaska Ct. App. 2000): Finding the affidavit in support of the search warrant did not establish probable cause that defendant committed statutory violation and hence, that evidence of said offense would be found at his residence.

ALASKA STAT. § 16.30.012. Possession of horns or antlers.

(a) It is a class A misdemeanor for a person to possess the horns or antlers of a big game animal that was killed after the opening of the current or most recent lawful hunting season for that animal if the person does not possess the edible meat of the animal.

(b) A person may not be arrested or prosecuted for a violation of this section unless the arresting officer determines that there is probable cause to believe that the edible meat of the big game animal from which the horns or antlers were taken has not been salvaged.

No Applicable Case Law

ALASKA STAT. § 16.30.015. Surrender of salvaged portions, license forfeiture.

A person convicted of violating AS 16.30.010

(1) shall surrender to the department all salvaged portions of the animal or fowl;

(2) forfeits the convicted person's hunting license;

(3) is ineligible to hold a hunting license for

(A) the year in which the conviction is entered and the year following the year in which the conviction is entered;

(B) a period of five years from the date of the conviction if the person has failed to salvage from a big game animal at least the hindquarters as far as the distal joint of the tibia-fibula (hock).

No Applicable Case Law

ALASKA STAT. § 16.30.017. Defenses.

(a) It is a defense to a criminal charge under AS 16.30.010 or 16.30.012 that the failure to salvage or possess the edible meat was due to circumstances beyond the control of the person charged, including

- (1) theft of the animal or fowl;
- (2) unanticipated weather conditions or other acts of God;
- (3) unavoidable loss in the field to another wild animal.

(b) It is a defense to a criminal charge under AS 16.30.012 that the defendant does not possess the edible meat of the big game animal because the meat was

- (1) consumed by human beings; or
- (2) delivered to another person.

(c) In this section, “delivered” means given, sold, or bartered in a manner that does not violate state or federal law.

No Applicable Case Law

ALASKA STAT. § 16.30.020. Board may exempt animals.

The provisions of AS 16.30.010 and 16.30.012 do not apply to animals that the board exempts by regulation.

No Applicable Case Law

ALASKA STAT. § 16.30.030. Definitions.

In this chapter, (1) “big game animal” means moose, caribou, mountain sheep, mountain goat, feral reindeer, deer, elk, bison, walrus, or musk ox;

(2) “criminal negligence” means criminal negligence as defined in AS 11.81.900(a)(4);

(3) “edible meat” means, in the case of big game animals, the meat of the ribs, neck, brisket, front quarters as far as the distal joint of the radius-ulna (knee), hindquarters as far as the distal joint of the tibia-fibula (hock), and that portion of the animal between the front and hindquarters; in the case of wild fowl, the meat of the breast; however, “edible meat” of big game or wild fowl does not include

(A) meat of the head;

(B) meat that has been damaged and made inedible by the method of taking;

(C) bones, sinew, and incidental meat reasonably lost as a result of boning or a close trimming of the bones;

(D) viscera;

(4) “intentionally” means intentionally as defined in AS 11.81.900(a)(1);

(5) “knowingly” means knowingly as defined in AS 11.81.900(a)(2);

(6) “possess the edible meat” includes possessing portions of the edible meat in more than one location while the meat is being transported from the place where it was salvaged;

(7) “recklessly” means recklessly as defined in AS 11.81.900(a)(3);

(8) “wild fowl” means species of wild fowl for which seasons or bag limits have been established by state or federal law.

No Applicable Case Law

ALASKA STAT. § 16.35.200. Use of poison to kill predatory animals.

A department, other state agency, or person may not use poison to kill predatory animals without first obtaining the written consent of the appropriate board.

No Applicable Case Law

ALASKA STAT. § 16.35.210. Nonindigenous fish.

(a) A person may not knowingly release, or transport, possess, import, or export for the purpose of release, into the water of the state live nonindigenous fish or live fertilized eggs of nonindigenous fish, unless permitted by AS 16.05 — AS 16.40 or by a regulation adopted under AS 16.05 — AS 16.40. This subsection does not apply to

(1) a fisherman who catches and releases a fish into the water from which the fish was taken; or

(2) generally accepted conduct in relation to permitted salt water commercial or sport fishing.

(b) A person may not knowingly rear live ornamental fish in, or release live ornamental fish into, the water of the state.

(c) A person who violates this section is guilty of a class A misdemeanor.

(d) In addition to the penalty imposed under (c) of this section, a person who is convicted of violating this section may be ordered by the court to pay restitution to the state to cover the costs of damages to fishery resources of the state and of removing the introduced fish species from the water of the state.

(e) In this section,

(1) “knowingly” has the meaning given in AS 11.81.900;

(2) “nonindigenous fish” means a species of fish that is not native to the body of water in which the fish is released or is intended to be released;

(3) “ornamental fish” means an aquatic finfish, commonly referred to as tropical fish, aquarium fish, or goldfish, an aquatic invertebrate, or an amphibian that is imported, cultured, or sold in the state customarily for viewing in an aquarium or for raising in an artificial containment system and that is not customarily used for sport fishing in the state or used for human consumption;

(4) “water of the state” means any water of the state forming a river, stream, lake, pond, slough, creek, bay, sound, estuary, inlet, strait, passage, canal, sea, or ocean, or any other body of water or waterway within the territorial limits of the state.

No Applicable Case Law

ALASKA STAT. § 16.40.050. Capture or release of elk.

(a) [Repealed, § 5 ch 41 SLA 2000.]

(b) [Repealed, § 5 ch 41 SLA 2000.]

(c) A live elk may not be captured from the wild or released into the wild without an appropriate license or permit from the department.

(d) [Repealed, § 5 ch 41 SLA 2000.]

(e) [Repealed, § 5 ch 41 SLA 2000.]

No Applicable Case Law

**5. SENTENCING**

ALASKA STAT. § 12.55.125. Sentences of imprisonment for felonies.

(a) A defendant convicted of murder in the first degree or murder of an unborn child under AS 11.41.150(a)(1) shall be sentenced to a definite term of imprisonment of at least 30 years but not more than 99 years. A defendant convicted of murder in the first degree shall be sentenced to a mandatory term of imprisonment of 99 years when

(1) the defendant is convicted of the murder of a uniformed or otherwise clearly identified peace officer, firefighter, or correctional employee who was engaged in the performance of official duties at the time of the murder;

(2) the defendant has been previously convicted of

(A) murder in the first degree under AS 11.41.100 or former AS 11.15.010 or 11.15.020;

(B) murder in the second degree under AS 11.41.110 or former AS 11.15.030; or

(C) homicide under the laws of another jurisdiction when the offense of which the defendant was convicted contains elements similar to first degree murder under AS 11.41.100 or second degree murder under AS 11.41.110;

(3) the defendant subjected the murder victim to substantial physical torture;

(4) the defendant is convicted of the murder of and personally caused the death of a person, other than a participant, during a robbery; or

(5) the defendant is a peace officer who used the officer's authority as a peace officer to facilitate the murder.

(b) A defendant convicted of attempted murder in the first degree, solicitation to commit murder in the first degree, conspiracy to commit murder in the first degree, kidnapping, or misconduct involving a controlled substance in the first degree shall be sentenced to a definite term of imprisonment of at least five years but not more than 99 years. A defendant convicted of murder in the second degree or murder of an unborn child under AS 11.41.150(a)(2) — (4) shall be sentenced to a definite term of imprisonment of at least 15 years but not more than 99 years. A defendant convicted of murder in the second degree shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years when the defendant is convicted of the murder of a child under 16 years of age and the court finds by clear and convincing evidence that the defendant (1) was a natural parent, a stepparent, an adoptive parent, a legal guardian, or a person occupying a position of authority in relation to the child; or (2) caused the death of the child by committing a crime against a person under AS 11.41.200 — 11.41.530. In this subsection, "legal guardian" and "position of authority" have the meanings given in AS 11.41.470.

(c) Except as provided in (i) of this section, a defendant convicted of a class A felony may be sentenced to a definite term of imprisonment of not more than 20 years, and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, four to seven years;

(2) if the offense is a first felony conviction

(A) and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury or death during the commission of the offense, or knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, firefighter, correctional employee, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the offense, seven to 11 years;

(B) and the conviction is for manufacturing related to methamphetamine under AS 11.71.021(a)(2)(A) or (B), seven to 11 years if

(i) the manufacturing occurred in a building with reckless disregard that the building was used as a permanent or temporary home or place of lodging for one or more children under 18 years of age or the building was a place frequented by children; or

(ii) in the course of manufacturing or in preparation for manufacturing, the defendant obtained the assistance of one or more children under 18 years of age or one or more children were present;

(3) if the offense is a second felony conviction, 10 to 14 years;

(4) if the offense is a third felony conviction and the defendant is not subject to sentencing under (1) of this section, 15 to 20 years.

(d) Except as provided in (i) of this section, a defendant convicted of a class B felony may be sentenced to a definite term of imprisonment of not more than 10 years, and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, one to three years; a defendant sentenced under this paragraph may, if the court finds it appropriate, be granted a suspended imposition of sentence under AS 12.55.085 if, as a condition of probation under AS 12.55.086, the defendant is required to serve an active term

of imprisonment within the range specified in this paragraph, unless the court finds that a mitigation factor under AS 12.55.155 applies;

(2) if the offense is a first felony conviction,

(A) the defendant violated AS 11.41.130, and the victim was a child under 16 years of age, two to four years;

(B) two to four years if the conviction is for attempt, solicitation, or conspiracy to manufacture related to methamphetamine under AS 11.31 and AS 11.71.021(a)(2)(A) or (B), and

(i) the attempted manufacturing occurred, or the solicited or conspired offense was to have occurred, in a building with reckless disregard that the building was used as a permanent or temporary home or place of lodging for one or more children under 18 years of age or the building was a place frequented by children; or

(ii) in the course of an attempt to manufacture, the defendant obtained the assistance of one or more children under 18 years of age or one or more children were present;

(3) if the offense is a second felony conviction, three to seven years;

(4) if the offense is a third felony conviction, six to 10 years.

(e) Except as provided in (i) of this section, a defendant convicted of a class C felony may be sentenced to a definite term of imprisonment of not more than five years, and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (4) of this subsection, zero to two years; a defendant sentenced under this paragraph may, if the court finds it appropriate, be granted a suspended imposition of sentence under AS 12.55.085, and the court may, as a condition of probation under AS 12.55.086, require the defendant to serve an active term of imprisonment within the range specified in this paragraph;

(2) if the offense is a second felony conviction, two to four years;

(3) if the offense is a third felony conviction, three to five years;

(4) if the offense is a first felony conviction, and the defendant violated AS 08.54.720(a)(15), one to two years.

(f) If a defendant is sentenced under (a) or (b) of this section,

(1) imprisonment for the prescribed minimum or mandatory term may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under AS 12.55.085;

(3) imprisonment for the prescribed minimum or mandatory term may not be reduced, except as provided in (j) of this section.

(g) If a defendant is sentenced under (c), (d), (e), or (i) of this section, except to the extent permitted under AS 12.55.155 — 12.55.175,

(1) imprisonment may not be suspended under AS 12.55.080 below the low end of the presumptive range;

(2) and except as provided in (d)(1) or (e)(1) of this section, imposition of sentence may not be suspended under AS 12.55.085;

(3) terms of imprisonment may not be otherwise reduced.

(h) Nothing in this section or AS 12.55.135 limits the discretion of the sentencing judge except as specifically provided. Nothing in (a) of this section limits the court's discretion to impose a sentence of 99 years imprisonment, or to limit parole eligibility, for a person convicted of murder in the first or second degree in circumstances other than those enumerated in (a).

(i) A defendant convicted of

(1) sexual assault in the first degree, sexual abuse of a minor in the first degree, unlawful exploitation of a minor under AS 11.41.455(c)(2), or sex trafficking in the first degree under AS 11.66.110(a)(2) may be sentenced to a definite term of imprisonment of not more than 99 years and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(A) if the offense is a first felony conviction, the offense does not involve circumstances described in (B) of this paragraph, and the victim was

(i) less than 13 years of age, 25 to 35 years;

(ii) 13 years of age or older, 20 to 30 years;

(B) if the offense is a first felony conviction and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, 25 to 35 years;

(C) if the offense is a second felony conviction and does not involve circumstances described in (D) of this paragraph, 30 to 40 years;

(D) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 35 to 45 years;

(E) if the offense is a third felony conviction and the defendant is not subject to sentencing under (F) of this paragraph or (I) of this section, 40 to 60 years;

(F) if the offense is a third felony conviction, the defendant is not subject to sentencing under (I) of this section, and the defendant has two prior convictions for sexual felonies, 99 years;

(2) unlawful exploitation of a minor under AS 11.41.455(c)(1), enticement of a minor under AS 11.41.452(e), or attempt, conspiracy, or solicitation to commit sexual assault in the first degree, sexual abuse of a minor in the first degree, or sex trafficking in the first degree under AS 11.66.110(a)(2) may be sentenced to a definite term of imprisonment of not more than 99 years and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(A) if the offense is a first felony conviction, the offense does not involve circumstances described in (B) of this paragraph, and the victim was

(i) under 13 years of age, 20 to 30 years;

(ii) 13 years of age or older, 15 to 30 years;

(B) if the offense is a first felony conviction and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, 25 to 35 years;

(C) if the offense is a second felony conviction and does not involve circumstances described in (D) of this paragraph, 25 to 35 years;

(D) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 30 to 40 years;

(E) if the offense is a third felony conviction, the offense does not involve circumstances described in (F) of this paragraph, and the defendant is not subject to sentencing under (I) of this section, 35 to 50 years;

(F) if the offense is a third felony conviction, the defendant is not subject to sentencing under (I) of this section, and the defendant has two prior convictions for sexual felonies, 99 years;

(3) sexual assault in the second degree, sexual abuse of a minor in the second degree, enticement of a minor under AS 11.41.452(d), indecent exposure in the first degree under AS 11.41.458(b)(2), or distribution of child pornography under AS 11.61.125(e)(2) may be sentenced to a definite term of imprisonment of not more than 99 years and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(A) if the offense is a first felony conviction, five to 15 years;

(B) if the offense is a second felony conviction and does not involve circumstances described in (C) of this paragraph, 10 to 25 years;

(C) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 15 to 30 years;

(D) if the offense is a third felony conviction and does not involve circumstances described in (E) of this paragraph, 20 to 35 years;

(E) if the offense is a third felony conviction and the defendant has two prior convictions for sexual felonies, 99 years;

(4) sexual assault in the third degree, sexual abuse of a minor in the third degree under AS 11.41.438(c), incest, indecent exposure in the first degree under AS 11.41.458(b)(1), indecent viewing or production of a picture under AS 11.61.123(f)(1) or (2), possession of child pornography, distribution of child pornography under AS 11.61.125(e)(1), or attempt, conspiracy, or solicitation to commit sexual assault in the second degree, sexual abuse of a minor in the second degree, unlawful exploitation of a minor, or distribution of child pornography, may be sentenced to a definite term of imprisonment of not more than 99 years and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(A) if the offense is a first felony conviction and does not involve the circumstances described in (B) or (C) of this paragraph, two to 12 years;

(B) if the offense is a first felony conviction under AS 11.61.125(e)(1) and does not involve circumstances described in (C) of this paragraph, four to 12 years;

(C) if the offense is a first felony conviction under AS 11.61.125(e)(1), and the defendant hosted, created, or helped host or create a mechanism for multi-party sharing or distribution of child pornography, or received a financial benefit or had a financial interest in a child pornography sharing or distribution mechanism, six to 14 years;

(D) if the offense is a second felony conviction and does not involve circumstances described in (E) of this paragraph, eight to 15 years;

(E) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 12 to 20 years;

(F) if the offense is a third felony conviction and does not involve circumstances described in (G) of this paragraph, 15 to 25 years;

(G) if the offense is a third felony conviction and the defendant has two prior convictions for sexual felonies, 99 years.

(j) A defendant sentenced to a (1) mandatory term of imprisonment of 99 years under (a) of this section may apply once for a modification or reduction of sentence under the Alaska Rules of Criminal Procedure after serving one-half of the mandatory term without consideration of good time earned under AS 33.20.010, or (2) definite term of imprisonment under (l) of this section may apply once for a modification or reduction of sentence under the Alaska Rules of Criminal Procedure after serving one-half of the definite term. A defendant may not file and a court may not entertain more than one motion for modification or reduction of a sentence subject to this subsection, regardless of whether or not the court granted or denied a previous motion.

(k) [Repealed, § 32 ch 2 SLA 2005.]

(l) Notwithstanding any other provision of law, a defendant convicted of an unclassified or class A felony offense, and not subject to a mandatory 99-year sentence under (a) of this section, shall be sentenced to a definite term of imprisonment of 99 years when the defendant has been previously convicted of two or more most serious felonies. If a defendant is sentenced to a definite term under this subsection,

(1) imprisonment for the prescribed definite term may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under AS 12.55.085;

(3) imprisonment for the prescribed definite term may not be reduced, except as provided in (j) of this section.

(m) Notwithstanding (a)(4) and (f) of this section, if a court finds that imposition of a mandatory term of imprisonment of 99 years on a defendant subject to sentencing under (a)(4) of this section would be manifestly unjust, the court may sentence the defendant to a definite term of imprisonment otherwise permissible under (a) of this section.

(n) In imposing a sentence within a presumptive range under (c), (d), (e), or (i) of this section, the total term, made up of the active term of imprisonment plus any suspended term of imprisonment, must fall within the presumptive range, and the active term of imprisonment may not fall below the lower end of the presumptive range.

(o) [Repealed, § 179 ch. 36 SLA 2016.]

(p) If the state seeks either (1) the imposition of a sentence under (a) of this section that would preclude the defendant from being awarded a good time deduction under AS 33.20.010(a) based on a fact other than a prior conviction; or (2) to establish a fact that would increase the presumptive sentencing range under (c)(2), (d)(2), (e)(4), (i)(1)(A) or (B), or (i)(2)(A) or (B) of this section, the factual question required to be decided shall be presented to a trial jury and proven beyond a reasonable doubt under procedures set by the court, unless the defendant waives trial by jury and either stipulates to the existence of the fact or consents to have the fact proven to the court sitting without a jury. Written notice of the intent to establish a fact under this subsection must be served on the defendant and filed with the court as provided for notice under AS 12.55.155(f)(2).

(q) Other than for convictions subject to a mandatory 99-year sentence, the court shall impose, in addition to an active term of imprisonment imposed under (i) of this section, a minimum period of (1) suspended imprisonment of five years and a minimum period of probation supervision of 15 years for conviction of an unclassified felony, (2) suspended imprisonment of three years and a minimum period of probation supervision of 10 years for conviction of a class A or class B felony, or (3) suspended imprisonment of two years and a minimum period of probation supervision of five years for conviction of a class C felony. The period of probation is in addition to any sentence received under (i) of this section and may not be suspended or reduced. Upon a defendant's release from confinement in a correctional facility, the defendant is subject to the probation requirement under this subsection and shall submit and comply with the terms and requirements of the probation.

#### No Applicable Animal Cruelty Case Law

ALASKA STAT. § 12.55.135. Sentences of imprisonment for misdemeanors.

(a) A defendant convicted of a class A misdemeanor may be sentenced to a definite term of imprisonment of not more than one year.

(b) A defendant convicted of a class B misdemeanor may be sentenced to a definite term of imprisonment of not more than 90 days unless otherwise specified in the provision of law defining the offense.

(c) A defendant convicted of assault in the fourth degree that is a crime involving domestic violence committed in violation of the provisions of an order issued or filed under AS 12.30.027 or AS 18.66.100 — 18.66.180 and not subject to sentencing under (g) of this section shall be sentenced to a minimum term of imprisonment of 20 days.

(d) A defendant convicted of assault in the fourth degree or harassment in the first degree who knowingly directed the conduct constituting the offense at

(1) a uniformed or otherwise clearly identified peace officer, firefighter, correctional employee, emergency medical technician, paramedic, ambulance attendant, or other emergency responder or medical professional who was engaged in the performance of official duties at the time of the assault or harassment shall be sentenced to a minimum term of imprisonment of

(A) 60 days if the defendant violated AS 11.41.230(a)(1) or (2) or AS 11.61.118;

(B) 30 days if the defendant violated AS 11.41.230(a)(3);

(2) a person who was on school grounds during school hours or during a school function or a school-sponsored event, on a school bus, at a school-sponsored event, or in the administrative offices of a school district, if students are educated at that office, shall be sentenced to a minimum term of imprisonment of 60 days if the defendant violated AS 11.41.230(a)(1) or (2); in this paragraph,

(A) “school bus” has the meaning given in AS 11.71.900;

(B) “school district” has the meaning given in AS 47.07.063;

(C) “school grounds” has the meaning given in AS 11.71.900.

(e) If a defendant is sentenced under (c), (d), or (h) of this section,

(1) execution of sentence may not be suspended and probation or parole may not be granted until the minimum term of imprisonment has been served;

(2) imposition of a sentence may not be suspended except upon condition that the defendant be imprisoned for no less than the minimum term of imprisonment provided in the section; and

(3) the minimum term of imprisonment may not otherwise be reduced.

(f) A defendant convicted of vehicle theft in the second degree in violation of AS 11.46.365(a)(1) shall be sentenced to a definite term of imprisonment of at least 72 hours but not more than one year.

(g) A defendant convicted of assault in the fourth degree that is a crime involving domestic violence shall be sentenced to a minimum term of imprisonment of

(1) 30 days if the defendant has been previously convicted of a crime against a person or a crime involving domestic violence;

(2) 60 days if the defendant has been previously convicted two or more times of a crime against a person or a crime involving domestic violence, or a combination of those crimes.

(h) A defendant convicted of failure to register as a sex offender or child kidnapper in the second degree under AS 11.56.840 shall be sentenced to a minimum term of imprisonment of 35 days.

(i) If a defendant is sentenced under (g) of this section,

(1) execution of sentence may not be suspended and probation or parole may not be granted until the minimum term of imprisonment has been served;

(2) imposition of sentence may not be suspended;

(3) the minimum term of imprisonment may not otherwise be reduced.

(j) [Repealed, § 179 ch. 36 SLA 2016.]

(k) In this section,

(1) “crime against a person” means a crime under AS 11.41, or a crime in this or another jurisdiction having elements similar to those of a crime under AS 11.41;

(2) “crime involving domestic violence” has the meaning given in AS 18.66.990;

(3) “medical professional” means a person who is an advanced practice registered nurse, anesthesiologist, chiropractor, dental hygienist, dentist, health aide, nurse, nurse aide, mental

health counselor, osteopath, physician, physician assistant, psychiatrist, psychological associate, psychologist, radiologist, surgeon, or x-ray technician, or who holds a substantially similar position.

(l) [Repealed, § 138 ch 4 FSSLA 2019.]

(m) [Repealed, § 138 ch 4 FSSLA 2019.]

(n) [Repealed, § 138 ch 4 FSSLA 2019.]

(o) [Repealed, § 138 ch 4 FSSLA 2019.]

(p) [Repealed, § 138 ch 4 FSSLA 2019.]

No Applicable Animal Cruelty Case Law