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Q 7

BILL FILE LOG

BILL # SB97

New F/17 + Position requested - Dept of Law - Cooper

* Lisa Nelson testify

Position from Public Safety

3/13 Final Notes received Dept of Law +
Dept of Public Safety

3/19 Bill Passed out w/ Rodey amendment
CSSB 97 (Jud)

Original sponsor: Rules/Governor

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 97 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to forfeiture of weapons used to
7 commit a crime."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 12.36 is amended by adding new sections to read:

10 Sec. 12.36.059. REMISSION OF FORFEITED PROPERTY. (a) A claim-
11 ant seeking remission of or remittance of the value of the claimant's
12 interest in a weapon ordered forfeited under AS 12.55.015 is required
13 to prove to the court by a preponderance of evidence that the claimant

14 (1) has a valid interest in the weapon, acquired in good
15 faith;

16 (2) did not knowingly participate in the commission of the
17 crime in which the weapon was used; and

18 (3) did not know or have reasonable cause to believe that
19 the weapon was used or would be used to commit a crime.

20 (b) Upon a showing that a claimant is entitled to relief under
21 (a) of this section, the order of the court shall provide that

22 (1) the weapon to which the claimant is entitled shall be
23 delivered to the claimant within 60 days after the final disposition
24 of the case; or

25 (2) if the claimant is entitled to remittance of some value
26 less than the total value of the weapon, the claimant is entitled to
27 the claimant's choice of either the value of the claimant's interest
28 or, upon payment by the claimant of the difference in value, the
29 weapon.

1 Sec. 12.36.060. DISPOSAL OF FORFEITED DEADLY WEAPONS. (a) A
2 deadly weapon forfeited under AS 12.55.015, unless remitted under
3 AS 12.36.050, shall be disposed of at the discretion of the commis-
4 sioner of public safety. The commissioner of public safety shall
5 dispose of all firearms suitable for sporting purposes by public
6 auction. Those firearms suitable for law enforcement purposes,
7 ballistics testing, or training may be retained by the Department of
8 Public Safety. Firearms that are unsafe or unlawful may be destroyed.

9 (b) The Department of Public Safety shall adopt regulations
10 necessary to carry out the provisions of this section.

11 * Sec. 2. AS 12.55.015(a) is amended to read:

12 (a) Except as limited by AS 12.55.125 - 12.55.175, the court, in
13 imposing sentence on a defendant convicted of an offense, may singly
14 or in combination

15 (1) impose a fine when authorized by law and as provided in
16 AS 12.55.035;

17 (2) order the defendant to be placed on probation under
18 conditions specified by the court which may include provision for
19 active supervision;

20 (3) impose a definite term of periodic imprisonment;

21 (4) impose a definite term of continuous imprisonment;

22 (5) order the defendant to make restitution as provided in
23 AS 12.55.045;

24 (6) order the defendant to carry out a continuous or peri-
25 odic program of community work as provided in AS 12.55.055;

26 (7) suspend execution of all or a portion of the sentence
27 imposed as provided in AS 12.55.080;

28 (8) suspend imposition of sentence as provided in AS 12.-
29 55.085;

1 (9) order the forfeiture to the Department of Public Safety
2 of any deadly weapon possessed or used by the defendant during the
3 commission of the offense.

4 * Sec. 3. AS 12.55.015 is amended by adding a new subsection to read:

5 (e) In this section "deadly weapon" has the meaning given in
6 AS 11.81.900.

CSSB97 (State Affairs): An Act relating to forfeiture of weapons used to commit a crime."

Amendment #1

Page 2, line 1:

after "weapons." insert (a)

Page 2, line 4:

delete "The commissioner of public safety may destroy the weapon or use the weapon for law enforcement, ballistics testing, or training purposes." and insert "The commissioner of public safety shall dispose of all weapons suitable for sporting purposes by public auction. However, those weapons suitable for law enforcement purposes, ballistics testing or training may be retained by the department of public safety. Those weapons which are unsafe or unlawful may be destroyed."

Page 2, line 6:

add new subsection to read "(b) The Department of Public Safety shall adopt regulations necessary to carry out the provisions of this section."

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 24, 1985

The Honorable Don Bennett
President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Bennett:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that will authorize a court to order the forfeiture to the Department of Public Safety (DPS) of a deadly weapon possessed or used by a defendant during the commission of a crime. As used in the bill, "deadly weapon" means any firearm (including a pistol, revolver, rifle, or shotgun) or anything designed for and capable of causing death or serious physical injury, including a knife, an axe, a club, metal knuckles, or an explosive.

Although current law authorizes the forfeiture of weapons used to commit fish and game offenses (AS 16.05.195) or offenses involving controlled substances (AS 17.30.110), there is no statutory provision that expressly allows a court to order, as part of a defendant's sentence, the forfeiture of a weapon used to commit crimes such as assault, robbery, or murder. AS 11.61.200 prohibits a felon, during the five years immediately following his "unconditional discharge" (i.e., release from custody or parole or probation) for a felony, from knowingly possessing "a firearm capable of being concealed on his person," and AS 12.55.080 gives a court broad powers to determine and impose reasonable probation conditions (such as no possession of firearms during the period of probation); however, neither of these statutes specifically authorizes a court to order the forfeiture of a weapon used to commit a crime.

To address this surprising omission in existing law, sec. 1 of this bill adds a new paragraph to the general sentencing provisions in AS 12.55.015(a) to authorize a court to order the forfeiture of a weapon as part of a defendant's sentence following conviction. Forfeiture would not be required in every case, but could be imposed at the court's discretion.

In sec. 2, the bill allows the remission of forfeited weapons to innocent third parties who prove an ownership interest in the weapon. Also, under sec. 2 of the bill, forfeited weapons must either be destroyed or used by DPS for training, ballistics, or other law enforcement purpose.

Passage of this bill will authorize our courts to remove from the hands of a convicted criminal a weapon used to commit a crime. This will at least prevent the convicted person from using that weapon to commit another crime in the future. I urge your prompt and favorable action on this bill.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield". The signature is written in dark ink and is positioned above the typed name.

Bill Sheffield
Governor

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 97
 Title: "...forfeiture of weapons
 used to comit a crime..."
 Sponsor: Rules Committee
 Requestor: Senate State Affairs
 Date of Request: 2-6-85

FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Administration of Justice
 BRU Program or Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

See attached analysis.

Prepared By: Francis C. Allan ^{F.C.A.} Phone: 269-5691
 Division: Alaska State Troopers Date: 2/4/85
 Approved by Commissioner: [Signature] R. J. Sundberg Date: 2-6-85
 Agency: Department of Public Safety

Distribution (by Agency preparing fiscal note):

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

7/1/84

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - SB 97

Support

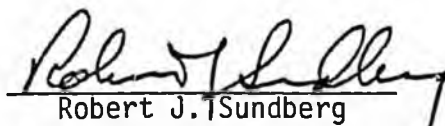
February 4, 1985

SB 97 - "An Act relating to forfeiture of weapons used to commit a crime.

This legislation adds a new paragraph to the general sentencing provisions statute which would authorize a court to order the forfeiture, as part of a defendant's sentence upon conviction, of a deadly weapon which was possessed or used by a defendant during the commission of crime.

It is common to encounter persons who are convicted of violent crimes repeating similar offenses. By being able to hinder such individuals from obtaining the "tools" to commit such crimes, an added degree of safety for the public can thus be provided.

Law enforcement agencies often spend a considerable effort returning knives, clubs, axes, etc. from evidence storage back to individuals who have committed violent crimes. Certainly this effort can be better expended if the weapons can be disposed of at the discretion of the State. Some of the weapons will be used by the Alaska State Troopers Scientific Crime Detection Laboratory for ballistics purposes.


Robert J. Sundberg
Commissioner

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CS5B97 (SA)
 Title: "An Act relating to forfeiture of weapons used to commit a crime."
 Sponsor: Senate Rules/Governor
 Requestor: Governor's Ofc./OMB
 Date of Request: 12/18/84

FISCAL DETAIL

Agency Affected: Department of Law
 Program Category Affected: Administration of Justice
 BRU, Program or Subprogram(s) Affected: Prosecution

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

This bill amends AS 12.55.015(a) to give the court the discretionary power to order the forfeiture of a weapon as part of a defendant's sentence following conviction. Although prosecutors will have the added responsibility of advocating forfeiture, when appropriate, this advocacy duty can be accomplished without additional expense.

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: 12/19/84
 Approved by Commissioner: Richard I. Pegues/COX Date: 12/19/84
 Agency: Department of Law Requestor: Norman C. Gorsuch

Distribution (by Agency preparing fiscal note):

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

7/1/84

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER -CSSB 97(SA)

Support

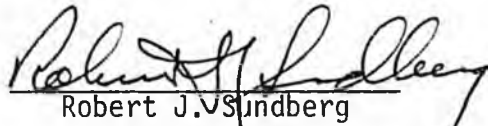
March 1, 1985

CSSB 97(SA) - "An Act relating to forfeiture of weapons used to commit a crime.

This legislation adds a new paragraph to the general sentencing provisions statute which would authorize a court to order the forfeiture, as part of a defendant's sentence upon conviction, of a deadly weapon which was possessed or used by a defendant during the commission of crime.

It is common to encounter persons who are convicted of violent crimes repeating similar offenses. By being able to hinder such individuals from obtaining the "tools" to commit such crimes, an added degree of safety for the public can thus be provided.

Law enforcement agencies often spend a considerable effort returning knives, clubs, axes, etc. from evidence storage back to individuals who have committed violent crimes. Certainly this effort can be better expended if the weapons can be disposed of at the discretion of the State. Some of the weapons will be used by the Alaska State Troopers Scientific Crime Detection Laboratory for ballistics purposes.


Robert J. Sundberg
Commissioner

COMMITTEE REPORTS (Senate)(cont'd)

Forfeiture
of Weapons
Used in a
Crime

SENATE BILL NO. 97, (see page 116). Reported back to the Senate on February 25 by State Affairs with a majority of the committee recommending it be replaced with a CS and that it do pass. Concurring: Abood (Chairman), DeVries, Vic Fischer and Kelly. Ray had no recommendation. To Judiciary.

The original version, in Sec. 2, added new sections relating to remission of forfeited property to AS 33.30 (Prison Facilities and Prisoners). Under the State Affairs version, these sections, with one change, are added to AS 12.36 (Disposition of Recovered or Seized Property). Change is as follows:

The State Affairs version requires the state to return a weapon "within 60 days after the final disposition of the case," if it is proven that the person is entitled to keep a forfeited weapon. Under the original, the state would have been required to return the weapon immediately.

Makes a drafting change to the amendment to AS 12.55.015--no change in effect of amendment (Sec. 1 of original).

Child Care
Centers
(in public
buildings)

SENATE BILL NO. 165, (see page 291). Reported back to the Senate on March 1 by Health, Education & Social Services with the majority signing do pass. Concurring: Fahrenkamp (Chmn.), Sturgulewski and Josephson. Paul Fischer signed "do not pass without amendments." DeVries signed "no recommendation." To Finance.

Political
Contributions
by Minors

SENATE BILL NO. 173, (see page 294). Reported back to the Senate on February 26 by State Affairs with the committee recommending it be replaced with a State Affairs CS and that it do pass. Concurring: Abood (Chmn.), DeVries, Vic Fischer and Kelly. To Finance.

The State Affairs substitutes "individual under the age of 18" for "individual under the age of majority" throughout the bill.

Disaster
Relief for
St. Paul

SENATE BILL NO. 186, (see page 296). Reported back to the Senate on February 28 by State Affairs with the committee recommending it do pass. Concurring: Abood (Chmn.), Kelly, Vic Fischer and DeVries. To Finance.

Fairbanks
Annexation
(disapproval)

SENATE JOINT RESOLUTION NO. 17, (see page 299). Reported back to the Senate on March 1 by Community & Regional Affairs with the committee recommending as follows: Sen. DeVries (Chairman), and Sen. Coghili signed "do pass." Sens. Sturgulewski, Ferguson and Vic Fischer signed "do not pass." To Rules.

BILLS PASSED IN THE SENATE

Sewer System
Failure
(Haines)
page 358

CS FOR HOUSE BILL NO. 143 (FINANCE), (see pages 183; 249; 267; 287). Reported back to the Senate on February 26 by Finance with the committee recommending it do pass. Concurring: Faiks (Co-Chairman), Kerttula, Halford, Paul Fischer,

Introduced: 1/25/85
Referred: State Affairs
and Judiciary

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2

SENATE BILL NO. 97

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to forfeiture of weapons used to
7 commit a crime."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 12.55.015(a) is amended to read:

10 (a) Except as limited by AS 12.55.125 -- 12.55.175, the court,
11 in imposing sentence on a defendant convicted of an offense, may
12 singly or in combination

13 (1) impose a fine when authorized by law and as provided in
14 AS 12.55.035;

15 (2) order the defendant to be placed on probation under
16 conditions specified by the court which may include provision for
17 active supervision;

18 (3) impose a definite term of periodic imprisonment;

19 (4) impose a definite term of continuous imprisonment;

20 (5) order the defendant to make restitution as provided in
21 AS 12.55.045;

22 (6) order the defendant to carry out a continuous or peri-
23 odic program of community work as provided in AS 12.55.055;

24 (7) suspend execution of all or a portion of the sentence
25 imposed as provided in AS 12.55.080;

26 (8) suspend imposition of sentence as provided in AS 12.-
27 55.085;

28 (9) order the forfeiture to the Department of Public Safety
29 of any deadly weapon possessed or used by the defendant during the

1 commission of the offense; as used in this paragraph, deadly weapon
2 means the same as in AS 11.81.900.

3 * Sec. 2. AS 33.30 is amended by adding new sections to read:

4 Sec. 33.30.295. REMISSION OF FORFEITED PROPERTY. (a) A claim-
5 ant seeking remission of or remittance of the value of the claimant's
6 interest in a weapon ordered forfeited under AS 12.55.015(a)(9) must
7 prove to the court by a preponderance of evidence that the claimant

8 (1) has a valid interest in the weapon, acquired in good
9 faith;

10 (2) did not knowingly participate in the commission of the
11 crime in which the weapon was used; and

12 (3) did not know or have reasonable cause to believe that
13 the weapon has been or would be used to commit a crime.

14 (b) Upon a showing that a claimant is entitled to relief under
15 (a) of this section, the order of the court must provide that

16 (1) if the claimant is entitled to the weapon, it must be
17 delivered to the claimant immediately; or

18 (2) if the claimant is entitled to remittance of some value
19 less than the total value of the weapon, the claimant is entitled, at
20 the claimant's choice, to receive either the value of the claimant's
21 interest or, upon payment by the claimant of the difference in value,
22 the weapon.

23 Sec. 33.30.297. DISPOSAL OF FORFEITED DEADLY WEAPONS. A deadly
24 weapon forfeited under AS 12.55.015(a)(9), unless remitted under
25 AS 33.30.295, must be disposed of at the discretion of the commission-
26 er of public safety. The commissioner of public safety may destroy
27 the weapon or use the weapon for law enforcement, ballistics testing,
28 or training purposes.

Introduced: 1/25/85
Referred: State Affairs
and Judiciary

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 97

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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14 AS 12.55.035;

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16 conditions specified by the court which may include provision for
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19 (4) impose a definite term of continuous imprisonment;

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21 AS 12.55.045;

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24 (7) suspend execution of all or a portion of the sentence
25 imposed as provided in AS 12.55.080;

26 (8) suspend imposition of sentence as provided in AS 12.-
27 55.085;

28 (9) order the forfeiture to the Department of Public Safety
29 of any deadly weapon possessed or used by the defendant during the

1 commission of the offense; as used in this paragraph, deadly weapon
2 means the same as in AS 11.81.900.

3 * Sec. 2. AS ~~33.30~~^{12.36} is amended by adding new sections to read:

Chapter 36, Disposition of Recovered [or] Seized, or Forfeited Property

4 Sec. ~~33.30.295~~^{12.36.050} REMISSION OF FORFEITED PROPERTY. (a) A claim-
5 ant seeking remission of or remittance of the value of the claimant's
6 interest in a weapon ordered forfeited under AS 12.55.015(a)(9) must
7 prove to the court by a preponderance of evidence that the claimant

8 (1) has a valid interest in the weapon, acquired in good
9 faith;

10 (2) did not knowingly participate in the commission of the
11 crime in which the weapon was used; and

12 (3) did not know or have reasonable cause to believe that
13 the weapon has been or would be used to commit a crime.

14 (b) Upon a showing that a claimant is entitled to relief under
15 (a) of this section, the order of the court must provide that

16 (1) if the claimant is entitled to the weapon, it must be,
17 delivered to the claimant ~~immediately~~ ^{within 60 days after the final disposition}
18 of the case.

19 (2) if the claimant is entitled to remittance of some value
20 less than the total value of the weapon, the claimant is entitled, at
21 the claimant's choice, to receive either the value of the claimant's
22 interest or, upon payment by the claimant of the difference in value,
23 the weapon.

24 Sec. ~~33.30.297~~^{12.36.060} DISPOSAL OF FORFEITED DEADLY WEAPONS. A deadly
25 weapon forfeited under AS 12.55.015(a)(9), unless remitted under
26 AS ~~33.30.295~~^{12.36.050}, must be disposed of at the discretion of the commission-
27 er of public safety. The commissioner of public safety may destroy
28 the weapon or use the weapon for law enforcement, ballistics testing,
or training purposes.

Revision Date: _____

REQUEST
Bill/Resolution No.: 5697
Title: "An Act relating to forfeiture of weapons used to commit a crime."
Sponsor: Senate Rules/Governor
Requestor: Governor's Ofc./OMB
Date of Request: 12/18/84

FISCAL DETAIL
Agency Affected: Department of Law
Program Category Affected: Administration of Justice
BRU, Program or Subprogram(s) Affected: Prosecution

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

This bill amends AS 12.55.015(a) to give the court the discretionary power to order the forfeiture of a weapon as part of a defendant's sentence following conviction. Although prosecutors will have the added responsibility of advocating forfeiture, when appropriate, this advocacy duty can be accomplished without additional expense.

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: 12/19/84
 Approved by Commissioner: Norman C. Gorsuch Date: 12/19/84
 Agency: Department of Law

Distribution (by Agency preparing fiscal note):
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