

H B

G 3 O

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

2/17/88

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to suspended imposition of sentences. It broadens the authority of the court when using a suspended-imposition-of-sentence alternative for misdemeanor offenses.

Under current law, the court may suspend imposition of sentence for no more than the maximum term of the sentence that may be imposed. In the case of misdemeanor offenses, this means that the sentencing judge may only suspend imposition of a sentence for up to one year. The court system has conveyed to me the reluctance of some judges to use this alternative for misdemeanors because the one-year restriction does not offer sufficient jurisdiction to ensure that the offender complies with conditions of the suspended imposition of sentence and achieves rehabilitation. This bill would permit judges in this situation to suspend imposition of a sentence up to five years, or the maximum term of a sentence, whichever is longer.

This Administration supports this bill and urges your prompt and favorable action on it.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield
Governor

0

2/17

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : HB 630
 Title : An Act Relating to Suspended Sentences

 Sponsor : _____
 Requestor : _____
 Date of Request : 2/11/80

FISCAL DETAIL

Agency Affected : Alaska Court System
 BRU : Trial Courts

 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Robert G. Fisher Phone : 264-8215
 Division : Alaska Court System Date : 2/13/86
 Approved by Commissioner : Arthur H. Snowden, II Date : 2/13/86
 Agency : Alaska Court System

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

INTENTION, ALASKA PETERSON

#374-090-86



Alaska Court System
State of Alaska
OFFICE OF ADMINISTRATIVE SERVICES

CPM
to
act

KARLA L. FORBYTHZ
General Counsel

December 23, 1985

HB630

F

Mr. Hal Brown
Attorney General
Pouch K
Juneau AK 99811

Dear Mr. Brown:

Several judges have requested action to seek amendments to AS 12.55.085 relating to suspended imposition of sentence. I am writing to bring this request to the attention of the Department of Law as the appropriate entity which could seek such a change.

This statute provides that a court may suspend an imposition of sentence and have such suspension continue for "a period of time, not exceeding the maximum term of sentence which may be imposed. . .", placing the defendant on probation. The short probation period during which the judgment may be enforced by an imposition of sentence for less serious misdemeanors makes a SIS an unattractive sentencing option for these offenses. In contrast, when a sentence is formally imposed, the probationary period may be up to five years. Under AS 12.55.090(c) the result is that a felon may have the imposition of sentence suspended on a first offense and have the opportunity to earn a clean criminal record under AS 12.55.085(d) and (e). However, a minor misdemeanant may be denied this option because the period during which the judgment may be enforced is so brief.

While a sentencing court may extend a period of probation imposed as part of a formal sentence (AS 12.55.090(b)), no similar authority exists for extending the period of suspension of the imposition of sentence upon a minor violation of the conditions of such suspension. If the court was empowered to suspend the imposition of sentence for either the maximum sentence which could be imposed or, if such period is less than a certain time period (for example, five years), practical sentencing alternatives would be enhanced. It would also be helpful to extend the term of suspended imposition upon a violation.

If your staff has any questions I will be glad to provide further information.

Sincerely,

Karla L. Forsythe

Karla L. Forsythe
General Counsel

KB630

KF/k1

cc: Arthur H. Snowden, II
Stephanie Cole
Judge Finn
Joe O'Connell, Palmer
Carole Baekey

MINER, ILLINOIS, AK 1 PETERSON

37 09-86



Alaska Court
State of Alaska
OFFICE OF ADMINISTRATIVE

*CPM
to
act*

KARLA L. FORSYTHE
General Counsel

December 23, 1

HB 630

F

Mr. Hal Brown
Attorney General
Pouch K
Juneau AK 99811

Dear Mr. Brown:

Several judges have requested action to seek amendments to AS 12.55.085 relating to suspended imposition of sentence. I am writing to bring this request to the attention of the Department of Law as the appropriate entity which could seek such a change.

This statute provides that a court may suspend an imposition of sentence and have such suspension continue for "a period of time, not exceeding the maximum term of sentence which may be imposed. . .", placing the defendant on probation. The short probation period during which the judgment may be enforced by an imposition of sentence for less serious misdemeanors makes a SIS an unattractive sentencing option for these offenses. In contrast, when a sentence is formally imposed, the probationary period may be up to five years. Under AS 12.55.090(c) the result is that a felon may have the imposition of sentence suspended on a first offense and have the opportunity to earn a clean criminal record under AS 12.55.085(d) and (e). However, a minor misdemeanant may be denied this option because the period during which the judgment may be enforced is so brief.

While a sentencing court may extend a period of probation imposed as part of a formal sentence (AS 12.55.090(b)), no similar authority exists for extending the period of suspension of the imposition of sentence upon a minor violation of the conditions of such suspension. If the court was empowered to suspend the imposition of sentence for either the maximum sentence which could be imposed or, if such period is less than a certain time period (for example, five years), practical sentencing alternatives would be enhanced. It would also be helpful to extend the term of suspended imposition upon a violation.

Hal Brown, Attorney General
December 20, 1985, Page 2

If your staff has any questions I will be glad to provide further information.

Sincerely,

Karla L. Forsythe

Karla L. Forsythe
General Counsel

KB630

KF/k1

cc: Arthur H. Snowden, II
Stephanie Cole
Judge Finn
Joe O'Connell, Palmer
Carole Baekey

Number 195

Ms. Forsythe stated that HB 630 would permit a judge to suspend a defendant's sentence, in a minor case in particular, for up to five years beyond the maximum term of the sentence. The result of this change would be to make more people eligible for suspended imposition of sentence. She clarified that HB 630 was not a Court System bill, but was generated at the request of district court judges because it is a substantive change in law. It was introduced through the Governor's office.

Number 238

Rep. Gruenberg stated that discussion of creating a Class C misdemeanor had taken place earlier, and that was still his intent. It would simply create a Class C misdemeanor with a \$500 maximum fine and a thirty day maximum jail sentence. He explained that a Class B misdemeanor is too heavy a penalty; that a Class C misdemeanor will give us an additional option when dealing with such things as licensing violations.

Rep. Gruenberg moved to amend the title to read "An act relating to suspended imposition of sentence and creation of Class C misdemeanor."

Number 255

Chair Miller asked Karla Forsythe to comment on this proposed amendment. She stated that she would not be able to comment without circulating it to the judges as it appeared to be substantive change.

Number 265

Rep. Clocksin stated that he supported the concept; however he was hesitant as it was a new concept.

Rep. Gruenberg stated that it gave an additional option, and suggested that the amendment be kept in, but if it caused any objection, to strip it out again.

Chair Miller suggested that they vote that day and introduce it as a judiciary bill, to handle schedules.

Number 280

Rep. Gruenberg withdrew his amendment.

Number 283

Chair Miller stated that the committee again had before them HB 630, unamended.

Number 287

Rep. Clocksin introduced another issue which would fit under the title, AS 12.55.085(e), amending 085(a). Rep. Clocksin stated that he would like to offer a conceptual amendment which would, upon the completion of a SIS period, allow not only the setting aside of the conviction but the actual expungement of the record. Essentially the prosecution would be dropped and there would be no record of it. The amendment would read, "Upon the discharge by the court without imposition of sentence the court may 'expunge the record and' set aside the conviction and issue a certificate to that effect."

Rep. Gruenberg stated that he supported that amendment.

Number 325

Rep. Taylor stated that he thought it was a good idea, but that he would like to make a suggestion to change the title so that it read "Imposition of Sentences in Misdemeanor Cases."

Rep. Miller stated that some felony convictions are less than five years. His point was that the authority was there to do it in misdemeanor cases, but the jail time is so little that it is meaningless to do it that way.

Rep. Sund questioned whether five years was an adequate number in trying to deal with people that get less than ninety day jail sentences to give them an option of a five year SIS in return for a ninety day jail sentence.

Number 360

Rep. Clocksin stated that he had no objection to Rep. Gruenberg's amendment, but would like to hold the bill for a day.

Chair: Miller requested that Ms. Forsythe contact the judges for their opinions on one or both of the amendments.

Number 380

Rep. Sund moved that both Rep. Clocksin and Gruenberg's amendments be adopted and to change five years probation to three years and come back with a committee substitute.

Number 385

Ms. Horetski informed the committee that five years is a probationary period maximum for other offenses. She did not know why five years was chosen, but assumed that it was

to make it consistent with other probationary statutes where the maximum is always five years regardless.

Rep. Sund gave an example of its effect. A disorderly conduct charge now has a ten day jail sentence but with an SIS it would come out with a five year probation, which would be a major change in the law.

Number 400

Ms. Forsythe stated that she did not think that a change to three years would be a great problem.

Number 405

Rep. Miller moved to adopt the three year language, the Gruenberg and Clocksin amendments, one committee substitute and the new title which would read, "An act relating to suspended imposition of sentence and the creation of a Class C misdemeanor."

Rep. Miller asked for objections. Receiving none, the bill would be passed out the following day, unless there were any objections from the court system.

Number 425

Rep. Miller asked the committee members to address HB 438. Hayden Kayden gave an overview of the bill.

Number 440

Rep. Taylor suggested that the simplest procedure possible should be used; instruct the department to adopt regulations and set up their own administrative tribunal, although some questions may be serious enough to justify going to court. He moved to remove B and C.

Number 470

Rep. Miller asked for objections to Rep. Taylor's motion, and hearing none, it was so moved.

Number 475

Rep. Taylor moved that the HB 438 be moved out.

Number 490

Hearing no objections, Rep. Miller passed the bill out and asked the committee members to sign the report.