

HB

188

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

No. 1
Bill Version: HB 188
(H) Publish Date: 3/1/93

Revision Date: _____
Title: 'An Act relating to forfeiture of certain property...'
Sponsor: Rules Committee
Requestor: Governor

Department Affected: Administration
BRU: Public Defender Agency
Component: Public Defender Agency
COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES:

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: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: John Salemi, Public Defender
Division: Public Defender Agency

Phone: 279-7541
Date: _____

Approved by Commissioner: Nancy Bear Usera
Agency: Administration

Date: 2/10/93

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

No. 2
Bill Version: HB 188
(H) Publish Date: 3/1/93

Revision Date: _____
Title: 'An Act relating to forfeiture of certain property;
and providing . . .'
Sponsor: Governor
Requestor: Rules Committee

Department Affected: Administration
BRU: Office of Public Advocacy
Component: Office of Public Advocacy

COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES:

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
Division: Office of Public Advocacy

Phone: 274-1684
Date: _____

Approved by Commissioner: Nancy Bear Usera
Agency: Administration

Date: 2/10/93

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

No. 3
 Bill Version: HB 188
 (H) Publish Date: 3/1/93

Revision Date: _____ Dept. Affected: Public Safety
 Title: "An Act relating to forfeiture of certain property." BRU: Alaska State Troopers
 Sponsor: Rules Component: Criminal Investigation Bureau
 Requestor: Governor COMPONENT SERIAL NO. 830

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.) This zero fiscal note is based on the assumption that the Department of Admin. will make forfeiture reports available to the Dept. of Public Safety Commissioner to determine recommendations for the transfer of up to 90% of the net value of forfeited property to one or more agencies or political subdivisions of the State as set out in Sec. 17.30.122(4).

Prepared By: C.E. Swackhammer Phone: 465-4322
 Division: Office of the Commissioner Date: 2/12/93
 Approved by Commissioner:  Date: 2/12/93
 Agency: Richard L. Burton, Dept. of Public Safety

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

No. 4
Bill Version: HR 188
(H) Publish Date: 3/1/93

Revision Date: February 16, 1993
Title: "An Act relating to forfeiture of certain property..."
Sponsor: Rules Committee/Req. of Governor
Requestor: Governor's Office/OMB

Department Affected: Department of Law
BRU: Prosecution
Component: All
COMPONENT SERIAL NO. 0085 through 0090

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						
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REVENUE FUND SOURCE:						
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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.

Richard I. Peques

Prepared by: Richard I. Peques, Director
Division: Administrative Services/Division

Phone: 465-3672
Date: February 16, 1993

Approved by Commissioner: Charles E. Cole, Attorney General
Agency: Department of Law

Date: February 16, 1993

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. 188
NO. 4
Pg 2 of 2

ANALYSIS (Continued):

This bill amends the state drug asset forfeiture laws (AS 17.30) in order to resolve procedural ambiguities in the existing law, as noted in Badoino v. State. Because of those ambiguities the state has had to rely on federal prosecutors for most drug forfeiture actions in Alaska, thus reducing the proceeds that would otherwise flow to the state as the result of the seizure and sale of assets used in narcotics trafficking.

This bill would also permit the forfeiture of real property, including buildings; permit the tracing of drug money to allow forfeiture of any property purchased with that money; permit the forfeiture of all dangerous instruments used by a drug dealer, while existing law requires forfeiture only of firearms; permit the sharing of forfeited assets between municipal police departments and the state; require the state's costs for forfeiture proceedings to be paid by the drug dealer; allow the court to forfeit other assets of the drug dealer if the property to be forfeited is commingled with other property, has been removed from the court's jurisdiction or has been destroyed by the drug dealer; and give the state a perfected priority lien on the forfeited property ahead of unsecured creditors.

All of these changes are designed to improve the state's forfeiture and disposal of drug trafficking assets, and they are expected to have a positive fiscal impact for the state.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Bill No. CSHB 188 (JUD)

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act relating to forfeiture of certain BRU: Trial Courts
property Components: _____
 Sponsor: House Rules by request of Governor
 Requestor: _____ COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	15.4	15.4	15.4	15.4	15.4	15.4
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	15.4	15.4	15.4	15.4	15.4	15.4

CAPITAL						
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REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS						
1003 GF MATCH						
1004 GF	15.4	15.4	15.4	15.4	15.4	15.4
1005 GF/PROGRAM RECEIPTS						
1006 GF/MHTIA						
OTHER						
TOTAL	15.4	15.4	15.4	15.4	15.4	15.4

POSITIONS:

FULL-TIME						
PART-TIME	2.0	2.0	2.0	2.0	2.0	2.0
TEMPORARY						

Estimate of current year (FY 93) impact: None

ANALYSIS: (Attach a separate page if necessary)
See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel *CS* Phone: 264-8228
 Division: Alaska Court System Date: 04/22/93

Approved by: Arthur H. Snowden, II, Administrative Director *AS* Date: 04/22/93
 Agency: Alaska Court System

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Alaska Court System
Fiscal Analysis
HB 188

HB 188 amends existing statutes relating to the forfeiture of property used to facilitate drug offenses. It simplifies existing procedures, allows local law enforcement agencies to share in forfeited property, and authorizes the forfeiture of real property and computer equipment which has been used to facilitate a drug offense.

At the present time, state and local law enforcement agencies refer almost all of their drug forfeiture cases to the federal system, because federal procedures are simpler, more comprehensive, and allow agencies to share in the proceeds. Passage of HB 188 will result in these types of cases being filed in state court rather than the federal system.

Based upon information provided by the United States Department of Justice, the Department of Law and the Department of Public Safety, it appears that approximately 70 federal forfeiture proceedings arose in Alaska in 1991, after referral by state or local law enforcement agencies. Many of these cases were handled entirely through the federal administrative forfeiture procedure. The rest were referred to the U.S. Attorney for filing in federal court. All 70 of these cases would have been filed in state court under HB 188.

The federal experience is illustrative of what can be expected. The U.S. Attorney's Office indicates that it filed 25 forfeiture cases in federal court in 1991. Those 25 cases involved 36 separate pieces of real property. Most of the property was located in the Anchorage/Matanuska-Susitna areas, but six pieces were in Washington and California. Other property was also involved in these seizures, including various vehicles, airplanes, cash, ivory, gold coins and jewelry. According to the U.S. Attorney, the vast majority of their forfeiture cases which make it to court, whether for real or personal property, are contested and result in various degrees of litigation. That office has also advised that

[t]he dollar value of the case is not necessarily in direct proportion to its litigation costs. Many smaller cases are vigorously litigated by the claimants, resulting in numerous motions, oppositions and responses being filed by the parties. The discovery process itself seems to engender more litigation than would be expected, as many claimants are extremely reluctant to divulge any information as to their financial/employment status.

While the federal forfeiture system begins at an administrative level, HB 188 does not have a similar procedure; all forfeitures

will be filed in state court, with a resulting cost. Using the 1991 federal figures as a guideline, this fiscal note assumes that approximately 70 cases will be filed and that 25 percent of those filings will be contested. It is estimated that 10 percent will go to trial.

Alaska Court System

Fiscal Analysis

CSHB 188 (JUD)

Personal Services

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Legal Technician/Law Clerk I, Anchorage*, range 13A, PPT - 3 months	\$7,215	\$3,069	\$10,284
Pro-Tem Superior Court Judge, Anchorage*, PPT - 1½ months	3,019	2,104	<u>5,123</u>
	Total Personal Services		<u><u>\$15,407</u></u>

* The court system expects most cases arising from this legislation to be filed in Anchorage. However, the personal services authorization provided by this fiscal note will also be used to supplement staffing in other courts affected by the increased workload.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO: CSHB 188(JUD)

Revision Date: 4/22/93 Dept. Affected: Public Safety
 Title: "An Act relating to forfeiture of certain property..." BRU: Alaska State Troopers
 Sponsor: House Rules Component: Criminal Investigation Bureau
 Requestor: House Finance COMPONENT SERIAL NO. 830

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)

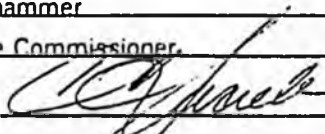
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/AMHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

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.) This zero fiscal note is based on the assumption that the Department of Admin. will make forfeiture reports available to the Dept. of Public Safety Commissioner to determine recommendations for the transfer of up to 90% of the net value of forfeited property to one or more agencies or political subdivisions of the State as set out in Sec. 17.30.122(4).

Prepared By: C.F. Swackhammer Phone: 465-4322
 Division: Office of the Commissioner Date: 4/22/93
 Approved by Commissioner:  Date: 4/22/93
 Agency: Richard I. Burton, Dept. of Public Safety

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HB 188

WALTER J. HICKEL
GOVERNOR



P. O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 1, 1993

*The Honorable Ramona L. Barnes
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182*

Dear Speaker Barnes:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill amending the state's asset forfeiture laws to make them more effective. Many of these changes are found in the Model Asset Seizure and Forfeiture Act (1991), prepared by the American Prosecutor's Research Institute. This bill

- permits forfeiture of real property, including buildings;*
- permits tracing of drug money to allow forfeiture of any property purchased with that money;*
- permits forfeiture of all dangerous instruments used by a drug dealer, while existing law requires forfeiture only of firearms;*
- permits the sharing of forfeited assets between municipal police departments and the state;*
- requires the costs of the forfeiture proceedings to be paid by the drug dealer;*

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The Honorable Ramona L. Barnes

March 1, 1993

Page 2

-- allows the court to forfeit other assets of the drug dealer if the property to be forfeited is commingled with other property, has been removed from the jurisdiction, or has been destroyed by the drug dealer;

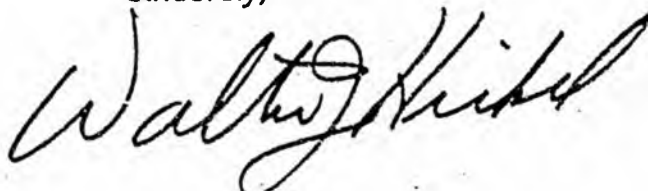
-- gives the state a perfected priority lien on the forfeited property, and thus avoids the pitfalls of Fehir v. State, 739 P.2d 785 (Alaska App. 1987), which permits unsecured creditors to claim forfeited property; and

-- resolves some of the procedural ambiguities in existing forfeiture law noted in Badoino v. State, 785 P.2d 39 (Alaska App. 1990).

This bill is one of four that I am introducing this session to create tough new laws to combat drugs and violent crime. If enacted, these bills will give the state the tools it needs to prosecute serious criminals fairly and effectively.

I urge your favorable action on this bill.

Sincerely,

A handwritten signature in cursive script, reading "Walter J. Hickel". The signature is written in dark ink and is positioned above the printed name and title.

Walter J. Hickel
Governor