

CSHB

203

SENATE COMMITTEE REPORT

FURTHER

3/24/88

DATE TURNED INTO OFFICE 5/7/88

Mr. President:

Finance Committee considered CSHB 203 (FIN)

forfeiture of weapons used to commit a crime

and recommended

[] replace with _____ CS _____) [] same title
[] or adopt 5 CS CSHB 203 (Jud)) [] new title

[] attached amendment(s) and

[] do pass

[] do not pass

[] no recommendation

[] individual recommendations

[] further referral to _____

[] letter of intent adopted _____

Committee [] attached or [] adopted fiscal note(s)

[] new [] updated or [] previous

[] zero [] fiscal impact

DPS

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Handwritten signatures]

[Handwritten signature]
Chairman signature and recommendation

[] Committee Backup attached

FISCAL NOTE

REQUEST

Revision Date: _____
Title: "An Act relating to forfeiture of
weapons used to commit a crime."
Sponsor: Rep. Larson
Requestor: Senate Judiciary

Agency Affected: Public Safety
BRU: Alaska State Troopers
Components: Detachments

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY88	FY89	FY90	FY91	FY92	FY93
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 FUNDS						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

Prepared by: Francis C. Allan
Division: Alaska State Troopers

Phone: 269-5691
Date: 3/23/88

Approved by Commissioner: David A. Hartke
Agency: Public Safety
Dep. Comm.

Date: 3-23-88

Distribution: (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Original sponsors: Larson, Swackhammer,
Koponen and Taylor

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 203 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND 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. 12.36.050. REMISSION OF FORFEITED PROPERTY. (a) A claim-
11 ant seeking remission of, or remittance of the value of, the claim-
12 ant's interest in a weapon ordered forfeited under AS 12.55.015(a)(9)
13 shall prove to the court by a preponderance of evidence that the
14 claimant

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

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

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

21 (b) Upon a showing that a claimant is entitled to relief under
22 (a) of this section, the court may order that the weapon be released
23 to the claimant.

24 (c) A claim may not be filed under this section more than 120
25 days after the entry of the last final judgment in the case in which
26 the weapon was ordered forfeited.

27 Sec. 12.36.060. DISPOSAL OF FORFEITED DEADLY WEAPONS. (a) A
28 deadly weapon forfeited under AS 12.55.015(a)(9), unless remitted
29 under AS 12.36.050, shall be disposed of by the commissioner of public

1 safety under this section. The commissioner of public safety may
2 declare a weapon surplus and transfer it to the commissioner of admin-
3 istration. A weapon suitable for law enforcement purposes, ballistics
4 testing, training, or identification may be retained by the Department
5 of Public Safety or transferred to the municipal law enforcement
6 agency making the arrest that led to the forfeiture. A weapon that is
7 unsafe or unlawful shall be destroyed.

8 (b) The commissioner of public safety may adopt regulations
9 necessary to carry out the provisions of this section.

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

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

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

16 (2) order the defendant to be placed on probation under
17 conditions specified by the court that [WHICH] may include provision
18 for active supervision;

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

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

21 (5) order the defendant to make restitution under [AS
22 PROVIDED IN] AS 12.55.045;

23 (6) order the defendant to carry out a continuous or peri-
24 odic program of community work under [AS PROVIDED IN] AS 12.55.055;

25 (7) suspend execution of all or a portion of the sentence
26 imposed under [AS PROVIDED IN] AS 12.55.080;

27 (8) suspend imposition of sentence under [AS PROVIDED IN]
28 AS 12.55.085;

29 (9) order the forfeiture to the commissioner of public

1 safety of a deadly weapon that was in the actual possession of or used
2 by the defendant during the commission of an offense described in
3 AS 11.41, AS 11.46, AS 11.56, or AS 11.61.

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

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

Alaska State Legislature



Session Address:
STATE CAPITOL BUILDING
BOX V
JUNEAU, ALASKA 99811
(907) 465-3727

Interim Address:
BOX 53
PALMER, ALASKA 99645
(907) 745-3826 - Palmer
(907) 376-8628 - Wasilla

Representative Ronald L. Larson
District 16B

RECEIVED MAY 2 1988

TO: Senator Rick Halford, Chair
Senate Finance Committee

FROM: Representative Ronald L. Larson *R.L.*

SUBJ: Consideration of CS for CSHB 203 (Judiciary)

DATE: May 1, 1988

On March 29 and again on April 15 I respectfully requested that Senate Finance include CS for CSHB 203 (Judiciary) in one of its committee hearings. May I again make that request.

CS for CSHB 203 would authorize the court to order the forfeiture to the state of a deadly weapon used or possessed by a defendant during the commission of a crime. Forfeiture would not be required by the bill, but could be imposed at the court's discretion.

The bill is another effort at reducing violence in the state. It is supported by both the Department of Law and the Department of Public Safety. A similar version of the bill was introduced by the Administration during the Thirteenth and Fourteenth Legislatures, with CSSB 97 passing the Senate unanimously during the later. The bill died in the last committee of referral in the House.

With only a few days left in the session, it is important that the bill receive prompt attention. I would hate to see a noncontroversial bill that potentially would save peoples' lives die in the last committee of referral once again.

Thank you for your consideration.

cc. Representative Max Gruenberg, House Majority Leader

RECEIVED MAR 29 1988

Alaska State Legislature



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Representative Ronald L. Larson
District 16B

TO: Senator John Binkley, Co-Chair
Senator Rick Halford, Co-Chair
Senate Finance Committee

FROM: Representative Ron Larson *R.L.*

SUBJ: Consideration of CS for CSHB 203 (Judiciary)

DATE: March 29, 1988

file w/bill

I respectfully request that CS for CSHB 203 (Judiciary) be given consideration by the Senate Finance Committee.

CS for CSHB 203 would authorize the court to order the forfeiture to the state of a deadly weapon used or possessed by a defendant during the commission of a crime. Forfeiture would not be required by the bill, but could be imposed at the court's discretion.

Currently, forfeiture of weapons is authorized only for offenses involving fish and game or controlled substances. There is statutory silence regarding weapons used in all other crimes, including murder, robbery, or assault.

A similar bill was introduced by the Administration during the Thirteenth and Fourteenth Legislatures. CSSB 97 passed the Senate during the Fourteenth Legislature, but did not receive final consideration in the House.

In committee testimony over this year and last, CS for CSHB 203 has been endorsed by the current administration, the Department of Public Safety, and the Department of Law.

Sectional Analysis:

Section 1 of the bill amends existing law at AS 12.36 by adding two new sections to the chapter.

Sec. 12.36.050 adds a procedure for the return of a weapon to a claimant with an interest in the weapon forfeited under

AS 12.55.050(a)(9). The claimant must prove three things: That he or she (1) has a valid interest in the weapon, (2) did not knowingly participate in the commission of the crime in which the weapon was used, and (3) did not know or have reasonable cause to believe that the weapon was used or would be used to commit a crime. A time limit is established by which a claim must be made, within 120 days after the entry of the last final judgment in the case in which the weapon was ordered forfeited.

Sec. 12.36.060 provides instructions for the Commissioner of Public Safety as to the disposition of weapons not returnable to a claimant. It also stipulates that the commissioner may adopt regulations necessary to carry out the disposition of weapons.

Section 2 amends AS 12.55.015 by adding a subsection (a)(9), which would allow the court to "order the forfeiture to the commissioner of public safety of a deadly weapon that was in the actual possession of or used by the defendant during the commission of a crime described in AS 11.41, AS 11.46, AS 11.56, or AS 11.61." The three statutory citations refer to crimes against the person, crimes against public peace, crimes against public administration, and crimes against public order.

Section 3 stipulates that "deadly weapon" has the meaning set out in AS 11.81.900 (i.e., "any firearm, 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").

The bill does not have an affirmative effective date. Accordingly, it takes effect 90 days after enactment.

FISCAL NOTE

REQUEST

Revision Date: _____ Agency Affected: Public Safety
 Title: "An Act relating to forfeiture of
weapons used to commit a crime." BRU: Alaska State Troopers
 Sponsor: Rep. Larson Components: Detachments
 Requestor: Senate Judiciary

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY88	FY89	FY90	FY91	FY92	FY93
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 FUNDS						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

Prepared by: Francis C. Allan *G.C.A.*
 Division: Alaska State Troopers

Phone: 269-5691

Date: 2/6/88

Approved by Commissioner: Arthur English
 Agency: Public Safety

Date: 2/6/88

Distribution: (by preparer):

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

Original sponsors: Larson, Swackhammer,
Koponen and Taylor

1 IN THE HOUSE BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 203 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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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. 12.36.050. REMISSION OF FORFEITED PROPERTY. (a) A claim-
11 ant seeking remission of, or remittance of the value of, the claim-
12 ant's interest in a weapon ordered forfeited under AS 12.55.015(a)(9)
13 shall prove to the court by a preponderance of evidence that the
14 claimant

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

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

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

21 (b) Upon a showing that a claimant is entitled to relief under
22 (a) of this section, the court may order that the claimant receive an
23 amount equal to the value of the claimant's interest in the weapon or
24 the court may order that the weapon be released to the claimant.

25 (c) A claim may not be filed under this section more than 120
26 days after the entry of the last final judgment in the case in which
27 the weapon was ordered forfeited.

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2 safety under this section. The commissioner of public safety may
3 declare a weapon surplus and transfer it to the commissioner of admin-
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5 testing, training, or identification may be retained by the Department
6 of Public Safety or transferred to the municipal law enforcement
7 agency making the arrest that led to the forfeiture. A weapon that is
8 unsafe or unlawful shall be destroyed.

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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 that [WHICH] may include provision
19 for 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 under [AS
23 PROVIDED IN] AS 12.55.045;

24 (6) order the defendant to carry out a continuous or peri-
25 odic program of community work under [AS PROVIDED IN] AS 12.55.055;

26 (7) suspend execution of all or a portion of the sentence
27 imposed under [AS PROVIDED IN] AS 12.55.080;

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Original sponsors: Larson, Swackhammer,
Koponen and Taylor

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2 SENATE CS FOR CS FOR HOUSE BILL NO. 203 (Judiciary)

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SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 2/12/88 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: FINANCE

**FISCAL NOTE(S) ATTACHED **
IN ACCORDANCE WITH AS 24.08.035
(see below)

5/15/87

DATE TURNED INTO OFFICE _____

Mr. President:

JUDICIARY _____ Committee considered _____ CS HB 203(Fin)

forfeiture of weapons used to commit a crime.

Mary
and recommended:

replace with SCS for CS HB 203 (JUDICIARY) same title
[] attached amendment(s) and [] new title

[] do pass

[] do not pass

[] no recommendation

individual recommendations

[] further referral to _____

[] letter of intent adopted and attached

** Committee attached or [] adopted fiscal note(s)
 zero [] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

1. Arlin Stangor
1. Dan Fuchs
1. Paul Josephson

2. Mitch Roday no rec.

[] Committee Backup Attached

Kurtz Do pass
Chairman signature and recommendation