

SB

445

REPRESENTATIVE
C.E. "SWACK" SWACKHAMMER

Alaska State Legislature



House of Representatives

SOLDOTNA

P.O. BOX 417
SOLDOTNA, ALASKA 99669
(907) 262-7663

JUNEAU

BOX V
JUNEAU, ALASKA 99811
(907) 465-2689

MEMORANDUM

TO: Senator Jay Kerttula, Chair
Alaska State Senate Judiciary Committee

FROM: Rep. C.E. Swackhammer *Swack*

DATE: February 26, 1988

TOPIC: House Bill 445

Bill ←
FEB 26 1988

On February 22, 1988, the aforementioned House Bill successfully passed the House with a vote of 39 to 0. While in the House it was given one referral, the Judiciary standing committee on February 18, 1988.

This bill merely establishes intent language that the effective date of HB 140, passed last year through your effort, is immediate. House Bill 140 changed the serving of mandatory parole from 181 day sentences to a minimum sentence of two years; this impacts offenders guilty of misdemeanors or non-presumptive sentence felonies.

Upon the effective date, Corrections implemented it and realized an immediate positive impact. Mr. Trivette, Executive Director of the Parole Board, attributed the majority of a 181 case reduction to this enactment. Approximately three months later, an AG's opinion indicated that the new law was applicable solely to persons committing a crime after the effective date. Consequently, the positive effect, to both the state and the offender, halted.

Attached is the bill packet used on the House side for your edification.

I solicit your support for the swift passage of this enabling legislation. It was the implied intent of HB 140 to have its effective date immediate.

CES/cn

HOUSE BILL 445

COVER PACKET INDEX

Introduction Memorandum, Rep. C.E. Swackhammer

Support Letter, Sam Trivette, Exec. Dir. Parole Board

~~AG Opinion Re: House Bill 140~~

Leg. Legal Opinion Re: House Bill 445

→ DELETED IN FINAL PACKET

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MEMORANDUM

TO: All Interested Parties

FROM: Rep. C.E. Swackhammer

DATE: February 10, 1988

TOPIC: House Bill 445

During the first session of the 15th Legislature, House Bill 140 passed both houses with virtually no opposition. This piece of legislation had an immediate and positive impact.

The bill changed the serving of mandatory parole from 181 day sentences to a minimum sentence of two years. It was demonstrated that this would basically impact those offenders who were guilty of misdemeanors or non-presumptive sentence felony offenses. Offenders routinely receive probation to follow their convictions.

The Alaska Board of Parole conducts approximately 1400 formal hearings a year, utilizing three professional staff and a clerk typist. In 1987, there were 135 final mandatory parole violation hearings. With only isolated exceptions, these violations could have been processed through probation. Parolees and probationers are seen by the same Probation Officers.

As stated in Sam Trivette's letter (attached), the legislation was enacted the effective date of the bill. Mr. Trivette states the positive impact was immediate, he attributes the majority of a 181 case reduction to this enactment. Approximately three months later, a Dept. of Law opinion indicated that the new legislation applied solely to those persons committing a crime after the effective date of the bill. The positive effects "ground to a halt." Consequently, they are also postponed for an extended period of time.

House Bill 445 merely establishes intent language that the effective date of House Bill 140 is immediate.

I solicit your support. The implied intent of House Bill 140 was to have it immediately effective. This bill, as in the case of HB 140, has a zero fiscal note. It simply allows more time for supervising offenders, having more serious offenses.

STATE OF ALASKA

DEPARTMENT OF CORRECTIONS

BOARD OF PAROLE

STEVE COWPER, GOVERNOR

ALASKA BOARD OF PAROLE
P.O. BOX T
JUNEAU, ALASKA 99811-2000
PHONE: (907) 465-3384

February 8, 1988

Representative C. E. Swackhammer
Alaska House of Representatives
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

RE: House Bill 140

Dear Representative Swackhammer:

You have asked our opinion on the impact House Bill 140 [Chapter 77, SLA 1987] has had on the number of mandatory parolees. The following information is provided in response.

We met with the Department of Law staff this summer after the Governor signed the bill. Law agreed any prisoner being released on the effective date of the bill, September 13, 1987 or thereafter, would be subject to the 2 year minimum to be on mandatory parole. We notified all institutional parole officers of this, and effective 9/13/87, only prisoners with sentences of 2 years or longer went out on mandatory parole. On December 10, 1987, we received the Department of Law's opinion indicating we could only apply HB 140 to those prisoners whose crimes were committed on September 13, 1987 or thereafter. After discussing this opinion thoroughly with Law, we advised Corrections' employees through memorandum on December 11 to apply HB 140 only to those prisoners whose crimes were committed 9/13/87 or thereafter.

For the first six months of 1987, we set supplemental conditions on 348 mandatory parolees. During the second six months of 1987, we set mandatory parole conditions on 167 cases. I think this drop of 181 cases in the second half of the year can be attributed primarily to HB 140. Again, I have not kept actual figures, but we believe the number of mandatory parole packets has increased significantly in the last 1 1/2 months. We had over 2 feet of files awaiting action this morning.

As you know, it take a significant amount of time to process and supervise mandatory parole cases. Even if every mandatory parolee followed all conditions, handling this additional workload of about 181 case would take a tremendous amount of time. Unfortunately, many of these mandatory parolees appear before us at violation hearings. We held about 135 final mandatory parole violation hearings in 1987. This does not include preliminary hearings. Corrections gives the parole officer credit for 12 hours for each parole violation processed. Handling these 135 cases is the equivalent to the work of

Representative C. E. Swackhammer
February 8, 1988
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more than one full-time parole officer spread out over a years time.

As you can see, not being allowed to apply the bill to all prisoners released on September 13, 1987, is having a significant impact on the workload of the Parole Board and on the Department of Corrections. We strongly support an amendment that would allow the immediate application of HB 140 to everyone released September 13, 1987 or thereafter.

I will be glad to supply any additional information we have.

Cordially,

A handwritten signature in cursive script, appearing to read "Sam Trivette", with a long horizontal flourish extending to the right.

Samuel H. Trivette
Executive Director

cc: Susan Humphrey-Barnett, Commissioner
Department of Corrections

Bill Parker, Special Assistant
Department of Corrections

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 8, 1988

SUBJECT: Applicability of Ch. 77, SLA 1987
(Work Order 5-1842)

TO: Representative C.E. Swackhammer

FROM: Jack Chenoweth
Legislative Counsel

The December 8, 1987, Opinion of the Attorney General guides the Department of Corrections and the Parole Board in the administration of those provisions of AS 33.16 and AS 33.20 that were amended by ch. 77, SLA 1987. I am of the view that the opinion reaches a defensible conclusion and contains no obvious error that might prompt a request for its reconsideration.

While the testimony before one or more legislative committees probably supports the contention that the provisions of the bill were to apply to all prisoners, there is simply nothing in the record of the drafting file maintained by this office to confirm your assertion that the Legislature intended HB 140 to apply to persons incarcerated on the effective date of the Act.

As your request states, the Legislature may set aside the effect of the opinion by clarifying legislative intent in passing the 1987 legislation. Please do not assume that a committee report or letter of intent will do that. A draft of a bill to accomplish the effect you intended accompanies this memorandum.

If this memorandum and the accompanying legislation prompt questions, please contact me.

Enclosure

JC:gc
WKG1:072

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act relating to the applicability of ch77, SLA 1987."
 Sponsor: Rep. Swackhammer, Gruenberg & Rieger
 Requestor: _____
 Agency Affected: Department of Corrections
 BRU: Parole Board
 Components: _____

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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
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)

Susan E. Knight
 Prepared by: Susan Knighton, Director of Admin. Services Phone: 465-3376
 Division: Administration Date: 2/18/88
 Approved by Commissioner: Susan Humphrey-Barnett Date: 2/18/88
 Agency: Department of Corrections

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