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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 127

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act setting presumptive terms of imprisonment..." BRU: Public Defender Agency
 Component: Public Defender Agency
 Sponsor: Representative Kott
 Requestor: House Judiciary COMPONENT SERIAL NO. 1631

Expenditures/Revenues: (Thousands of Dollars)

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	*	*	*	*	*	*

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	*	*	*	*	*	*

POSITIONS

FULL-TIME	*	*	*	*	*	*
PART-TIME						
TEMPORARY	*	*	*	*	*	*

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

ANALYSIS: (attach a separate page if necessary.)

See attached.

Prepared By: John Salemi, Public Defender Phone: 279-7541
 Division: Public Defender Agency Date: _____

Approved by Commissioner: Nancy Bear Usera Date: 3/16/93
 Agency: Department of Administration

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CONTINUATION OF FISCAL NOTE ANALYSIS

For HB 127

HB 127 is a legislative proposal which makes significant changes in Alaska's sentencing law. As to felony offenses, this bill creates mandatory jail sentences for first time offenders for class B and C felonies if the individual possessed a firearm during the commission of the offense. A first time convicted class B felon, for example, would be required to serve two years, without parole, under this proposal.

This bill also creates a mandatory minimum sentence of 30 days in prison for an individual convicted of Assault in the Fourth Degree where the victim is a peace officer, fire fighter, correctional officer, etc.

Fiscal Impact

If this bill passes into law, there will be a fiscal impact as concerns the Public Defender Agency. Experience has shown that establishment of mandatory minimum sentences and/or presumptive sentences intensifies litigation and increases the number of trials necessary to resolve cases. Because the Public Defender does not have the capacity to estimate the increase in its workload based on these changes in the law, no quantifiable fiscal impact is projected for purpose of this analysis.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 127

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act setting presumptive terms of imprisonment..." BRU: Office of Public Advocacy
 Component: Office of Public Advocacy
 Sponsor: Representative Kott
 Requestor: House Jud 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 *NBEU* Date: 3/16/93
 Agency: Department of Administration

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Alaska State Legislature
House of Representatives

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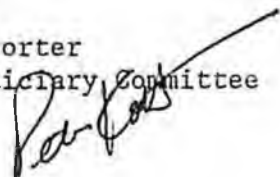


HOME:
9843 CHICHAGOF LOOP
EAGLE RIVER, AK 99577
PHONE (907) 694-7943

DURING SESSION:
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-3777

Representative Pete Kott

MEMORANDUM

DATE: February 19, 1993
TO: Representative Porter
Chair, House Judiciary Committee
FROM: Rep. Pete Kott 
RE: Request for hearing
HB 127, Presumptive Terms for Firearms Possession

Please schedule HB 127 for a hearing before the House Judiciary Committee as soon as possible.

HB 127 makes changes to Title 12 so that first convictions for class B and class C felonies carry a presumptive term of imprisonment if the offender was in possession of a firearm at the time of the offense. The presumptive term for a class B felony would be two years and for a class C felony, one year. HB 127 also requires a mandatory minimum term of imprisonment of 30 days upon conviction for assault in the fourth degree if the offender was in possession of a firearm at the time of the offense.

As you requested, the following items are attached:

Sectional analysis
Fiscal note from the Department of Corrections
Sponsor statement

If you have any questions on this bill, please call me or my Legislative Assistant, Jack Phelps, at 465-3777.



REQUEST FOR SCHEDULING

Alaska State Legislature
House of Representatives

COMMITTEES:
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& SOCIAL SERVICES
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SPECIAL COMMITTEES:
MILITARY & VETERANS AFFAIRS
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Representative Pete Kott

SPONSOR STATEMENT

HB 127

Presumptive & Mandatory Sentencing

HB 127 makes changes to Title 12, Code of Criminal Procedure so that first convictions for class B and class C felonies carry a presumptive term of imprisonment if the offender was in possession of a firearm at the time of the offense. The presumptive term for a class B felony would be two years and for a class C felony, one year. HB 127 also requires a mandatory minimum term of imprisonment of 30 days upon conviction for assault in the fourth degree if the offender was in possession of a firearm at the time of the offense. The terms prescribed are currently provided in each case if the attack is against certain officials and emergency responders.

The number of homicides nationally and in Alaska is increasing, and a high percentage of those murders are committed with firearms. One of the fundamental responsibilities of civil government is to protect the innocent. Our response, therefore, must be to the illegal use of firearms, not to their lawful use. An appropriate measure is suggested by HB 127 which would stiffen the penalty for those inclined to use a firearm while engaged in criminal activity. While this bill does not address murder directly, its implementation could save lives by getting tougher with those who perpetrate less serious crimes while in possession of a firearm.

Danger to the public welfare is greatly increased when those engaged in criminal action are carrying firearms. HB 127 sends a strong message that Alaska will not tolerate the unlawful use of firearms in our state.



SPONSOR STATEMENT

SECTIONAL ANALYSIS

HB 127

Presumptive and Mandatory Sentences for the Commission of Certain Crimes

Section 1

Amends AS 12.55.125(d) to provide for a presumptive sentence of two years imprisonment for a first felony conviction of a class B felony if the defendant possessed a firearm during the commission of the offense.

Section 2

Amends AS 12.55.125(e) to provide for a presumptive sentence of one year imprisonment for a first felony conviction of a class C felony if the defendant possessed a firearm during the commission of the offense.

Section 3

Amends AS 12.55.135(d) to provided for a mandatory minimum sentence of 30 days imprisonment for a conviction of assault in the fourth degree if the defendant possessed a firearm during the commission of the offense. Assault in the fourth degree is a class A misdemeanor.

ALASKA PEACE OFFICERS ASSOCIATION



Anchorage Chapter
P. O. Box 103824
Anchorage, AK 99510
Phone _____

March 10, 1993

Representative Pete Kott
Alaska State Legislature
State Capitol Building
Juneau, Alaska 99801

Dear Representative Kott,

The Alaska Peace Officers Association, Anchorage Chapter, endorses House Bill 127 which sets presumptive prison terms for criminals who use a firearm in the commission of their crime. It is common knowledge that crime is on the rise. However, the greatest increase in crime is that involving the use of weapons. Last year statistics show that felony assaults were up 42% in Anchorage and armed robberies were up 5%.

Clearly, the only way to ensure the public's safety is through the isolation of the offender. When lawbreakers are in jail, the public is protected. Your bill sends violent offenders a clear message: violent crime will result in mandatory jail terms.

Sincerely,

John Charbonneau, President
Alaska Peace Officers Association
Anchorage Chapter

BILL NO: HB 127

DATE: March 10, 1993

TITLE: "An Act setting presumptive terms of imprisonment. . ."

CONTACT: C.E. Swackhammer
Deputy Commissioner
465-4322

POSITION PAPER - Department of Public Safety

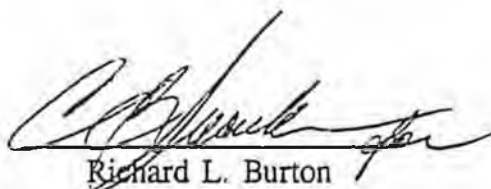
HB 127 is intended to impress upon citizens the seriousness of committing a crime while in possession of a firearm and providing additional protection for the citizens of the state by imposing a minimum sentence for individuals who commit a Class B or Class C felony for the first time or an assault in the fourth degree, while armed with a firearm.

Section one of this legislation amends AS 12.55.125, Sentences of Imprisonment for Felonies, paragraph (d) to provide that 1) if the defendant is convicted of a class B felony and 2) was in possession of firearm during the commission of the offense and 3) if the offense is the first felony conviction, that the sentence would be two (2) years.

Section two (2) amends AS 12.55.125(e) to provide that if 1) the defendant is convicted of a class C felony and 2) the defendant was in possession of a firearm during the commission of the offense and 3) if the offense was his first felony conviction, the sentence would be one (1) year.

Section three (3) amends 12.55.135(d) to provide that 1) if the defendant is convicted of fourth degree assault and 2) was in possession of a firearm during the offense, the sentence will be thirty (30) days.

This legislation will not impact the Department of Public Safety. Information obtained during the investigation of an offense whereby the defendant was in possession of a firearm would be routinely included in police reports and therefore would not be any additional burden.


Richard L. Burton
Commissioner

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 127

Revision Date: _____ Dept. Affected: Corrections
 Title: "An Act setting presumptive terms of imprisonment..." BRU: Institution: Stwd Programs
 Component: Institutions: Stwd Programs
 Sponsor: Representative Kott
 Requestor: Representative Kott/ House Judiciary COMPONENT SERIAL NO. 1860: 1858

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	1,706.2	1,706.2	1,706.2	1,706.2	1,706.2	1,706.2
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	1,706.2	1,706.2	1,706.2	1,706.2	1,706.2	1,706.2
CAPITAL						

REVENUE FUND SOURCE:						
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FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	1,706.2	1,706.2	1,706.2	1,706.2	1,706.2	1,706.2
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	1,706.2	1,706.2	1,706.2	1,706.2	1,706.2	1,706.2

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (F793) impact: \$ -0-

ANALYSIS: (Attach a separate page if necessary)
 Please see the attached fiscal analysis.

Prepared by: Dana LaTour, Special Assistant *D. LaTour* Phone: 465-3376
 Division: Commissioner's Office Date: 3-15-93
 Approved by Commissioner: Lloyd G. Rupp *D. LaTour for* Date: 3-15-93
 Agency: Department of Corrections

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Section 1 of the bill provides that a defendant convicted of a class B felony offense, if it is a first time felony conviction and a firearm was possessed during the commission of the crime, will be sentenced to a presumptive term of two years. Currently, the average sentence length for such an offense is 3 months.

Section 2 of the legislation provides for a presumptive term of one year for defendants convicted of a class C felony if the offense is a first felony conviction and the defendant possessed a firearm during the commission of the crime. Typically, defendants receiving a first time felony conviction for a class C felony will not serve any jail time.

Section 3 amends AS 12.55.135(d) to provide that a defendant convicted of assault in the fourth degree who possessed a firearm during the commission of the offense will be sentenced to a mandatory minimum sentence of 30 days.

Because the Department of Corrections does not have a management information system, and there is no coordinated collection of criminal justice data between the departments of Law, Public Safety, Corrections and the Court System it is extremely difficult to determine the actual number of defendants who would be impacted by this legislation. The Departments of Law and Public Safety both have expressed that a significant number of those charged with class B and class C felonies are in possession of a weapon during the commission of the crime, especially Drug, Assault, Sexual Assault, Robbery, and Burglary offenses.

Class B felonies that would likely be impacted by this bill are: Assault II, Sexual Assault II, Robbery II, Misconduct involving a Controlled Substance III, and Burglary I.

Felony	Number Sentenced in 1992	% Possessing Firearms	Assumed #
Assault II	49	50%	25
Sexual assault II	24	25%	6
Robbery II	16	25%	4
MICS III	119	10%	12
Burglary I	70	25%	17
Total			64

Under the provisions of this legislation, the presumptive sentence length of imprisonment would be 2 years or 24 months. Subtracting one-third of the sentence for mandatory good time, the length of sentence served would be 16 months. The average sentence served under current law is 3 months. This would result in an increase of 13 months or 396 days.

32 offenders (64 offenders x 50% first time felony convictions) x 396 additional days x \$100 day = \$1,267,200

Class C felonies that would likely be impacted by this bill are:

Felony	Number Sentenced in 1992	% Possessing Firearm	Assumed #
Sexual Assault III	4	25%	1
Burglary II(commercial)	80	25%	20
MICS IV	96	10%	10
Total			31

Under the provisions of this legislation, the presumptive sentence length of imprisonment would be 1 year or 12 months. Subtracting one-third of the sentence for mandatory good time, the length of sentence served would be 8 months or 244 days. Under current law, first time offenders do not typically serve any time.

16 offenders (32 offenders x 50% first time felony convictions) x 244 additional days x \$100 day = 390,400

In 1992 there were 546 offenders sentenced for Assault in the 4th degree. Assuming that 5% of the offenders possessed a firearm during the assault, then 27 offenders would be sentenced to serve 30 days of imprisonment. It is assumed that these offenders would be placed in a Community Residential Center at an average cost of \$60 per day.

27 offenders x 30 days x \$60 day = \$48,600

Total Fiscal Impact

Section 1	\$1,267,200
Section 2	\$ 390,400
Section 3	\$ 48,600
Total	\$1,706,200