

HVB

136

HFIN

FILE

HOUSE COMMITTEE REPORT

(11) 7

Date Referred: March 26, 1993

FURTHER REFERRALS:

Date of Committee Action: 4/6/93

The FINANCE Committee considered:

HB 136

HOUSE BILL NO. 136

DRUNK DRIVING & BREATH TEST OFFENSES

"An Act relating to the offenses of driving while intoxicated and refusal to submit to a breath test; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CSHB 136 (Fin) [] the same title

[x] a new title

[] have attached amendments(s)

[] do pass

[] do not pass

[x] no recommendations

[] individual recommendations

[] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS:

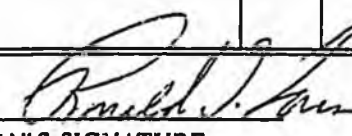
[] fiscal impact _____

(Dept/Date)
 DOC 3/5/93
 PS 3/26/93
 LAW 3/5/93
 (2) DOA 3/26/93

[] zero fiscal note _____

3 [x] zero fiscal note(s)

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Ronald J. Larson</i> Larson	X	<i>Mark Hagley</i> Hagley		X	
<i>Kan Brown</i> Brown	✓	<i>Tom Martin</i> Martin		X	
<i>Richard Foster</i> Foster	☺	<i>Paul R. Parrell</i> Parrell		X	
		<i>Ben Grussendorf</i> Grussendorf		X	
		<i>Gene Theriault</i> Theriault		X	


 CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSHB136 (JUD)

Revision Date: March 31, 1993
Title: "...relating to limited driver's licenses and...
driving while intoxicated...refusal to submit..."
Sponsor: Representative Mulder
Requestor: House Judiciary Committee

Department Affected: Department of Law
BRU: Legal Services
Component: Operations
COMPONENT SERIAL NO. 0093

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

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

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared by: Richard I. Peques, Director
Division: Administrative Services Division
Approved by Commissioner: Charles E. Cole, Attorney General
Agency: Department of Law

Phone: 465-3672
Date: March 31, 1993
Date: March 31, 1993

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSHB 136 (JUD)

ANALYSIS (Continued):

The Judiciary Committee substitute for HB 136, substantially amends the state's laws relating to driving while intoxicated and refusal to submit to a breath test. The bill's amendments primarily address sentencing provisions which occur after prosecution. Consequently, the amendments will not have a fiscal impact on the Department of Law.

The major feature of the bill provides the minimum mandatory period of imprisonment, 72 hours for a first offense and 20 days for a second offense, shall be served at a community residential center or, if a center is not available, at another appropriate facility determined by the commissioner of corrections. The bill further provides that the cost of the imprisonment, not to exceed \$1,000, shall be paid by the person who is sentenced. And the bill provides that the state shall seek reimbursement from a person's permanent fund dividend, in cases where a person has not paid for the cost of imprisonment. The Department of Law's civil division currently collects unpaid criminal fines and would collect unpaid imprisonment costs that result from the adoption of these provisions.

Upon further review, we have determined that legislative findings are not required to overcome the problem of having persons convicted of DWI and breath refusal pay for the cost of their imprisonment (when other offenders are not required to do so), because the maximum amount that may be assessed does not exceed \$1,000.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSHB 136 (Jud)

Revision Date: _____ Dept. Affected: Corrections
 Title: "An Act relating to the offense of driving while intoxicated..." BRU: _____
 Sponsor: Rep. Mulder Component: _____
 Requestor: House Finance COMPONENT SERIAL NO. _____

Expenditures/Revenues:

(Thousands of Dollars) 1858

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	1043.6	1043.6	1043.6	1043.6	1043.6	1043.6
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	1043.6	1043.6	1043.6	1043.6	1043.6	1043.6

CAPITAL						
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REVENUE FUND SOURCE: GF/PR 1005	1043.6	1043.6	1043.6	1043.6	1043.6	1043.6
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FUNDING:

(Thousands of Dollars)

FUNDING	FY94	FY95	FY96	FY97	FY98	FY99
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	1043.6	1043.6	1043.6	1043.6	1043.6	1043.6
1008 GF/MHTIA						
Other						
TOTAL	1043.6	1043.6	1043.6	1043.6	1043.6	1043.6

POSITIONS:

POSITIONS	FY94	FY95	FY96	FY97	FY98	FY99
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ -0-

ANALYSIS:

(Attach a separate page if necessary)

See attached fiscal analysis.

Prepared by: Dana LaTour, Legislative Liaison
 Division: Office of the Commissioner
 Approved by Commissioner: Lloyd G. Rupp, Commissioner
 Agency: Department of Corrections

Phone: 465-3376
 Date: 04-05-93
 Date: 04-05-93

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FISCAL NOTE ANALYSIS

CSHB 136 (JUD)

Page 2

CSHB 136(JUD) provides for the placement of offenders, convicted of DWI or refusal to submit to a breath test, in a community residential center or other facilities. The bill requires the offenders to pay up to \$1000 of the cost of their imprisonment. The bill also requires the offender to perform community service work.

1992 DWI Offenses	X	Assumed Conviction Rates	Convicted Offenders
3532	1st offense	65%	2261
1124	(one prior offense)	75%	843
407	(two prior offenses)	80%	326
276	(three prior offenses)	80%	221

Using those numbers:

2261 - 226 (10% indigent offenders) = 2035 offenders x 3 days x \$60 day = \$ 366,300

843 - 84 (10% indigent offenders) = 759 offenders X \$1000 = \$ 759,000

407 - 41 (10% indigent offenders) = 366 offenders X \$1000 = \$ 366,000

276 - 28 (10% indigent offenders) = 248 offenders X \$1000 = \$ 248,000

The total amount charged annually should be approximately \$1,739,300. Assuming that 60% of the amount charged is collected, a total of \$1,043,580 should be generated each year from the program.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSHB 136 (IUD)

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act relating to revocation of and limitations on driver's licenses and to the offenses . . ." BRU: Public Defender
 Component: Public Defender
 Sponsor: Representative Mulder
 Requestor: (H) Fin COMPONENT SERIAL NO. 1631

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS

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

Estimate of current year (FY93) impact: \$ none

ANALYSIS: (attach a separate page if necessary.)

Prepared By: John Salemi, Public Defender Phone: 274-1684
 Division: Public Defender Agency Date: _____

Approved by Commissioner: Nancy Bear Usera Date: 3/30/93
 Agency: Department of Administration

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSHB 136 (Jud)

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act relating to revocation of and limitations on driver's licenses and to the offenses" BRU: Office of Public Advocacy
 Component: Office of Public Advocacy
 Sponsor: Representative Mulder
 Requestor: House Finance COMPONENT SERIAL NO. 43

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS

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

Estimate of current year (FY93) impact: \$ None

ANALYSIS: (attach a separate page if necessary.)

Prepared By: Brant McGee, Public Advocate Phone: 274-1684
 Division: Office of Public Advocacy Date: _____

Approved by Commissioner: Nancy Bear Usara Date: 3/30/93
 Agency: Department of Administration

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO: CSHB 136(JUD)

Revision Date: 3/31/93 Dept. Affected: Public Safety
 Title: "An act relating to revocations of and limitations on a driver's license ..." BRU: Alaska State Troopers
 Sponsor: Representative Mulder Component: Detachments
 Requestor: House Finance COMPONENT SERIAL NO. 799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
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 FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

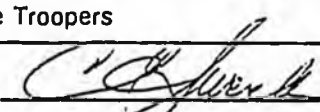
POSITIONS:

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

Estimate of current year (FY 93) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact is anticipated.

Prepared By: Francis C. Allan Phone: 269-5691
 Division: Alaska State Troopers Date: 3/23/93
 Approved by Commissioner:  Date: 3/31/93
 Agency: Richard T. Burton, Dept. of Public Safety

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STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO: CASHB 136(LIJD)

Revision Date: 3/24/93 Dept. Affected: Public Safety
 Title: "An Act relating to offenses of driving while intoxicated and refusal to submit to a breath test." BRU: Motor Vehicles
 Sponsor: Representative Mulder Component: Driver Services
 Requestor: House Judiciary COMPONENT SERIAL NO. 500

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
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 FUND SOURCE:	108.0	108.0	108.0	108.0	108.0	108.0

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

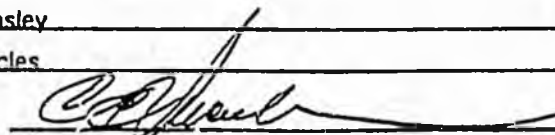
POSITIONS:

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

Estimate of current year (FY 93) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary.)

It is estimated that 30% of all persons whose license is revoked as a first offender DWI will request a limited license. In 1992, there were approximately 3600 drivers license revocations for first offender DWIs. Charging a \$100.00 limited license application fee will generate approximately \$108.0 in revenue to the general fund.

Prepared By: Juanita Hensley Phone: 465-4361
 Division: Motor Vehicles Date: 3/24/93
 Approved by Commissioner:  Date: 3/24/93
 Agency: Richard L. Burton, Dept. of Public Safety

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Back-up

Leeann
4362

Sponsor Statement for CS HB136(JUD)
Representative Eldon Mulder

House Bill 136 is a product of the Alaska Sentencing Commission's recommendations for increasing the usage of alternative sentencing. The purpose of the bill is two-fold; to crack down on DWI offenders by offering more serious and immediate punishment, and to do so in a manner that would help ease some of the financial burden on the Department of Corrections, and hence, the State.

The bill requires first and second time DWI offenders and those who refuse to submit to a breath test to serve their time in community residential centers and perform community work service while at the center. In cases where a community residential center is not available, another appropriate placement will be determined by the commissioner of corrections. In addition, the bill requires that all (not just first and second) DWI offenders, no matter where they are imprisoned, pay for the cost of their incarceration, up to a maximum of \$1,000. Unpaid costs are to be collected from the offender's permanent fund dividend check. "Cost of imprisonment" is defined in the bill to mean a uniform average cost of imprisonment that is determined and prescribed by regulation by the commissioner of corrections. This ensures that everyone pays the same rate, no matter where they are incarcerated.

The Judiciary CS also requires that the costs of imprisonment be included as part of the court's judgement of conviction. This makes the collection of unpaid costs considerably easier for the Department of Law. It involves amending Alaska Rule of Criminal Procedure 32(b).

The bill also contains several sections pertaining to limited licenses in relation to DWI offenses. Under current law, someone with up to six DWI offenses can obtain limited license privileges. HB 136 would reduce limited license privileges down to first offenders only. Those convicted of refusing to submit to a breath test would not be eligible for any limited license privileges. It also requires that an individual must show proof of enrollment in, or have completed, an alcohol treatment program before they can obtain a limited license. In addition, the bill imposes a fee of \$100 for a person applying for a limited driver's license. This stipulation will **generate a substantial amount of revenue**, as indicated in the Department of Public Safety's fiscal note.

The fiscal impact of this bill is positive; for that reason, I hope this bill will have the support of the House Finance Committee.



Alaska Sentencing Commission

1029 W. Third Avenue, Suite 201, Anchorage, Alaska 99501 (907) 279-2526 FAX (907) 276-5046

James V. Gould, Chair
Richard R. Volland, Vice Chair

Jayne E. Andreen
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Lloyd G. Rupp

John Holmes
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Gigi Pilcher
John Salemi

Duane S. Udland
Rep. Fran Ulmer

February 10, 1993

Representative Eldon Mulder
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

RE: HB 136; DWI

FEB 15 1993

Dear Representative Mulder:

I am writing with respect to your proposed legislation altering DWI penalties. Your legislation encourages the housing of DWI prisoners in halfway houses and strengthens the fines and forfeiture provisions of the current law.

One of the Sentencing Commission's major recommendations is well served by your legislation -- the increased use of halfway houses. Clearly, the great majority of DWI offenders could be more cheaply and more effectively punished in the setting you propose (halfway houses with community service) than in hard beds. As you know, many DWI offenders in Anchorage and Fairbanks already serve their sentences in halfway houses.

While the Commission did not specifically make a recommendation as to the use of community service while in halfway houses, your proposal is certainly consistent with their general recommendations. You might also consider a requirement for alcohol screening and education while at the halfway house. We have discussed a similar program with representatives of MADD. I recommend you consult with both DOC and MADD.

The commission recommended the increased use of fines and forfeitures, but as alternatives to jail time rather than as additional penalties. The commission generally recommended the use of fines scaled to the offender's income, which would seem appropriate in DWI cases. See 1992 ASC Report at p. 11. The Commission also recommended that the legislature investigate alternatives to the current three day minimum sentence for first time DWI offenders. At p. 44-45 of its 1992 report, the Commission recommends:

Beginning immediately, the legislature should amend the law providing that DWI first offenders must be sentenced to jail for at least three days. Instead the

Alaska Sentencing Commission

legislature should investigate other creative alternatives to punish drunk drivers more quickly, cheaply, and effectively.

The commission recognizes that drunk driving is a serious offense which must be deterred, but believes that the current law does not represent the most cost-effective approach. The Department of Corrections estimates that housing DWI offenders costs approximately \$6 million per year, even though many DWI offenders are already serving their sentences in halfway houses. This does not represent the full cost of housing drunk drivers, since many first and second offenders are housed in local jails.

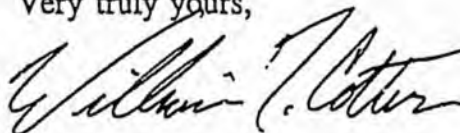
Jail time is only one part of the sentence for DWI in Alaska. First time DWI offenders also are required to follow the treatment recommendations made by the state alcohol screening program, pay a fine of at least \$250, and have their driver's license suspended for 90 days. For second offenses, the fine rises to \$500 and the period of suspension to 365 days. AS 28.35.030; AS 28.15.171. In addition, the offender's insurance rates are likely to go up. The commission does not recommend changes in these aspects of the DWI sentence.

While the mandatory jail term may have some added deterrent value, there are many less costly approaches. Other jurisdictions have used a variety of successful programs that publicly identify offenders and require community service from them, like wearing an orange vest to pick up trash along the highway. The commission recommends that the legislature work with representatives of groups like Mothers Against Drunk Drivers to formulate a plan that will deal with this serious problem more effectively. This recommendation passed, nine in favor and four opposed.

The Commission certainly understands the political realities concerning DWI. Its recommendation quoted above was only made after a long discussion and consideration of all the issues. Nevertheless, if we are to address the current backlog of about 2500 misdemeanants waiting up to nine months to go to jail, within our current fiscal constraints, we must consider creative alternatives. I would ask you to consider whether some combination of community service, stiff fines (on a sliding scale dependent on income to increase the bite), and mandatory alcohol treatment could be substituted for the current required 72 hours in jail.

Please feel free to give me a call if you have any questions.

Very truly yours,



William T. Cotten
Executive Director

criticized for competing with the private sector, they have strong support from the general public. This recommendation was adopted without objection.

2. **Beginning immediately, the legislature should offer support and encouragement to criminal justice agencies in their efforts to reach creative, long-term solutions to budget reductions.**

Innovative ideas are necessary to cope with major budget reductions. The commission recommends that criminal justice agencies be allowed some discretionary funds for planning and for pilot programs. The Legislature also should support internal reallocation of budgets within agencies to achieve long-term budget reductions.

Agencies will need the encouragement of the Legislature and the Governor to try new ideas without the immediate assumption that such changes are unacceptable. If state revenues in fact decline by \$1 billion over the next 10 years, people will need to change their expectations of what government can do. The results of the focus groups indicate that people think the state should take financial considerations into account in devising a suitable system of punishment. All branches of government should work to educate the public on the budget impacts of their programs and to provide information necessary to make difficult choices. This recommendation was adopted without objection.

3. **Beginning immediately, Department of Corrections should establish a plan to allow offenders convicted of driving while intoxicated (DWI) and driving with license suspended or revoked (DWLS/R) to serve their sentences without a long delay (currently nine months in some locations).**

Far and away the most common criminal offense is driving while intoxicated. In 1990, 2544 DWI offenders served time in Department of Corrections facilities. 1629 of these were first-time DWI offenders with an average sentence of five days. Another 2255 people served time in one of the 19 local jails, which are run on contract with the Department of Public Safety, serving an average sentence of three days. As of October 1992, about 960 DWI offenders were on waiting lists with the Department of Corrections, waiting up to nine months to serve their sentences.

In order to clear up the backlog and to provide specific programming appropriate for drunk drivers, the Department of Corrections should investigate the use of low-security facilities to process large numbers of DWI and DWLR/S offenders in the bigger communities. Offenders serving short sentences in halfway houses should not be mixed with offenders being reintegrated into the community at the end of long sentences.

4. **Beginning immediately, the legislature should amend the law providing that DWI first offenders must be sentenced to jail for at least three days. Instead the legislature should investigate other creative alternatives to punish drunk drivers more quickly, cheaply, and effectively.**

The commission recognizes that drunk driving is a serious offense which must be deterred, but believes that the current law does not represent the most cost-effective

approach. The Department of Corrections estimates that housing DWI offenders costs approximately \$6 million per year, even though many DWI offenders are already serving their sentences in halfway houses. This does not represent the full cost of housing drunk drivers, since many first and second offenders are housed in local jails.

Jail time is only one part of the sentence for DWI in Alaska. First time DWI offenders also are required to follow the treatment recommendations made by the state alcohol screening program, pay a fine of at least \$250, and have their driver's license suspended for 90 days. For second offenses, the fine rises to \$500 and the period of suspension to 365 days. AS 28.35.030; AS 28.15.171. In addition, the offender's insurance rates are likely to go up. The commission does not recommend changes in these aspects of the DWI sentence.

While the mandatory jail term may have some added deterrent value, there are many less costly approaches. Other jurisdictions have used a variety of successful programs that publicly identify offenders and require community service from them, like wearing an orange vest to pick up trash along the highway. The commission recommends that the legislature work with representatives of groups like Mothers Against Drunk Drivers to formulate a plan that will deal with this serious problem more effectively. This recommendation passed, nine in favor and four opposed.

5. **The Department of Corrections should increase the use of alternative punishments as part of some presumptive sentences. The commission recommends that the Department of Corrections pursue an active policy for some presumptively sentenced offenders that substitutes time spent in alternative punishment programs for time in prison, within the limits of public safety. High supervision programs such as community residential centers, treatment programs, intensive supervised probation, and day reporting centers can control risk to the public, provide rehabilitative opportunities, and fulfill the goals of presumptive sentencing at lower cost than spending the entire presumptive term in prison.**

The commission believes that its support for presumptive sentencing is compatible with its support for alternative punishments. Alaska case law already provides that time spent in custodial programs such as community residential centers and residential treatment programs must be credited to the offender's time served, just like incarceration. Regardless of whether the correctional budget is reduced, the commission has already recommended that these alternatives be routinely used for presumptively sentenced offenders during the final portion of their sentences, to help them make their transition back to the community. For many offenders, these alternatives may also be safely and effectively used for longer periods of time. The commission recommends strong oversight for these offenders, along with careful monitoring and evaluation of their programs. See Section II-A of this report.

The Department of Corrections currently is seeking a legal opinion on whether it may furlough presumptively sentenced offenders to their homes in order to participate in highly structured programs such as intensive supervised probation and day reporting centers. See AS 33.30.111. If this cannot be done under current statutes, the commission

of the offender and planned reintegration into the community. Gradual reintegration into the community should not be restricted to low-risk offenders, since supervision and aftercare are even more important for serious offenders reaching the end of their prison terms.

22. When community residential centers are used for end-of-sentence furloughs, placement should be for long enough to provide adequate programming and encourage a successful transition to the community.
23. The DOC Division of Institutions should continue review of its classification system for determining which offenders are suitable for programming and community custody. Quicker and more uniform classification will increase opportunities for rehabilitation.
24. The legislature should expand immunity for the state and for state employees for the release and supervision of offenders on parole, probation, furlough, work release, or similar conditional release. This should help individual officers who currently take an unnecessarily conservative approach to release because of concerns about personal or departmental liability.¹⁷
25. The legislature should adopt legislation promoting the increased use of forfeitures and fines as alternatives to jail time. It should work with the courts to create effective mechanisms for the collection of fines and restitution and to investigate the use of day fines.¹⁸ It should also revise statutes if necessary to permit judges to sentence offenders to non-DOC alternatives such as home confinement with electronic monitoring.
26. Judges should increase the use of forfeitures and restitution orders for presumptive sentences and the use of fines, forfeitures, and restitution orders for non-presumptive sentences. These alternatives are under-utilized by many judges.
27. Statewide coordination of alternative punishments will be needed after the Sentencing Commission sunsets at the end of FY 93. Criminal justice agencies should set aside the time and a small amount of travel money to continue to work out problems and improve the system. Something along the lines of the former criminal justice working group should be formed to assure the necessary coordination.

¹⁷ This issue is discussed in more detail in 1991 Alaska Sentencing Commission Annual Report at p. 26-27.

¹⁸ Unlike standard fines, day fines are linked to the offender's daily income, so that poor and rich offenders are sentenced equitably. Day fines are described in more detail in 1990 Alaska Sentencing Commission Annual Report at p. 37.

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
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Juneau, Alaska 99801-2105

MEMORANDUM

March 24, 1993

SUBJECT: Sectional Summary of CSHB 136(JUD)

TO: Representative Eldon Mulder

FROM: Michael F. Ford *M.F.*
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Allows the Department of Public Safety to terminate an administrative driver's license revocation and reissue a driver's license to a person convicted of driving while intoxicated or refusal to take a breath test, if the person meets the conditions set out under AS 28.15.181(e), relating to meeting the required minimum revocation period, alcoholism treatment, and paying the required fee.

Section 2. Reduces the mandatory minimum period of driver's license revocation for a conviction based on driving while intoxicated or refusal to take a breath test from five years to three years if the person is a third time offender, and from ten years to five years for a person convicted four or more times.

Section 3. Allows a court to terminate a driver's license revocation of a person convicted of driving while intoxicated or refusal to take a breath test, if the person meets the required minimum revocation period, and complies with the conditions set out in AS 28.15.211(d) and (e) relating to alcoholism treatment, and paying the required fee.

Section 4. Allows a court to impose limitations on a driver's license if the court determines the person meets certain conditions (imposed under (b) of this section) and the court determines that the limitations will allow the person to earn a livelihood. Allows the court or the Department of Public Safety to grant limited

license privileges if the person was convicted of driving while intoxicated, but not if convicted of refusal to take a breath test, the person is a first time offender and the person meets the other conditions set out in (d)(3) - (5) of this section.

Section 5. Requires a person convicted of driving while intoxicated or refusal to take a breath test to take certain alcoholism treatment, before receiving a new driver's license.

Section 6. Imposes a fee of \$100 for a person applying for a limited driver's license under sec. 4.

Section 7. Specifies that a person convicted of driving while their driver's license is revoked, suspended, or in violation of a limitation cannot get a limited driver's license.

Section 8. Provides that a first or second time D.W.I. offender will serve prison time at a half-way house or other appropriate facility determined by the commissioner of corrections. Requires a person convicted of D.W.I. to pay the costs of imprisonment, up to a maximum of \$1,000, unless the person is indigent. Provides that for costs of imprisonment not paid, the person's permanent fund dividend may be used to pay those costs, including a dividend issued to a person determined to be indigent. Required that certain community service work be performed and that the commissioner of corrections determine the uniform average cost of imprisonment for purposes of determining the cost of imprisonment to be paid by the person.

Section 9. Definition.

Section 10. Provides that a person convicted of refusal to take a breath test for the first or second time will serve their prison time at a half-way house or other appropriate facility determined by the commissioner of corrections. Requires a person convicted of refusal to take a breath test to pay the costs of imprisonment, up to a maximum of \$1,000, unless the person is indigent. Provides that for costs of imprisonment not paid, the person's permanent fund dividend may be used to pay those costs, including a dividend issued to a person determined to be indigent. Required that certain community service work be performed and that the commissioner of corrections determine the uniform average cost of imprisonment for purposes of determining the cost of imprisonment to be paid by the person.

Section 11. This section sets out the effect certain sections of the bill have on Alaska Rule of Criminal Procedure 32(b).

Section 12. Applicability section.

Section 13. Effective date.

KOTT & WESLEY GERRISH
MEMORIAL

MADD

ANCHORAGE, ALASKA
CHAPTER

MAILING ADDRESS:
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719 East 11th Avenue
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February 24, 1993

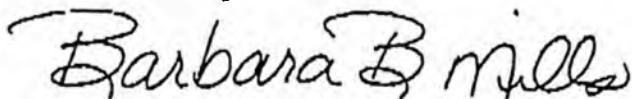
Rep. Eldon Mulder
State Capitol
Room 116
Juneau, Alaska 99801

Dear Rep. Mulder:

We at Mothers Against Drunk Driving would like to express our support for House Bill 136. We feel that this bill addresses the concerns of the Department of Corrections while keeping intact the most important part of our drunk driving laws, time in jail. In fact, we feel this will have an even greater impact on offenders if they are required to pay their own way.

I would encourage all legislators to pass this bill.

Sincerely,



Barbara E. Mills
Executive Director
MADD Anchorage Chapter

BBM:mpc

MODIFYING
ATTITUDES
TOWARDS
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DRINKING

Letters of Support



GASTINEAU HUMAN SERVICES CORPORATION • 5597 AISEK STREET • JUNEAU, ALASKA 99801 • (907) 780-4338
GASTINEAU MANOR • (907) 780-6661
GLACIER MANOR • (907) 780-4515
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February 16, 1993

FEB 18 1993

Representative Eldon Mulder
P.O. Box V
Juneau, AK 99811

Dear Representative Mulder:

I have just had an opportunity to read HB 136 and I applaud the intent of this bill.

Gastineau Human Services operates both residential and out-patient services as well as the only community residential center (CRC) in Southeast Alaska. While often referred to as halfway houses, these facilities are properly known as community residential centers. They are approved and inspected by the Department of Corrections to serve, in part, the purposes required by HB 136. With that experience, and on behalf of the Alaska State Chapter of the International Association of Residential and Community Alternatives (IRCHA), of which I am the secretary-treasurer, I would like to suggest some changes in the language of the bill.

Where the bill refers to halfway house or other appropriate facilities, I suggest it read community residential center or facility meeting CRC standards, as promulgated by the Department of Corrections. This is more than just a semantic difference. The standards deal directly with issues of safety and security for the community, the staff and the residents. They also assure adequate standards of treatment of the offender and thus protect the interests of the State.

The language of the bill needs to make it clear that this program will be operated by the Department of Corrections (because these people would, in fact, be incarcerated) and would be funded by DOC. The point is to make it clear that it is a State responsibility to assign financial responsibility and collect the money rather than a program responsibility. The program can accept payment but cannot take the financial burden of operating from the funds collected.



A United Way Agency

printed on recycled paper

February 16, 1992

One final point relates to community work service (CWS). GHS is a strong advocate of CWS. Over thirty thousand hours per year is done in Juneau under our supervision. However, the focus should be to intervene in the abuse of alcohol. To that end I suggest that the language of this bill be modified to require that alcohol screening, assessment and all required alcohol education must be completed during the time of confinement in the CRC.

If I can provide further clarification or information, please contact me at 780-4338.

Thank you for your interest and attention concerning this critical issue.

Sincerely,


Jerry Shiner
Asst. Exec. Director

JS:hl
(hb136.doc)

alternatives sought

Continued from Page B-1

currently houses 2,546 prisoners, 72 over a court-imposed maximum.

Prison population in 1983 was 1,407.

With the exception of extending parole and allowing jailers to send felons to residential treatment programs for part of their sentences, the commission recommends no major change in the state's controversial "presumptive" sentencing scheme.

Presumptive sentencing, which sets required terms of imprisonment without parole for violent crimes and drug sales, has helped swell the prison population since it went into effect in 1980. Before then, Alaska had wide open, or "indeterminate" sentencing laws that allowed judges great leeway and led to bias in sentences, including many criminals escaping jail time.

"You could take a couple of offenders who were as close as possible, two peas in a pod," said Dan Hickey, former chief prosecutor and an author of the current presumptive law. "One would get nothing. The other would have gotten five years to serve for exactly the same conduct."

The goal of presumptive sentencing was "certainty and uniformity," Hickey said.

Now all repeat felons, plus first offenders convicted of robbery, armed assault, sexual penetration of a child or non-consensual penetration of an adult, drug sales, arson and manslaughter do time measured in years.

In addition, starting in 1983, under pressure from Rep. Ramona Barnes, now speaker of the House of Representatives, the state added presumptive prison terms for sex criminals and began vigorous prosecution of child molesters. About 20 percent, or 500, of the men now in prison are molesters or rapists, according to Department of Corrections figures.

Unlike some other states, more than half the criminals in Alaska prisons are there for committing a violent crime.

Still, there are probably several hundred prisoners who could be effectively punished and controlled by cheaper means than being

kept in prison, said Superior Court Judge Beverly Cutler, a commission member. Corrections reports the cost of keeping a prisoner at \$35,040 a year, although some institutions are cheaper.

Other states faced with overcrowding have adopted "alternative punishments," also called "intermediate sanctions." These include intensively supervised probation, boot camp, house arrest with electronic monitoring and detention centers, where prisoners work at regular jobs but return to the center at night for supervision and treatment programs.

House arrest with electronic monitoring, for example, costs an estimated \$1,650 a year.

"A graduated system of alternative punishments is both sound correctional practice and an opportunity to control prison overcrowding," the commission report says.

Among commission recommendations, the one most likely to attract public comment is doing away with the three-day jail term for first-time drunken drivers.

"It depends on what they want to do instead," said Barbara Mills, executive director of Mothers Against Drunk Driving. "I've heard of different things that have been tried in different areas. So far, the biggest deterrent is going to jail."

In 1983, shortly after the law was enacted, drunken drivers killed 36 people in Anchorage, Mills said. Last year, the toll was eight. However, more than 1,000

drunken drivers were arrested in Anchorage last year.

Mills said this problem can be solved with a little effort on the part of Corrections and no change in the law. "This is a knee-jerk reaction to overcrowding," she said. "We could do some kind of boot camp. I don't see why we aren't doing that."

Legislators haven't seen the report yet and House Speaker Barnes said she preferred to reserve comment. Lawmakers have been talking about substituting a \$5,000 fine for the required jail time, she said. "I'm very willing to look at (the report) with an open mind," she said.

Sentencing panel urges alternatives

By SHEILA TOOMEY
Daily News reporter

Alaska's mandatory three-day jail term for drunken drivers is too expensive, and should be replaced by a more cost-effective punishment, the Alaska Sentencing Commission has concluded after a two-year examination of state sentencing practices and prison crowding.

Other recommendations in the commission's final report to the governor include creating a system of graduated non-prison punishments for many convicted criminals, as an alternative to expensive prison confinement for those who can be adequately controlled by such means.

Making first offenders convicted of serious felonies eligible for parole after serving half their sentence, excluding those convicted of manslaughter or sex crimes.

Releasing most prisoners into halfway houses at the end of their sentences to promote successful, supervised re-entry into the community.

The 14-member panel was created in 1990 to come up with a solution to Alaska's crowded and expensive prison system in the context of declining revenues. The system

Please see Page B-3, SENTENCE

Daily News 1/19/93

Daily News Article 1-19-93