

**HEB**

**119**

HOUSE LETTER OF INTENT

LETTER OF INTENT  
CSHB 119 (JUD)

BY: REPRESENTATIVE FRAN ULMER  
REPRESENTATIVE BRIAN PORTER

It is the intent of the legislature that a defendant may not be sentenced to pay a day fine if the offense jeopardized the personal safety of the victim.

ADOPTED: 4/21/93

SENATE COMMITTEE REPORT

DATE: 4/23/93

FURTHER: FINANCE

DATE TURNED INTO OFFICE: 5/6/93

JUDICIARY Committee considered CS FOR HOUSE BILL NO. 119(JUD) am

"An Act authorizing a sentencing court to impose a sentence of a day fine instead of a sentence of imprisonment on a defendant convicted of a misdemeanor; directing the Alaska Supreme Court to develop and implement a day fine plan; requiring the Alaska Court System to report to the legislature on the use of day fines; amending Alaska Rule of Criminal Procedure 32; and providing for an effective date."

and recommends:

- replace with \_\_\_\_\_ CS \_\_\_\_\_ ( )
  - or  adopt previous \_\_\_\_\_ CS \_\_\_\_\_ ( )
  - attaches amendment(s)
- same title
  - new title
  - technical title change (HB only)

adopts House Letter of Intent by Ulmer / Porter (4/21/93)

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
AK Court System	3-10-93		✓
LAW	3-8-93	✓	
DPS	4-2-93	✓	
DOA (OPA)	3-8-93	✓	
DOA (wb. def)	3-8-93	✓	

Appropriation No Fiscal Note

DO PASS:

OTHER RECOMMENDATIONS:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_

Adrian L. Taylor  
 Chair: Signature and Recommendation



# Alaska Sentencing Commission

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

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Sen. Steve Frank  
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Gigi Pilcher  
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Duane S. Udland  
Rep. Fran Ulmer

April 2, 1993

Representative Fran Ulmer  
Alaska House of Representatives  
State Capitol  
Juneau, AK 99811

Dear Representative Ulmer:

Thank you for sponsoring HB 119, an act authorizing the use of day fines in misdemeanor cases. This legislation would begin to implement the Sentencing Commission's recommendation to increase the use of forfeitures and fines as alternatives to jail time. The Commission recommended that the legislature work with the courts to investigate the use of day fines and to create effective mechanisms for collection, and HB 119 is consistent with this recommendation.

The Commission discussed day fines in its 1990 Annual Report at 37:

Unlike standard fines, so-called "day fines" are linked to the offender's daily income, so that poor and affluent offenders are sentenced equitably. A judge using a day fine approach first sentences an offender to a certain number of fine units (often taken from guidelines) which reflect the degree of punishment appropriate for the offense. The judge then calculates the monetary value of each unit according to the income and economic resources of the particular offender being sentenced. The fine which results is generally much higher than fines ordinarily imposed in American court systems. In western Europe, the day fine is widely used as the sole penalty for recidivist offenders; as a matter of policy, fines are imposed as the major alternative to short terms of imprisonment.

The day fine is punitive in purpose. It is relatively inexpensive to administer, can be financially self sustaining, and can provide revenue for related social purposes such as victim compensation. It also does not act to destroy the offender's ties to family and community. However, to be effective it must be geared to the financial means of the offender. States contemplating day fines should...

SENTENCING COMMISSION SUPPORT

Representative Fran Ulmer  
April 2, 1993  
Page 2

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commitment necessary for rigorous enforcement. Jurisdictions currently using the day fine as a sanction, find that it serves as a mechanism to break through offenders' denial as well as giving them useful work and budgeting skills.

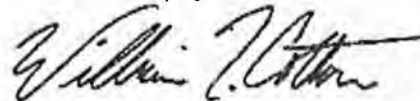
The Alaska Court System has recently issued an excellent report on day fines which discusses their history and the feasibility of implementation in Alaska.

Unlike HB 119, the Commission's recommendation is not limited to misdemeanor cases, but it seems reasonable to begin using the sanction for misdemeanor cases and to expand it to felonies later if it appears to be working well. Its affect on prison overcrowding will be somewhat limited while the sanction is confined to misdemeanor cases, but day fines have the potential to be an excellent sanction in and of themselves, whether or not they have an impact on prison population.

HB 119 requires that the Department of Law enforce collection of day fines, and that the Department of Corrections evaluate the effectiveness of the program. The Commission recommended that where alternative punishments are used, it is particularly important to provide for rigorous enforcement and monitoring. The Commission specifically recommended that criminal justice agencies work together to evaluate alternative punishments to assure that programs are developed and used appropriately and that sufficient resources are available. It also recommended collection of data for long-term evaluation of program effectiveness. We commend these portions of the bill.

On behalf of the Alaska Sentencing Commission, I would urge the Legislature to adopt legislation to authorize the use of day fines in many cases. Please feel free to call me if I can be of any assistance.

Very truly yours,



William T. Cotton  
Executive Director

WTC:erm

# Alaska State Legislature

## HOUSE OF REPRESENTATIVES



### REPRESENTATIVE FRAN ULMER

CSHB 119 (JUD) AM, Day Fines

HB 119 will establish a day fine system in Alaska as a sentencing alternative to incarceration or probation in non-violent misdemeanor cases. Such structured fine systems, linked to the offender's daily income, are successfully used in Europe and in a growing number of jurisdictions in the United States.

The Alaska Sentencing Commission recommended a Day Fine System, and the Alaska Court System supports this legislation.

We have spent millions of dollars during the past decade adding prison and jail beds and still the demand for justice outstrips the supply of cells. It is apparent that we must develop new approaches to delivering justly deserved punishment to criminal offenders. We must reserve expensive imprisonment for the violent, predatory criminal and devise a range of intermediate sanctions for less serious offenders. The day fine system is such an alternative.

In a two step process, the sentencing judge will determine the amount of a fine based on the seriousness of the offense and the offender's ability to pay. In that manner, the economic burden - the punitive effect of the fine - will be equalized across the range of offenders' incomes.

The experiences of other countries and U.S. jurisdictions indicates a day fine system will decrease the number of misdemeanants in expensive prison beds, increase the collection rate for fines and serve as very real punishment.

Thank you for your support of this important piece of legislation.

FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

.o. 1  
Bill Version: HB 119  
(H) Publish Date: 3/12/93

Revision Date: \_\_\_\_\_ Department Affected: Alaska Court System  
Title: An Act authorizing a sentencing court BRU: Trial Courts  
to impose a sentence of a day fine... Components: \_\_\_\_\_  
Sponsor: Ulmer  
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	52.5	35.0	35.0	35.0	35.0	35.0
TRAVEL	24.8					
CONTRACTUAL						
SUPPLIES						
EQUIPMENT	2.8					
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	80.1	35.0	35.0	35.0	35.0	35.0
CAPITAL						
REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS						
1003 GF MATCH						
1004 GF	80.1	35.0	35.0	35.0	35.0	35.0
1005 GF/PROGRAM RECEIPTS						
1006 GF/MHTIA						
OTHER						
TOTAL	80.1	35.0	35.0	35.0	35.0	35.0

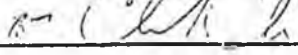
POSITIONS:

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

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  Phone: 264-8228  
Division: Alaska Court System Date: 03/10/93

Approved by: Arthur H. Snowden, II, Administrative Director  Date: 03/10/93  
Agency: Alaska Court System

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

Alaska Court System

Fiscal Analysis

HB 119

HB 119

No. 1

Pg 2 of 2

Salary      Benefits      Total

Personal Services

Law Clerk I, 13D, Anchorage, NPP, 6 months <i>Provide legal research for day fine rule-making committee. One-time cost.</i>	15,912	1,575	17,487
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Court Clerk II, 10A, Anchorage, PFT, 12 months <i>Assist judges statewide with income verification: review income tax returns and financial statements and perform credit checks. All judicial inquiries will be processed in Anchorage.</i>	24,012	10,998	35,010
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Total personal services			<u>52,497</u>
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<u>Travel</u> <i>(one-time cost)</i>			24,825
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*Committee, appointed by Supreme Court, to develop rule on day fines. Committee will be comprised of two trial judges from each judicial district and two appellate judges. Committee will meet five times with meetings lasting approximately 3 days.*

<u>Equipment</u> <i>(one-time cost for permanent position)</i>			2,800
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*Desk, chair, computer and facsimile machine*

			<u>80,122</u>
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Note: The court system is not able to accurately estimate potential revenues from this legislation at this time.

FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

No. 2  
Bill Version: HB 119  
(H) Publish Date: 3/12/93

Revision Date: March 8, 1993  
Title: ...authorizing a sentencing court to impose a sentence of a day fine instead of imprisonment...  
Sponsor: Representative Ulmer  
Requestor: Representative Ulmer

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						
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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 attached analysis.

*Richard I. Peques*

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

Phone: 465-3672  
Date: March 8, 1993

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

Date: March 8, 1993

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FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. HB 119

X10.7

P.2/2

ANALYSIS (Continued):

This bill would amend the sentencing provisions in the state's Code of Criminal Procedure, AS 12.55, to establish a system of day fines as an intermediate punishment alternative to short-term incarceration and probation supervision. Under the bill, defendants convicted of non-violent misdemeanors could be sentenced to fines based upon the severity of the offense, a defendant's criminal history, and a defendant's daily income, as adjusted for a defendant's ability to pay the fine. The bill does not repeal existing misdemeanor sentencing provisions, but rather it provides an alternative to those provisions.

Section 5 of the bill would provide that a sentence imposing a day fine shall be considered a civil judgment for the day fine. And the section further provides that the Department of Law shall enforce the judgment and may utilize any procedure available for the enforcement of civil judgments. If the department uses the civil process of the court to enforce or collect a day fine, the department would be awarded costs and attorney fees.

The Department of Law's collections unit currently collects unpaid criminal fines and was recently assigned the responsibility for collecting unpaid legal fees for state-provided criminal defense. The costs for these collections has averaged about one-third of the amount collected. However, the cost ratio for collection is expected to diminish as collections increase, and as collections procedures become more efficient, including establishment of electronic interfaces between the courts and the Department of Law, and between the Department of Law and the Department of Revenue.

At this point we are unable to determine if the bill will have an impact for our department. It is not known whether day fine sentencing provisions will result in a change in the number of unpaid fines that we currently handle, nor is it clear whether the amount in arrears will change. The court must undertake a comprehensive effort to develop and implement a day fine program. Consequently, a fiscal impact, if any, will not be known until sometime after the new sentencing provisions have been in effect. It does appear that day fine sentences would help reduce the growing cost of incarceration and supervised probation.

# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

No. 3  
Version CSHR 119 (JUD)  
(H) Publish Date: 4/8/93

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: "An act authorizing a sentencing court to  
impose a sentence of a day fine" BRU: Alaska State Troopers  
 Sponsor: Representative Ulmer Component: Detachments  
 Requestor: House Judiciary 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						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>REVENUE FUND SOURCE:</b>	0.0	0.0	0.0	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						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

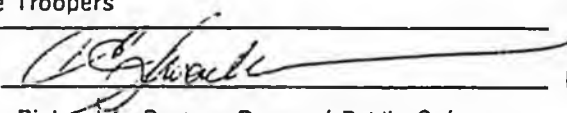
**POSITIONS:**

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: 4/02/93  
 Approved by Commissioner:  Date: 4/02/93  
 Agency: Richard T. Burton, Dept. of Public Safety

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FISCAL NOTE

N 4  
 Bill version: CSHB 119 (JUD)  
 (H) Publish Date: 4/9/93

STATE OF ALASKA  
 1993 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: "An Act authorizing a sentencing court to impose a BRU: Office of Public Advocacy  
sentence of a day fine on a defendant convicted of a Component: Office of Public Advocacy  
misdemeanor . . . ."  
 Sponsor: Representatives Ulmer, Davis, Davies, Brown  
 Requestor: (H) Sta 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/MHTA	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 Usery Date: 3/8/93  
 Agency: Department of Administration

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FISCAL NOTE

No 5

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

Version: CSHB 119 (JUD)  
(H) Publish Date: 4/9/93

Revision Date: \_\_\_\_\_  
Title: An Act authorizing a sentencing court to impose a sentence of a day fine on a defendant convicted of a misdemeanor  
Sponsor: Representatives Ulmer, Davis, Davies, Brown  
Requestor: (H) STA

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: 3/8/93

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