

HB

334

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 5/2/94

FURTHER:

DATE TURNED INTO OFFICE: 5-8-94

The Finance Committee considered CS FOR HOUSE BILL NO. 334(FIN) am
 "An Act relating to criminal sentencing.

and recommends:

- replace with _____ CS _____ (FINANCE)
- or adopt previous _____ CS _____ (_____)
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

- adopts _____ Letter of Intent
- further referral to the _____

- do pass
- do not pass
- no recommendation
- individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

	Department	Date	Zero	Fiscal
#2	DOA	3/22/94	0	
#3	DOA (OPA)	3/22/94		181.1
#4	DOA (PDA)	3/22/94		207.3
#5	Courts	3/22/94		78.1
#6	DOA (all)	3/11/94		112.6

Appropriation No Fiscal Note

DO PASS: Tom Kelly
[Signature]
[Signature]
[Signature]

OTHER RECOMMENDATIONS:

1. [Signature]
 Co-Chair: Signature/Recommendation

2. [Signature]
 Co-Chair: Signature/Recommendation

STATE OF ALASKA
1994 LEGISLATIVE SESSION

FISCAL NOTE

No. 2
Bill Version: CSHB 334(FIN)
(H) Publish Date: 4/12/94

Revision Date: <u>March 21, 1994</u>	Dept. Affected: <u>Corrections</u>
Title: <u>Three Strikes</u>	BRU: <u>All</u>
Sponsor: <u>Rep. Bunde</u>	Component: <u>All</u>
Requestor: <u>House Finance</u>	Component Serial #: <u>694-1884</u>

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXP.	FY95	FY96	FY97	FY98	FY99	FY00
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 EXP	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGES IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

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/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY94) cost \$ 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

ANALYSIS: Please see the attached explanation. Fiscal impact will be significant, but delayed beyond the years measured in this fiscal note.

COMMITTEE COPY

Prepared by: Diane Schenker, Special Assistant
 Division: Office of the Commissioner
 Approved by: J. Frank Prewitt, Jr., Commissioner
 Agency: Department of Corrections

Phone: 465-1643/786-2147
 Date: 3/22/97
 Date: 3/22/94
 Page 1 of 5

The bill would mandate a life sentence for a conviction for an unclassified or Class A felony if the offender has been previously convicted of two or more separate "most serious" felonies: any unclassified or Class A felony (or attempt, conspiracy or solicitation regarding an unclassified or Class A felony), or Assault II, Sexual Assault II, Sexual Abuse of a Minor II, or Unlawful Exploitation of a Minor. Offenders sentenced to mandatory 99 year sentences would not be eligible to earn statutory good time. Prisoners sentenced under the provisions of the bill would be ineligible for parole or other forms of early or graduated release, but could apply for a modification or reduction of sentence after serving half of the 99-year mandatory sentence (49.5 years.)

Assumptions

1. According to the department's data, approximately 19% of the prisoners incarcerated on November 4, 1993 had been convicted of three or more felonies. A June 30, 1993 profile indicated that approximately 1,052 (almost 40%) of the prisoners were incarcerated for a "most serious felony." Estimates from the Alaska Judicial Council and from the department's OBSCIS system suggest that only 10% of incarcerated felons have been convicted of prior, multiple, most serious felonies. To check these assumptions, ten cases were randomly selected from the list of prisoners incarcerated for unclassified and class A felonies, and criminal histories were checked according to file information. One out of the ten had a prior most serious felony conviction. Criminal justice information records are not available to discern whether or not prior convictions were separate, consecutive offenses. The department does not have the resources to conduct individual file reviews to determine this factor and therefore assumes the 10% estimate is correct.
2. The 99 year sentence is assumed to be a "life" sentence. The estimated lifespan of a male, by the year 2000, is estimated to be 73.5 years, according to the United States Statistical Abstract. The estimated age at the time of conviction for a most serious felony is estimated to be 28 years, according to the Alaska Judicial Council. Thus, those sentenced under this bill would be incarcerated for 45.5 years, rounded up to 46 years. (Age for males is used, since the prison population is over 95% male.) If allowed to earn statutory good time on a 99 year sentence, the prisoner would still have to serve 66 years. Furlough eligibility would not occur until the prisoner had served 63 years, with good time, and sentence modification allowed under the bill would not occur until after serving 49.5 years. Since the average prisoner would be dead prior to meeting these requirements, the provisions governing good time, furlough, and sentence modification are assumed to be irrelevant.

3. The estimated length of incarceration for applicable crimes under current law is listed in the table below, with the associated increase based upon sentencing under this bill. The current average lengths of incarceration for unclassified and Class A felonies are based upon data from the department's OBSCIS system on current prisoners.

Offense Category	Current Length of Incarceration	Proposed Incarceration	Difference	% Increase
Unclassified: Murder I, Murder II, Kidnapping	over lifespan	over lifespan	0	0
Unclassified: MICS I, SA I, SAM I	13 years	46 years	+ 33 years	+ 354%
A felonies	12 years	46 years	+ 34 years	+ 383%

4. The statewide average cost of incarceration in a state correctional center is \$113 per day. This figure does not include CRC beds, since prisoners under this bill are prohibited from furlough, restitution center placement, etc. This figure includes the standard overhead for medical and administrative costs. This number should be considered to be conservative, since medical expenses for older prisoners doing life sentences are expected to be higher than average. Operating expenses are reflected under "miscellaneous" on page 1 of the fiscal note since the total operating cost involves multiple categories of expenses.

6. The average cost for construction of a maximum security prison bed in Alaska is \$160,000. It is assumed that prisoners sentenced to life will require high security housing. Capital expenses might be reduced if additional beds were purchased under contract, however there are no contract beds currently available in Alaska for prisoners with higher than minimum custody.

7. The correctional system cannot absorb any additional prisoners without additional resources. The system has been operating over emergency capacity throughout the past year. Even when all aspects of the department's current population management plan are achieved, only the current overcrowding will be addressed, not including any additional numbers of inmates caused by new legislation. In addition to posing safety hazards, operating over emergency capacity for prolonged periods may result in fines of up to \$1,000 per day if the department is found in contempt of court for violating population caps.

8. Because a number of crime bills are pending before the legislature this year, it is difficult to predict the total number of beds by which the prison system may need to be increased, and therefore difficult to predict how and where such beds would be added: through new facility construction, facility modification, or contracting. It is not possible to estimate the number of staff positions needed until specific expansion plans are made.

Operating Expenses and Capital Expenses

There will be long-term impact and expenses which the department will have to address through the budget process in subsequent years, because the impact will not occur during the six-year period addressed in the fiscal note process.

The table below calculates the increased costs of all the categories of offenders whose actual length of stay would be increased under the bill. Although the increases for various categories of offenses would result over varying periods of time, this method arrives at an aggregate increase in population in order to predict future needs for the prison system. It is assumed that 10% of the unclassified and class A felony population would increase according to the percentage increase in sentence lengths shown in the table under Assumption 3. Murder I, Murder II, and Kidnapping are excluded since the current average sentence already exceeds the expected lifespan.

Offense	Total in DOC on 6/30/93	10% (3rd repeaters)	Current Prisoner-days	% sent. length increase	Additional Prisoner-days
Unclassified Felonies					
SAM I	153	15.3	5,584.5	X 3.54	19,769.1
SA I	178	17.8	6,497		22,999.4
MICS I	9	.9	328.5		1,162.9
TOTAL UNCLASSIFIED					43,931.4
Class A Felonies					
Assault I	57	5.7	2,080.5	X 3.83	7,968.3
Manslaughter	28	2.8	1,022		3,914.3
Robbery I	101	10.1	3,686.5		14,119.3
Arson I	6	.6	219		838.7
Escape I	2	.2	73		279.6
MIW I	20	2	730		2,795.9
TOTAL A FELONIES					29,916.1
TOTAL ADDITIONAL PRISONER-DAYS					73,847.5

This suggests that the actual prison population would, over time, increase by 73,848 prisoner-days, or 202 prisoners as a result of the increased sentence lengths required by the bill.

73,848 prisoner-days X \$113 per day = \$ 8,344,824 operating expenses

202 beds X \$160,000 per maximum bed = \$ 32,320,000 capital expenses

TOTAL ADDITIONAL EXPENSE = \$ 40,664,824

This increase would be spread over the 46-year lifespan expectancy of the first batch of prisoners sentenced to 99 years, less the 12 years the first batch would be expected to receive, on average, under current law, or a 34 year period between FY07-41. Spread over those years, the average yearly cost would be approximately \$1,196,024.

This figure does not include any inflation factor and does not assume any increase in the rate of convictions/incarcerations. It does not account for increases in medical costs for a larger, aging population.

Offsetting this number, it would be expected that some savings might be expected in the Community Corrections component, since most of these prisoners would otherwise have been released and supervised on probation or parole under current law. However, the \$6 average cost per day for this supervision is almost negligible compared to the \$113 cost per day of incarceration, and would only be a factor for a relatively small portion of the total sentence.

Another offsetting factor might be the avoidance of costs of new crimes, probably violent, that these chronic types of offenders might be assumed to commit if they were released, under current law. These savings would be experienced by other agencies and departments through avoidance of arrests, investigations, trials, etc.

FISCAL NOTE

No. 3

Bill Version: CSHB 334(FIN)

(H) Publish Date: 4/12/94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Revision Date: _____

Department Affected: Administration

Title: 'An Act relating to criminal sentencing; and relating to mandatory life imprisonment, parole...'

BRU: Office of Public Advocacy

Sponsor: Representatives Bunde, Olberg

Component: Office of Public Advocacy

Requestor: House Judiciary

COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	83.1	83.1	83.1	83.1	83.1	83.1
TRAVEL	10.0	10.0	10.0	10.0	10.0	10.0
CONTRACTUAL	83.4	83.4	83.4	83.4	83.4	83.4
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	3.6	3.6	3.6	3.6	3.6	3.6
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	181.1	181.1	181.1	181.1	181.1	181.1

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
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FUNDING SOURCE:

(Thousands of Dollars)

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	181.1	181.1	181.1	181.1	181.1	181.1
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	181.1	181.1	181.1	181.1	181.1	181.1

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

POSITIONS:

FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

See attached.

Prepared by: Brant McGee, Public Advocate
Division: Office of Public Advocacy

Phone: 274-1684
Date: _____

Approved by Commissioner: Nancy Bear Usery
Agency: Administration

Date: 3/22/94

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 334

ANALYSIS: (continued)

The revisions in the original "Three Strikes" proposal made by CSHB 334, the House Judiciary substitute, should significantly reduce the number of criminal defendants susceptible to the 99 year prison term. The changes allow prosecutorial discretion, modify the way prior felony convictions are viewed by the court, and require that the final charge be an A or Unclassified felony.

The Alaska Judicial Council, which provided the statistical analysis related to the original HB 334, has not provided additional statistics regarding the potential impact of the new bill on criminal justice agencies. However, the assumptions regarding the initial fiscal notes remain valid. While the numbers of cases will undoubtedly be reduced by the modifications contained in the committee substitute, there is no question that litigation surrounding "Three Strikes" cases will be lengthy and costly. Costs will be dictated by the high stakes of each case, the necessity for collateral attacks on prior convictions both in State and Federal courts, and the certainty that each of these cases will go to trial.

Because of the necessity of attacking underlying convictions and the treatment of each case as most serious because of the severity of the sanction, litigation will require the filing of numerous motions, not only on the current charge, but in each prior case which resulted in convictions. This will require the review of voluminous records associated with each of the prior felony cases and the initiation of new litigation in each case. If that prior conviction occurred in a different state, it would be necessary to retain out-of-state counsel to launch the collateral attacks upon these convictions. Further, expert testimony regarding the adequacy of prior counsel would probably need to be prepared in many of the cases.

While it is not possible to estimate the indirect impact of such legislation on client decision-making in first and second felony cases, there is little question that some clients will be influenced to go to trial rather than plead guilty when they know that this conviction will make them eligible for life in prison if they commit another felony. More trials mean higher costs for each criminal justice agency.

It should also be noted that these cases will give rise to many conflicts of interest which will necessitate withdrawal of the Public Defender Agency and the assignment of OPA to provide representation. These conflicts of interest will arise because the Public Defender will have provided representation in the earlier cases which resulted in convictions, and which would be subject to collateral attack during the litigation of each "Three Strikes" case.

Because OPA criminal lawyers are currently at maximum caseload capacity, and because of the loss of one such attorney in FY93, it will be necessary to add an additional experienced attorney to provide representation in these cases throughout the state.

Further, because at least one of these cases each year will require the appointment of conflict counsel, at an estimated cost of \$60,000 per case, contractual costs will also be high.

Position Title Attorney IV		No. of Positions 1	Range / Step 24/A	Barg. Unit PX
Time Status PFT	Staff Months 12.0	Location Anchorage		Election District 8
TYPE OF EXPENDITURE		AMOUNT		
Salary		61.0		
Benefits		22.1		
Premium Pay				
Other				
Total Personal Services	0.0	83.1		
Travel				
Contractual		3.4		
Commodities		1.0		
Equipment		3.6		
Other				
Total Cost		91.1		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	91.1		
I-A Receipts	1007			
CIP Receipts	1061			
Other				
Justification The Anchorage Office of Public Advocacy presently has three attorney positions devoted to criminal defense. These attorneys are also handling several major cases outside of the Anchorage area as staff coverage and travel is more cost effective than contracting major cases to private attorneys in rural areas. Current caseloads indicate that these three attorneys cannot absorb the additional cases which would result from this legislation. It is necessary that an additional attorney be added to the Anchorage staff to cover the resultant increased caseload.				

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Request For New Position

AGENCY ADMINISTRATION
 BRU OFFICE OF PUBLIC ADVOCACY
 COMPONENT OFFICE OF PUBLIC ADVOCACY

FY 95

Page 3 of 3
 Revised Date: _____

FISCAL NOTE

No. 4
 Bill Version: C SHB 334 (FIN)
 (H) Publish Date: 4/12/94

STATE OF ALASKA
 1994 LEGISLATIVE SESSION

Revision Date: _____
 Title: An Act relating to criminal sentencing. . . .
 Sponsor: Reps. Bunde, Olberg
 Requestor: House Judiciary

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 9 ^o	FY 99	FY 00
PERSONAL SERVICES	171.8	177.0	182.3	187.8	193.4	199.2
TRAVEL	3.0	3.1	3.2	3.3	3.4	3.5
CONTRACTUAL	25.0	25.8	26.6	27.4	28.2	29.0
SUPPLIES	3.0	3.1	3.2	3.3	3.4	3.5
EQUIPMENT	4.5	-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	207.3	209.0	215.3	221.8	228.4	235.2

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUNDING SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match	207.3	209.0	215.3	221.8	228.4	235.2
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	207.3	209.0	215.3	221.8	228.4	235.2

Estimate of any current year (FY 94) cost: \$ 0

POSITIONS:

FULL-TIME	3	3	3	3	3	3
PART-TIME						
TEMPORARY						

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

Prepared by: John B. Salemi, Director
 Division: Public Defender Agency

Phone: 264-4400
 Date: _____

Approved by Commissioner: Nancy Bear Usery
 Agency: Department of Administration

Date: 3/22/94

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 334

ANALYSIS: (continued)

CSHB 334, the House Judiciary substitute bill for the original 'Three Strikes' proposal, makes significant changes which serve to limit the pool of criminal defendants susceptible to the 99 year prison term which is the hallmark of the bill. These changes include 1) discretionary, rather than mandatory, application (discretion rests with prosecuting authority), 2) the manner in which prior triggering felony convictions are considered by the court and, 3) the requirement that the 'third strike' be an A or Unclassified felony.

This agency, along with the Department of Law, relied to some extent on research and analysis done by the Alaska Judicial Council related to the original HB 334, in determining fiscal impact. No statistical analysis has been prepared regarding the present substitute version, and as such, the revised fiscal notes may be more speculative in terms of the actual number of cases which will be prosecuted under the 'Three Strikes' law. This much is certain: there will be a real and distinct impact on this agency if this proposal becomes law. Repeat felony offenders are regularly assigned as clients to the Public Defender for legal representation. The cases which are susceptible to 'Three Strikes' penalties will be intensely litigated (as described in our original fiscal analysis). And while this version of the bill builds prosecutorial discretion into the law, there is no way of knowing how and to what extent the prosecution will exercise such discretion. If a prosecuting authority decided to prosecute each potential 'Three Strikes' case as one appropriate for the maximum penalty, neither the defendant, the courts, nor the Department of Corrections could complain that discretion wasn't being properly exercised.

In summary, this committee substitute will lessen the fiscal impact on criminal justice agencies. It is, however, difficult to quantify the effect of said changes. This agency believes the substitute version will reduce the number of 'Three Strikes' cases by roughly 50%. As such, the Public Defender fiscal note is adjusted downward by approximately the same percentage amount.

BUDGET ANALYSIS

100: Anchorage - Attorney IV	83.1
Paralegal Asst. II	51.8
Legal Secretary I	36.9
	171.8
200: Travel	3.0
300: Contractual	25.0
400: Supplies	3.0
500: Equipment (one time)	<u>4.5</u>
TOTAL	207.3

Position Title Paralegal Assistant II		No. of Positions 1	Range / Step 16/A	Barg. Unit GGU
Time Status PFT	Staff Months 12.0	Location EBA		Election District 50
TYPE OF EXPENDITURE		AMOUNT		
Salary		36,444		
Benefits		15,389		
Premium Pay				
Other				
Total Personal Services	0.0	51,833.0		
Travel		0.0		
Contractual		0.0		
Commodities		1,000.0		
Equipment		1,500.0		
Other				
Total Cost		54,333.0		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	54,333.0		
I-A Receipts	1007			
CIP Receipts	1061			
Other				
Justification				
<p>The "Three Strikes" legislation will create a category of serious felony cases which will be litigated as intensely as homicide cases. Because of the effort involved, and because this will have statewide impact on this 13-office agency, additional staff will be required. The litigation effort will necessarily include collateral attacks on prior felony convictions, and other pretrial investigation and motion work. Some travel (both in and out of state) will be required. Contractual funds will be required in those instances where collateral attacks will involve challenging prior convictions which are sited in other states.</p> <p>The positions described below will work in the Anchorage office but will also provide litigation support to the other 12 offices whenever a "Three Strikes" case is assigned to the agency:</p> <p>Anchorage: Attorney IV 83.1 Paralegal Assistant II 51.8 Legal Secretary I 36.9</p>				

1/leg94/13/8113a.kp

Request For New Position

AGENCY ADMINISTRATION
 BRU PUBLIC DEFENDER AGENCY
 COMPONENT PUBLIC DEFENDER AGENCY

FY 94

Page 4 of 5
Revised Date: _____

Position Title Legal Secretary I		No. of Positions 1	Range / Step 10/A	Barg. Unit GGU
Time Status PFT	Staff Months 12.0	Location EBA		Election District 50
TYPE OF EXPENDITURE		AMOUNT		
Salary		24,756		
Benefits		12,110		
Premium Pay				
Other				
Total Personal Services		0.0		
Travel		0.0		
Contractual		0.0		
Commodities		1,000.0		
Equipment		1,500.0		
Other				
Total Cost		39,366.0		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004		39,366.0		
I-A Receipts 1007				
CIP Receipts 1061				
Other				
<p>Justification</p> <p>The "Three Strikes" legislation will create a category of serious felony cases which will be litigated as intensely as homicide cases. Because of the effort involved, and because this will have statewide impact on this 13-office agency, additional staff will be required. The litigation effort will necessarily include collateral attacks on prior felony convictions, and other pretrial investigation and motion work. Some travel (both in and out of state) will be required. Contractual funds will be required in those instances where collateral attacks will involve challenging prior convictions which are sited in other states.</p> <p>The positions described below will work in the Anchorage office but will also provide litigation support to the other 12 offices whenever a "Three Strikes" case is assigned to the agency:</p> <p>Anchorage: Attorney IV 83.1 Paralegal Assistant II 51.8 Legal Secretary I 36.9</p>				

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Request For New Position

AGENCY ADMINISTRATION
 BRU PUBLIC DEFENDER AGENCY
 COMPONENT PUBLIC DEFENDER AGENCY

FY 94

Page 5 of 5
Revised Date: _____

FISCAL NOTE

STATE OF ALASKA
 1994 LEGISLATIVE SESSION

BILL

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: An Act relating to criminal sentencing... BRU: Trial Courts
 Components: _____
 Sponsor: Reps. Bunde, Olberg
 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	40.6	40.6	40.6	40.6	40.6	40.6
TRAVEL						
CONTRACTUAL	37.5	37.5	37.5	37.5	37.5	37.5
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	78.1	78.1	78.1	78.1	78.1	78.1

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Recapts						
1003 GF Match						
1004 GF	78.1	78.1	78.1	78.1	78.1	78.1
1005 GF/Program Recapts						
1006 GF/MHTIA						
Other						
TOTAL	78.1	78.1	78.1	78.1	78.1	78.1

POSITIONS

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

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

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

Prepared by: C. S. Christensen III, Staff Counsel *CS* Phone: 264-8228
 Agency: Alaska Court System Date: 03/22/94

Approved by: Arthur H. Snowden, II, Administrative Director *AS* *CS*
 Agency: Alaska Court System Date: 03/22/94

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ALASKA COURT SYSTEM
FISCAL ANALYSIS
CSHB 334 (JUD)

The Judiciary CS for HB 334 amends Alaska's presumptive sentencing laws to provide that a defendant convicted of a third felony offense is subject to a mandatory term of imprisonment of 99 years. The first two convictions must be for a "most serious" felony, and the third conviction must be for a class A or unclassified felony. The prosecutor has the discretion to pursue or not pursue the 99-year mandatory sentence.

The Department of Law has estimated that prosecutors will seek the mandatory 99-year sentence five or six times per year. Because of the potential sentence, these cases can be expected to rival first-degree murder cases in the amount of court time spent on the actual trial, as well as on evidentiary hearings, collateral attacks on previous convictions, and other pre- and post-trial motion work. This is estimated to average four weeks of trial time per case, plus one week of additional hearings. If the defendant was not subject to a 99-year sentence, only one of these cases would statistically be expected to go to trial; that would most likely be a first-degree murder case, with an average five week length.

In addition to the costs of the third felony case, the existence of the mandatory 99-year sentence will encourage offenders charged with their first or second "most serious" felony to fight the charge more strenuously, because conviction would greatly increase the chance that the offender would be vulnerable to the 99-year sentence at a later time. In the years 1984 through 1990, an average of about 900 defendants each year were charged with a first or second "most serious" felony. Trial rates for those charged with these felonies range from eight to 20 percent, depending on the classification of the offense (class B, class A, or unclassified). If the trial rate increases by 50 percent, over 50 additional felony trials will be held each year. Such changes in the trial rate are not unprecedented. When the plea bargaining ban was imposed in 1975, the felony trial rate doubled during the first year and tripled during the second year. Because it is impossible to predict what increase will occur in the trial rate as a result of HB 334, this note does not reflect those costs. Should HB 334 result in a significantly higher trial rate, the court system will need to return to the legislature for additional funding.

For similar reasons, it can be expected that the appeal rate and rate of applications for post-conviction relief will increase among the 900 defendants charged each year with a first or second "most serious" felony. Again, this note does not attempt to quantify those costs.

Alaska Court System
Fiscal Analysis
CSHB 334 (JUD)

Personal Services

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Pro Tem Superior Court Judge, PPT, fully vested, Anchorage, 6 months	\$12,075	\$8,868	\$20,943
In-court Clerk, range 12A, PPT, Anchorage; 6 months	13,554	6,116	<u>19,670</u>
Total Personal Services			<u>40,613</u>

Contractual Services

Jury fees for 12 jurors and 3 alternates for 20 days for 5 new trials at \$25 a day for each juror 37,500

Estimated Total Cost \$78,113

FISCAL NOTE

No. 6
 Bill Version: CSHB 334(FIN)
 (H) Publish Date: 4/12/94

STATE OF ALASKA
 1994 LEGISLATIVE SESSION

Revision Date: March 11, 1994
 Title: "...relating to criminal sentencings;... mandatory life imprisonment, parole, good time credit, pardon, commutation..."
 Sponsor: Representative Bunde
 Requestor: Representative Bunde

Department Affected: Department of Law
 BRU: Prosecution
 Component: Third District
 COMPONENT SERIAL NO. 0087

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL	81.7	81.7	81.7	81.7	81.7	81.7
TRAVEL	7.5	7.5	7.5	7.5	7.5	7.5
CONTRACTUAL	13.6	13.6	13.6	13.6	13.6	13.6
SUPPLIES	3.3	3.3	3.3	3.3	3.3	3.3
EQUIPMENT	6.5					
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	112.6	106.1	106.1	106.1	106.1	106.1

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

REVENUE						
---------	--	--	--	--	--	--

FUNDING:

1002 Federal						
1003 GF Match						
1004 GF	112.6	106.1	106.1	106.1	106.1	106.1
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	112.6	106.1	106.1	106.1	106.1	106.1

POSITIONS:

FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME						
TEMPORARY						

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

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

COMMITTEE COPY

Prepared by: Richard I. Pegues, Director
 Division: Administrative Services Division
 Approved by Commissioner: Bruce M. Botelho, Attorney General
 Agency: Department of Law

Phone: 465-3672
 Date: March 11, 1994
 Date: March 11, 1994

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 334 (JUD)

ANALYSIS CONTINUATION:

The House Judiciary Committee Substitute for HB 334 makes three important changes from the original version of the bill.

First, the committee substitute provides prosecutors with the discretion to pursue or not pursue a 99-year mandatory sentence.

Second, the committee substitute makes it clear that the sequence of most serious felony convictions consists of three separate crimes and three separate convictions in terms of criminal episode and time before a 99-year mandatory sentence can be invoked.

Third, the committee substitute provides that the third and triggering most serious felony conviction must be for an unclassified felony or a class A felony in order for a 99-year mandatory sentence to be imposed.

In view of these changes, the Department of Law believes that the number of cases where prosecutors will seek a 99-year mandatory sentence will be reduced to five or six each year. Because a trial with consequences this serious can require two or more months of a prosecutors time, and because the largest number of serious crimes occur in Southcentral Alaska, we are reducing fiscal note costs to include a single prosecutor for the Anchorage area at a cost of \$112,600, or a reduction of \$217,800 from the department's original fiscal note request.

01/26/94

14:55:24.0

PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

PAGE: 2

COMPONENT #: 6501020300 NAME: THIRD JUDICIAL DISTRICT

SCENARIO: 3
BRU NAME: PROSECUTION

PCN	UNAUTH PCN	JOB CLASS TITLE	Y S	LOCATION NAME	R B S C U	I&S BUDG	HOS	SALARY	PREM PAY	BENEF	PER.SERV. COSTS	G. F. AMOUNT
03/044		ATTORNEY IV		F ANCHORAGE	A XE AA	24A 12		61008	0	20660	81668.60	

**** JUSTIFICATION:

CSMB 334 (TUD)

TRAVEL COSTS	7500.00	
CONTRACTUAL COSTS	13600.00	
SUPPLIES COSTS	3300.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	112568.60	81668.60

*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS	81668.60
TOTAL FUNDING	81668.60

**** COMPONENT TOTALS:

FULL TIME NEW POSITIONS	1	TOTAL PERSONAL SERVICES	81668.60
PART TIME/SEASONAL NEW POSITIONS	0		
NON PERMANENT NEW POSITIONS	0	TOTAL COSTS INC. ASSOC COSTS	112568.60
OTHER.....	0		

NUMBER OF NEW POSITIONS IN COMPONENT: 1

FUNDING DATA: G.F. & G.F. MATCH:	81668.60
OTHER FUNDS:	0.00
TOTAL FUNDING:	81668.60

Back-up

House of Representatives
SPONSOR STATEMENT
CSHB 334(FIN)am
"THREE STRIKES YOU'RE OUT"

"An Act relating to criminal sentencing; relating to the availability for good time credit for offenders convicted of certain first degree murders; relating to definite 30 to 90 year terms of imprisonment for offenders convicted of an unclassified or class A felony that is a homicide, assault, kidnapping, sexual offense, or robbery and who have at least two prior most serious felony convictions; relating to terms of imprisonment, parole, good time credit, pardon, commutation of sentence, modification or reduction of sentence, reprieve, furlough, and service of sentence at a correctional restitution center for offenders with at least three most serious felony convictions; defining 'most serious felony' as an unclassified or class A felony offense that is a homicide, assault, kidnapping, sexual offense, or robbery or an attempt or conspiracy to commit, or criminal solicitation of, an unclassified or class A felony that is a homicide, assault, kidnapping, sexual offense, or robbery; and amending Alaska Rule of Criminal Procedure 35."

HB 334 provides a definite term of imprisonment of 30 to 99 years, for a specific group of offenders who have two separate "most serious" felony convictions. A most serious felony is defined as any unclassified or Class A felony.

There is a notification requirement in HB 334. Offenders who have two "most serious" felony convictions must be informed in writing of future sentencing requirements if a third felony conviction for an unclassified or Class A felony is obtained.

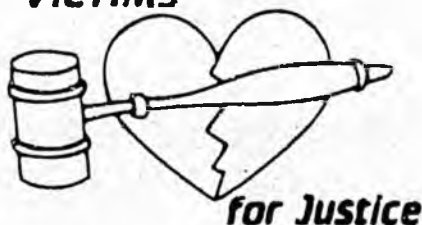
Under this proposed legislation parole is not available to an offender who has been given a 99 year sentence or a definite term of imprisonment for a "third strike". HB 334 allows those with a 30 to 99 year sentence to ask the court for a reduction in sentence after they have served half of their sentence (15 to 49.5 years). This provision is similar to what is allowed when a murderer is convicted and given a 99 year sentence. However, a person with a 99 year sentence or a definite term of imprisonment under this legislation is not eligible for a good time sentence reduction.

This proposed legislation allows for prosecutorial discretion when deciding if a 99 year sentence or a definite term of imprisonment of 30-99 years should be pursued. This will avoid unjust results in certain cases where the evidence may be weak. This provision will also allow the prosecutor some flexibility to proceed with the normal presumptive sentencing provisions when necessary.

The cost of keeping a person incarcerated for 99 years is high. However, when cost is considered, the true cost and benefits must be enumerated before concluding that this legislation is too expensive. First, strong punishments can shape behavior and deter crime by scaring some offenders away. Second, many studies have shown that the recidivism rates for three time offenders let back into society are between 65-76%. These offenders are taking up costly time in our judicial system by committing the same crimes again and again. Third, this legislation has been narrowly focused to include only specific felony offenses. The intention is to keep the state cost to a minimum.

This proposed legislation will make our state a safer place. I urge your positive consideration of this legislation.

VICTIMS



January 27, 1994

Representative Con Bunde
State Capitol Room 112
Juneau, Alaska 99801-1182

Re: HB 334

Dear Representative Bunde,

Victims for Justice supports the bill of Three Strikes and you are Out. The "revolving door" costs the State so much money in legal fees and no one counts the cost to victims. It is time to put a stop to this nonsense. According to a study done by the Justice Department in 1985, (these statistics are probably lower now) of all crimes committed in this nation, 15-20% of the criminals are apprehended and only 2-3% go to prison. Furthermore 75-80% of all criminals that are released from jail are back in prison within 36 months for the same offense.

Justice Charles L. Welntner sums it up well saying: "Right now a person who has been through the system and is contemplating a crime probably views things as follows: (1) if I do it I won't get caught, (2) if I get caught I won't get prosecuted, (3) if I get prosecuted I won't get convicted, (4) if I get convicted I won't go to prison, (5) and if I go to prison I won't be there for very long."

Given the statistics above this assessment is based very much on reality.

The up coming criminals are more violent and the cost to society is much higher than the cost of keeping an offender locked up. The court costs can be tracked but victims costs are impossible to calculate. Victims never receive proper compensation or proper justice through the system. With the new prison matrix's changed we are letting out more serious offenders who will ultimately lead to more victimization. It is time to put a stop to this. Please pass this legislation. Please build more prisons and quit letting out dangerous offenders. Our new way of dealing with criminals puts some mighty dangerous people on the streets. The prison system is told not to pay attention to victim's response and public safety is no longer considered when releasing criminals. The prison system is saying they are saving money putting people into half way houses before releasing them. It is really a concern, how bureaucracy can manipulate a fairly good means of tracking offenders into allowing these people out early. Three Strikes legislation will eliminate the possibility of continuing to release these dangerous offenders which seems to be the new way of dealing with crime in the Department of Corrections.

Sincerely,
Janice Lienhart
Janice Lienhart

SPW

REPRESENTATIVE CON BUNDE
CO-CHAIR HEALTH, EDUCATION
& SOCIAL SERVICES

Alaska State Legislature

DURING SESSION:
STATE CAPITOL
JUNEAU, ALASKA 99801-1182
CAPITOL ROOM 112
OFFICE (907) 465-4843

House of Representatives

HB 334

MEMORANDUM

DATE: April 20, 1994

TO: Senator Dure Pearce
Senator Steve Frank
Chairman Senate Finance Committee

FROM: Representative Con Bunde
Co-Chair House Health Education & Social Services Committee

RE: HB 334 "An Act relating to criminal sentencing; relating to the availability for good time credit for offenders convicted of certain first degree murders; relating to definite 30 to 90 year terms of imprisonment for offenders convicted of an unclassified or class A felony that is a homicide, assault, kidnapping, sexual offense, or robbery and who have at least two prior most serious felony convictions; relating to terms of imprisonment, parole, good time credit, pardon, commutation of sentence, modification or reduction of sentence, reprieve, furlough, and service of sentence at a correctional restitution center for offenders with at least three most serious felony convictions; defining 'most serious felony' as an unclassified or class A felony offense that is a homicide, assault, kidnapping, sexual offense, or robbery or an attempt or conspiracy to commit, or criminal solicitation of, an unclassified or class A felony that is a homicide, assault, kidnapping, sexual offense, or robbery; and amending Alaska Rule of Criminal Procedure 35."

This memo is a request to hear CSHB 334(FIN) in the Senate Finance Committee.

HB 334 provides a definite term of imprisonment of 30 to 99 years, for a specific group of offenders who have two separate "most serious" felony convictions. A most serious felony is defined as any unclassified or Class A felony.

There is a notification requirement in HB 334. Offenders who have two "most serious" felony convictions must be informed in writing of future sentencing requirements if a third felony conviction for an unclassified or Class A felony is obtained.

Under this proposed legislation parole is not available to an offender who has been given a 99 year sentence or a definite term of imprisonment for a "third strike". HB 334 allows those with a 30 to 99 year sentence to ask the court for a reduction in sentence after they have served half of their sentence (15 to 49.5 years). This provision is similar to what is allowed when a murderer is convicted and given a 99 year sentence. However, a person with a 99 year sentence or a definite term of imprisonment under this legislation is not eligible for a good time sentence reduction.

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The cost of keeping a person incarcerated for 99 years is high. However, when cost is considered, the true cost and benefits must be enumerated before concluding that this legislation is too expensive. First, strong punishments can shape behavior and deter crime by scaring some offenders away. Second, many studies have shown that the recidivism rates for three time offenders let back into society are between 65-76%. These offenders are taking up costly time in our judicial system by committing the same crimes again and again. Third, this legislation has been narrowly focused to include only specific felony offenses. The intention is to keep the state cost to a minimum.

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