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COMMITTEE REPORT
SENATE

FURTHER: JUDICIARY

1/25/85

Date February 1, 1985

Mr. President

The Committee on STATE AFFAIRS considered SB 97

forfeiture of weapons used to commit a crime.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 97
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

Edna Revis

V. Fischer

Tom Kelly

MEMBERS HAVING
OTHER RECOMMENDATIONS

Michael...

Chairman

Sharon...

Chairman recommendation

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 ^{12.36}~~33.30~~ is amended by adding new sections to read:

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

4 Sec. ^{12.36.050}~~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 within 60 days after the final disposition
of the case.

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. ^{12.36.060}~~33.30.295~~ DISPOSAL OF FORFEITED DEADLY WEAPONS. A deadly
24 weapon forfeited under AS 12.55.015(a)(9), unless remitted under
25 AS ^{12.36.050}~~33.30.295~~, must be disposed of at the discretion of the commis-
26 sioner 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.

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.: 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
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REVENUE						
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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] 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

Revision Date: _____

REQUEST

Bill/Resolution No.: 5897
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. Peggles, 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):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)


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 and title.

Bill Sheffield
Governor