HB

313

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred: February 9, 1994 FURTHER REFERRALS:

Date of Committee Action: 2\17\94

The FINANCE Committee considered: HB 313

HOUSE BILL NO. 313 SUSPENDED SENTENCES:DISORDERLY CONDUCT

"An Act relating to suspended imposition of criminal sentences and to the period in which suspension of the imposition of sentence for conviction of the crime of disorderly conduct may be authorized."

RECOMMENDATIONS: [ ] the same title
be replaced with C.S HB 313(Jud.) [ ] a new title

[ ] have attached amendments(s)
[✓] do pass
[ ] do not pass
[ ] no recommendations
[ ] individual recommendations
[ ] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal impact _____ [ ] fiscal note(s) 1-LAW, 1-PS, 1-DOC.

[ ] zero fiscal not _____ [X] zero fiscal note(s) 2(DOA) 1-Courts

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Larson					
Ronald L Sam		E P Mackern		✓	
Hanley	X	Terry Martin Martin		✓	
Parnell	X	Hoffman		X	
Navarre	✓	Richard Foley	*		
Taylor Brown Brown	✓	Foster			

Ronald L Sam E P Mackern

CHAIRMAN'S SIGNATURE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

FISCAL NOTE
BILL NO.

No. 3
Bill Version: CSHB 313 (JUD)
(H) Publish Date: 2/9/94

Revision Date:	2/1/94	Dept. Affected:	Corrections
Title:	SIS for Disorderly Conduct	BRU:	Statewide Operations
		Component:	All Regional Probation Offices
Sponsor:	Rep. Kott		
Requestor:	Rep. Kott	COMPONENT SERIAL NO.	710, 723, 727

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
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	
MISCELLANEOUS:	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
CHANGE IN REVENUES ( )	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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/MHTA	0	0	0	0	0	0
Other:	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

Estimate of current year (FY94) impact $ 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

ANALYSIS: (Attach a separate page if necessary)
Probation Officers do not supervise misdemeanants. Any change in length of SIS for a misdemeanor would have no impact on the department's regional probation offices.

Prepared By:	Diane Schenker, Special Assistant	Phone:	465-3315/561-4426
Division:	Office of the Commissioner	Date:	2/1/94
Approved by Commissioner:	J. Frank Parwin, II	Date:	2/1/94
Agency:	Department of Corrections		

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FISCAL NOTE

No. 4
Bill Version: CSHB 313(JUD)
(H) Publish Date: 2/9/94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Revision Date: January 31, 1994
Title: "An Act relating to suspended imposition of criminal sentences..."
Sponsor: Representative Kott
Requestor: Representative Kott

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

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						
FUNDING:						
1002 Federal						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-
POSITIONS:						
FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)
This bill involves sentencing provisions and therefore will not have a fiscal impact on the Department of Law.

Prepared by: Richard I. Peques, Director
Phone: 465-3672
Division: Administrative Services Division
Date: January 31, 1994
Approved by Commissioner: Bruce M. Botelho, Attorney General
Agency: Department of Law
Date: January 31, 1994

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

NO. 1
Bill Version: CSHB 313 (JUD)
(H) Publish Date: 2/9/94

Revision Date:
Title: "An act relating to suspension of imposition of criminal sentences"
Sponsor: Representative Kott
Requestor: H. JUD

Dept. Affected: Public Safety
BRU: Alaska State Troopers
Component: Detachments
COMPONENT SERIAL NO. 799

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

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE FUND SOURCE:						

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	0.0	0.0	0.0

Estimate of current year (FY 94) impact: $

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)
No fiscal impact upon the Alaska State Troopers is anticipated.

Prepared By: Francis C. Allan
Phone: (907) 269-5691
Division: Alaska State Troopers
Date: 01/31/94
Approved by Commissioner:
Date: 01/31/94
Agency: Richard L. Burton, Dept. of Public Safety

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NO. ___

Bill Version CSHB 313 (JUD)
(H) Publish Date: 2/9/94

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BIL.

Revision Date: 02/02/94
Dept. Affected: Alaska Court System
Title: An Act relating to suspended imposition of criminal sentences...
BRU: Trial Courts
Components:
Sponsor: Rep. Kott
Requestor:
COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES (Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1006 GF/MHTAA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 94) cost: $ None

ANALYSIS: (Attach a separate page if necessary)
No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel
Phone: 264-8228
Agency: Alaska Court System
Date: 02/02/94

Approved by: Arthur H. Snowden, II, Administrative Director
Agency: Alaska Court System
Date: 02/02/94

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FISCAL NOTE

No. 5
Bill Version CSHB 313 (JUD
(H) Publish Date: 2/9/94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO

Revision Date:
Title: "An Act relating to suspended imposition of criminal sentences . . . ."
Sponsor: Rep. Kott
Requestor: (H) Jud

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

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
Total	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY94) cost: none

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: John Salemi, Public Defender
Phone: 264-4400
Division: Public Defender Agency
Date:

Approved by Commissioner: Nancy Bear Usera
Date: 1/31/94
Agency: Administration

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 313 (Jud)

Revision Date:
Title: "An Act relating to suspended imposition of criminal sentences . . . ."
Sponsor: Rep. Kott
Requestor: (H) Jud

Dept. Affected: Administration
BRU: Office of Public Advocacy
Component: Office of Public Advocacy
COMPONENT SERIAL NO. 43

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
Total	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY94) cost: none

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Brant McGee, Director
Phone: 274-1684
Division: Office of Public Advocacy
Date:

Approved by Commissioner: Nancy Bear Usera
Date: 2/10/94
Agency: Administration

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Representative Pete Kott

SPONSOR STATEMENT
CS FOR HOUSE BILL NO. 313(JUD)

In criminal cases, when a person is convicted of a crime and there are circumstances in mitigation of punishment, or when justice would be promoted, the court has the option of suspending imposition of sentence. When this occurs, no sentence is imposed. Instead, the defendant is placed on probation for a period of time, subject to reasonable conditions. If the defendant does not comply with the conditions of probation, the Court has the option of revoking probation and imposing sentence. If probation conditions are satisfied, sentence is never imposed and at the end of the probationary period the underlying judgment is vacated.

Under existing law, the probationary period available to a court when suspending imposition of sentence can not exceed the amount of time the defendant could be sentenced to jail. For example, Class A misdemeanors carry a potential of up to a year in jail. Accordingly, suspended imposition of sentences in cases involving class A misdemeanors could involve probationary periods of up to a year. This limitation of probationary periods is reasonable in almost all classes of offenses.

The crime of disorderly conduct, however, poses a problem. This is because it carries a potential jail term of only 10 days. What this means is that the court, when suspending imposition of sentence, is limited to a probationary period of but 10 days, which is meaningless. Disorderly Conduct is a Class B misdemeanor. Other Class B misdemeanors carry a potential jail term of but 90 days, which means that probation when imposition of sentence is suspended is limited to only 90 days. Depending on the circumstances, even 90 days may not be sufficient.

Disorderly Conduct and other Class B misdemeanors are very minor offenses, often involving youthful, first-time offenders. These offenders are the very people for whom the suspended imposition of sentence statute was intended. It therefore is desirable to have suspended imposition of sentence available in Disorderly Conduct

and other Class B misdemeanor cases. However, it also is desirable to permit the court to impose a reasonable period of probation. Ten days in Disorderly Conduct cases is just not long enough to have any meaningful effect on rehabilitation or for monitoring the defendant's behavior. Similarly, 90 days probation in other Class B misdemeanor cases, depending on circumstances, may be too short a period.

CS HB 313(JUD) cures this problem by permitting probation of up to one year when suspending imposition of sentence in all Class B misdemeanor cases, including Disorderly Conduct cases. This period is not mandatory. Sentencing judges retain the discretion to impose a shorter period where warranted. However, CS HB 313 (JUD) grants sentencing judges the flexibility of imposing probation of up to a year when suspending imposition of sentence in Class B misdemeanor cases if they deem it advisable. No other substantive changes are intended in the law.

This bill, as discussed above, affects only the permissible probationary period when suspending imposition of sentence in Class B misdemeanor cases. Class B misdemeanors are the least serious criminal offenses in the State of Alaska. A non-exhaustive sample of Class B misdemeanors includes the following: Theft in the Fourth Degree (AS 11.46.150); Criminal Trespass in the Second Degree (AS 11.46.330); Disregard of a Highway Obstruction (AS 11.46.460); Criminal Mischief in the Fourth Degree (AS 11.46.486); Impersonating a Public Servant (AS 11.56.830); Disorderly Conduct (AS 11.61.110); Harassment (AS 11.61.120); Obstruction of Highway (AS 11.61.150); Misconduct Involving Weapons in the Fifth Degree (AS 11.61.220); and, Misconduct Involving Controlled Substance in the Sixth Degree (AS 11.71.060). As indicated, this list is not exhaustive.

8-LS1174\O.1
Chenoweth
2/1/94

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE KOTT

TO: CSHB 313(JUD)

Page 2, lines 1 - 2:

Delete "**maximum probation period authorized by this section**"

Insert "**probationary term of the person**"

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Representative Pete Kott

SECTIONAL ANALYSIS
CS HB 313(JUD)

Section 1:

This section of CS HB 313(JUD) amends AS 12.55.085(a) to permit judicial officers to suspend imposition of sentence in criminal cases for the maximum period of time that incarceration could be ordered or for a period of one year, whichever is greater. Before this change, criminal defendants could receive suspended imposition of sentences only up to the maximum period of time they could be sentenced to imprisonment.

Section 2:

This section is an amendment conforming AS 12.55.085(c) to the change made in Section 1 of this bill, thus permitting the Court to revoke probation and impose sentence during the entire period of probation ordered concomitantly with a suspended imposition of sentence.

Section 3:

This section makes it clear that the above discussed amendments apply only to crimes committed on or after the effective date of the Act.