

HB

154

"An Act relating to criminal assault."

2/12/75

COMMITTEE REPORT

HOUSE

Mr. Speaker:

Date _____

The Committee on Judiciary has had HB 154

under consideration. A Majority of the members of the Committee

() recommends it DO PASS

() recommends it DO NOT PASS

() recommends it DO PASS WITH ATTACHED AMENDMENT(S)

() recommends it BE REPLACED WITH CS FOR HB 154 AND THAT

CS FOR HB 154 DO PASS

() "and" recommends it BE REFERRED TO THE _____

COMMITTEE

() reports it back WITHOUT RECOMMENDATION

() "other"

Members signing the Majority report:

<u>[Signature]</u>	<u>[Signature]</u>	_____
<u>[Signature]</u>	<u>[Signature]</u>	_____
<u>[Signature]</u>		_____
<u>[Signature]</u>		_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

[Signature] Chairman

HOUSE JOURNAL

February 20, 1975

House Judiciary Committee
Statement of Intent on CS HB 154

272-273

It is the intent of the committee to: first, delete archaic language found in the existing assault statutes; second, to include uniform provisions for fine and imprisonment for any type of assault; and third, because assault is a serious offense, to raise the maximum sentence for simple assault and assault and battery.

A section on aggravated assault has been added in order to cover the situation where great bodily injury results from an assault. The penalty for such an attack should be much more severe than it currently is (being only a simple assault misdemeanor with a maximum sentence of six months). An example of an aggravated assault might be the professional beating situation where the victim is seriously injured.

Section 11.15.228 is intended to reach those who cause injuries under circumstances which would justify a negligent homicide prosecution under AS 11.15.080, had death resulted. An archtypical example would be the operator of a motor vehicle who, while under the influence of intoxicating beverages, is involved in an accident which injures another as a direct and proximate result of his intoxicated condition. If the person dies, he can be prosecuted under AS 11.15.080, but if the victim lives, no matter how serious his injury, the driver under the present law can only be prosecuted for reckless driving or operating a motor vehicle under the influence of alcohol, both of which are misdemeanors.

House Judiciary Committee
February 14, 1975

HB 74/ HB 154 Assault

The meeting was called to order at 1:35 p.m. by Chairman Gardiner. All members were present except Mr. Cotton.

Dan Hickey, DA, testified that HB 154 cleans up technical problems and archaic language in the existing statutes and creates the new offense of aggravated assault.

The discussion centered primarily around language proposed by Mr. Brown including the word purposely. Mr. Hickey stated that this word might be interpreted by the courts to introduce an element of wilfulness or specific intent.

Rep. Parr objected to the proposed use of the word reckless since assault presupposes general intent.

Sec. 11.15.190, Assault while armed, imposes a minimum penalty of one year while Sec. 11.15.220 imposes a minimum sentence of six months. Also, 190 contains no fine provision. Mr. Hickey indicated no objection to making both one year minimums and the addition of a fine provision. Minimum sentences are unnecessary unless mandatory.

The committee discussed the possibility of forming a seperate section to cover Mr. Brown's proposed amendment. It was decided that the committee would meet again to vote on the original bill.

House Judiciary Committee
February 18, 1975

The meeting was called to order at 3:10 p.m. by Chairman Gardiner. Members present: Gardiner, Bradley, Fink, Cotton, Brown.

HB 45 Ombudsman

Stu Hall presented the committee substitute which incorporated the amendments requested by the committee. Rep. Fink moved that the CS be adopted after language on page 9 concerning the judicial branch be deleted. Mr. Brown amended Mr. Fink's motion to delete the language on the first two lines of page 10 also. Mr. Brown's amended motion failed. Mr. Fink's motion passed and so the CS was adopted. Mr. Brown moved that when the committee receives SB 1 that the CS HB 45 be substituted and that it do pass. There being no objection, Mr. Brown's motion passed.

HB 129 Smoking in Public

Mr. Gardiner indicated that he wished only an idea of what the committee intended to do with this bill. Mr. Fink stated that he would attempt to prove that smoking is not "dangerous" and would then add other habits that bother people to the bill. Mr. Brown recommended that the definition of public accommodation in the 1964 Civil Rights Act be checked to possibly include more public places. Other committee members mentioned other possible amendments including the substitution of approved air conditioning for separate areas.

HB 154/HB 74

Mr. Cotton moved that in 220 six months be changed to 1 year. Amendment 1 passed.

Mr. Brown moved that in 190 the language in lines 22 and 23 relating to imposition of fine be added. Amendment 2 passed.

Mr. Brown will draft language to cover reckless actions to be another section either before or after Sect 4.

House Judiciary Committee
February 20, 1975

The meeting was called to order at 11:15 a.m. by Chairman Gardiner. All members were present except Mr. Bradley.

Rep. Brown explained his proposed language for a new section on reckless battery. He moved that this language be incorporated into the CS. There being no objection, Amendment 3 passed.

Rep. Brown moved HB 154 out with a do pass as the CS for HB 154. He also asked that a letter of intent be drafted to accompany the bill. There being no objection, CS HB 154 was passed out of committee.

February 14, 1975

TO: House Judiciary Committee

FROM: Fred Brown

SUBJECT: PROPOSED AMENDMENT TO HB 154
by the Rules Committee by Request of the Governor

I have suggested a change in the Governor's bill in Section 3 beginning at line 24. As it stands right now, the Governor's bill does not take into account the problem of reckless or negligent causing of extreme bodily harm, which is covered by our HB 74.

The rest of the Governor's bill cleans up some problems relating to the existing assault statutes. One problem that Tom Turnbull pointed out is in the existing law (carried through in the Governor's bill) under which the minimum sentence for assault with a dangerous weapon is less than the minimum sentence for assault while armed. This is strange, since assault with a dangerous weapon is considered to be a more serious felony. Tom and I would suggest that the minimum sentence for each of the two crimes be made the same, either six months or one year.

What follows is the suggested substitute language for Section 3, line 25 of HB 154. It includes the situation covered by our bill, and not covered by the Governor's bill, under which serious bodily injury is caused recklessly by someone, but not intentionally or as part of an intentional assault. The language inserted is in the style of modern penal codes, and follows in part some of the language of Section 211.1 (2) of the proposed official draft of the model penal code. The sentence structure is left in the style of the present law and the Governor's bill but inserts language covering the omitted offenses.

Section 3 AS 11.15 is amended by adding a new section to read:

Sec. 11.15.225 AGGRAVATED ASSAULT (a) A person who unlawfully attempts to cause great bodily injury to another, or who causes such injury purposely, knowingly or recklessly under circumstances manifesting extreme indifference to the value of human life, is guilty of aggravated assault. Upon conviction, a person guilty of aggravated assault is punishable by imprisonment for not less than six months nor more than five years, or by a fine of not less than \$100 or more than \$1,000, or by both.

I would urge that the Governor's bill be changed in the manner described in this memo and then be submitted with a "do pass" by this committee as a CS for HB 74.

Turning in false alarm (fire)
max 1 year

Disintering corpse from a grave
max 1 year

Pimping
max 1 year

February 14, 1975

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February 14, 1975

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