

SB

24

DEPARTMENT OF LAW

CRIMINAL DIVISION

January 19, 1993

The Honorable Dave Donley
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Re: SB 24 ("An Act Extending the Maximum Period of Probation After Conviction")

Dear Senator Donley:

By this letter, we wish to express our support for SB 24, "An Act Extending the Maximum Period of Probation After Conviction." Particularly for some offenses, such as sexual assaults and sexual abuse of minors, extended periods of supervision may reduce the number of new offenses committed by the defendant. Generally speaking, the costs associated with supervising a person on probation are less than the costs associated with new offenses. As a class, sex offenders in particular are difficult to treat and may reoffend years after release from incarceration.

Thank you for the opportunity to comment on this bill. If you have any further questions that we may be able to answer, please do not hesitate to call upon us.

Very truly yours,

CHARLES E. COLE
ATTORNEY GENERAL

By: Dean J. Guaneli
Dean J. Guaneli
Assistant Attorney General

MOK/sf

WALTER J. HICKEL, GOVERNOR

PLEASE REPLY TO:

CRIMINAL DIVISION CENTRAL OFFICE
P. O. BOX 110300 · STATE CAPITOL
JUNEAU, ALASKA 99011-0300
PHONE: (907) 465-3428

OFFICE OF SPECIAL PROSECUTIONS
AND APPEALS
1031 W. 4TH AVENUE, SUITE 318
ANCHORAGE, ALASKA 99501-5993
PHONE: (907) 279-7424

BILL NO: SB 24

DATE: January 19, 1993

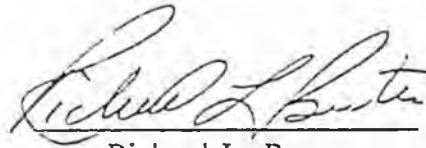
TITLE: An Act Extending the
Maximum Period of
Probation

CONTACT: C.E. Swackhammer
Deputy Commissioner

POSITION PAPER - Department of Public Safety

SB 24 extends, from five to ten years, the maximum period of probation to which a convicted criminal defendant can be sentenced. There may be situations in which the court wishes to continue probation supervision of an offender for longer than the five-year period now allowed by law. This bill would allow the courts the flexibility to fashion a sentence which best fits a particular offense or defendant.

The Department of Public Safety supports this bill.



Richard L. Burton
Commissioner

Alaska Association Chiefs of Police.



January 25, 1993

Senator Dave Donley
State Capitol
Juneau, Alaska 99801-1182

Dear Senator Donley:

I am writing to express the support of the Alaska Association of Chiefs of Police for Senate Bill 24. Existing law only allows for imposition of five years of probation. We support extending this to ten years as proposed in your bill.

Probation can be an excellent tool in protecting the public. We submit, however, that judges under current law are too limited and should be given the ability to require persons convicted of serious crimes to be monitored and supervised for longer periods of time when necessary.

If we can be of any assistance in the passage of your bill, please let me know.

Very truly yours,

A handwritten signature in cursive script, which appears to read "Ronald L. Otte", is written over a horizontal line.

Ronald L. Otte
President

RLO/lp

ALASKA NETWORK
ON
DOMESTIC VIOLENCE
AND
SEXUAL ASSAULT

419 6th Street, No. 116 • Juneau, Alaska 99801 • (907) 586-3650

Abused Women's Aid in Crisis (AWAIC); Advocates for Victims of Violence (AVV)
Aiding Women in Abuse and Rape Emergencies (AWARE)
Alaska Women's Resource Center (AWRC); Arctic Women in Crisis (AWIC)
Bering Sea Women's Group (BSWG); Emmonak Women's Shelter
Kodiak Women's Resource & Crisis Center (KWRCC)
Marilou Regional Women's Crisis Program; Parent Aid Family Support Center
Safe & Fear-Free Environment (SAFE); Seward Life Action Council (SLAC)
Sitkans Against Family Violence (SAFV); South Peninsula Women's Services (SPWS)
Standing Together Against Rape (STAR)
Tongass Community Counseling Center; Tundra Women's Coalition (TWC)
Unalaskans Against Sexual Assault & Family Violence (USAFV)
Valley Women's Resource Center (VWRC)
Women in Crisis Counseling & Assistance (WCCA)
Women in Safe Homes (WISH); Women's Resource & Crisis Center (WRCC)

SENATE BILL 24

The Alaska Network on Domestic Violence supports Senate Bill 24, which provides judges with the ability to order probation for up to ten years after an offense. The Network is a non-profit coalition of 22 organizations throughout Alaska which work with victims of domestic violence and sexual assault.

Alaska has a very high rate of violent crime, including one of the highest rates of assault and sexual assault in the nation. These crimes in Alaska are on the increase. Reported rapes in Alaska rose 91% from 1989 to 1991 (277 in 1989 to 530 in 1991). The number of assaults per one thousand persons has increased over 57% in the last five years.

National studies have shown that sex offenders have 80-90% rates of recidivism, and that the risk of reoffending does not diminish over time. Current probation limits are insufficient and counterproductive in keeping track of this group of offenders, who need to be monitored over a long period of time. Senate Bill 24 would give judges greater flexibility in tailoring appropriate sentences.

THE GOVERNOR'S ANTI-CRIME PACKAGE

The following is taken from page 7 of Governor Hickel's Jan. 12, 1994 anti-crime package sectional analysis.

Increase Probation from 5 to 10 Years -- Among other benefits, this simple proposal would help protect Alaska's children and others from family violence. For example, right now many convicted child abusers or molesters finish serving their prison sentences while their own young children (who are most at risk from repeat violence) are still children. Because current law limits probation to only five years, the courts only have a maximum of five years of "control" over a released felon.

We can't lock all these offenders up forever. But by simply extending the allowable period of probation to up to 10 years for all felony offenses, we can give the courts the tool they need to "hang a hammer" over the head of released child abusers for a long, long time -- long enough for most of their kids to grow up and become safe, independent adults -- and do so without the more expensive costs of full-time incarceration. In property crimes cases, extending probation can also be revenue positive by increasing the State's ability to collect restitution.

Proposals like this have been pending in the legislature during the past several years. It is generally supported by both prosecutors and defense lawyers, and should be acted upon this Session.



Alaska State Legislature

SENATE

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

WHY WE NEED SB 24:

It gives judges greater flexibility in sentencing criminal defendants by increasing the maximum allowable period of probation from five years to ten years.

HOW SB 24 WILL IMPROVE THE CRIMINAL JUSTICE SYSTEM:

- (1) There are offenders who pose a high task of recidivism, such as sex offenders, where five years may not be a long enough period of probation. Judges should have the tool available to put someone on probation as long as is necessary to protect the public.
- (2) Where an offender is asked to pay a large amount of restitution, five years may not be long enough for the full amount to be paid. Because probation may not exceed five years, there are offenders who are being returned to jail for failure to pay restitution. With a longer probation period the state could avoid the high cost of incarcerating these offenders and victims could be fully compensated for their injuries.
- (3) In appropriate cases, providing for a longer probationary period will allow judges to fashion sentences that provide a lower cost punishment than jail.

WHO SUPPORTS SB 24:

The legislation is supported by the Department of Law, the Department of Public Safety, the Alaska Association of Chiefs of Police, and the Network on Domestic Violence and Sexual Assault.

QUESTION - WHY ARE ALL THE FISCAL NOTES ZERO?

Fiscal notes are projections for the next five years. Since the bill only applies to offenses committed after the effective date of the Act, and judges can now put people on probation for five years, the fiscal impact for the next five years is clearly zero. After that, the experts tell us there is no way to calculate the cost. Although some people will be on probation for longer periods of time, others will be probation instead of going to jail which will result in a net cost savings.

FISCAL NOTE

BILL NO. SB 24

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Revision Date: December 15, 1993
Title: "An Act extending the maximum period of probation after conviction."
Sponsor: Senator Donlev
Requestor: Governor's Office

Depa. Affected: Department of Law
BRU: Prosecution
Component: Criminal Justice Litigation
COMPONENT SERIAL NO. 0093

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						
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REVENUE						
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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 amends AS 12.55.090(c) to extend the maximum period of probation after conviction to ten years from five years. This is a sentencing provision that may have some impact on Probation and Parole, but will not have an impact on the Department of Law.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
Division: Administrative Services Division Date: December 15, 1993
Approved by Commissioner: Richard I. Pegues
Agency: Department of Law Date: December 15, 1993
Approved by: Charles E. Cole, Attorney General

PREPARER TO PROVIDE
For further

GVERNOR'S LEGISLATIVE OFFICE:
Director's Legislative Office

Continuation of fiscal note analysis

Senate Bill 24: "An Act extending the maximum period of probation after conviction."

The current maximum period of probation is five years. This bill does not apply to crimes committed before the Act's effective date, and therefore there is no fiscal impact on the Department for the fiscal years reflected on this fiscal note.

The Department will be able to minimize the future fiscal impact of this legislation because the probation officers' sentencing recommendations are generally followed by the Court. The Department would seldom recommend more than five years of probation.

Extension of probation may be used in lieu of incarceration, in cases of probation violation, particularly when the offender owes large amounts of restitution. In such instances, the bill might contribute to lessening overcrowding in prisons, thus reducing the need for costly prison construction and operation.

Probation caseloads are currently averaging about 85 offenders per officer. The probation population is growing at a rate of about 4% per year. Although the number of cases in which the courts may extend probation for up to an additional five years is difficult to quantify, the effect of the bill will be to accelerate the growth of probation caseloads, and thus the demand for additional probation officers.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 24

Revision Date: 02/01/94 Dept. Affected: Alaska Court System
 Title: An Act extending the maximum period BRU: Trial Courts
of probation after conviction Components: _____
 Sponsor: Sen. Donley
 Requestor: Judiciary 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						
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CHANGE IN REVENUES ()						
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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/MHTIA						
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 *CSC* Phone: 264-8220
 Agency: Alaska Court System Date: 02/01/94

Approved by: Arthur H. Snowden, II, Administrative Director *AS* Date: 02/01/94
 Agency: Alaska Court System

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 24

Revision Date: February 5, 1994 Dept. Affected: Corrections
 Title: An Act extending the maximum BRU: All
period of probation Component: All
 Sponsor: Sen. Donley
 Requestor: Senate Finance COMPONENT SERIAL NO. 694-1884

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						
MISCELLANEOUS	*		*	*	*	*
TOTAL OPERATING	*	*	*	*	*	*

CAPITAL EXPENDITURES	*	*	*	*	*	*
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CHANGE IN REVENUES ()	0	0	0	0	0	0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004-GF	*	*	*	*	*	*
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY94) cost: \$ 0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The bill will result in increased expenses for probation services and may impact incarcerated populations, but specific dollar impact cannot be predicted. Please see the attached fiscal analysis.

Prepared by: Diane Schenker, Special Assistant Phone: 65-4643/786-2147
 Division: Office of the Commissioner Date: 2/5/94
 Approved by Commissioner: J. Frank Prewitt, Jr. Date: 2/8/94
 Agency: Department of Corrections

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The bill would extend the maximum period of probation from five years to ten years.

Assumptions

1. The bill will probably not effect probation caseloads until five years after it goes into effect. However, offenders now receiving less than the maximum five years might begin receiving longer periods of probation right away as a sort of "inflationary" effect. For example, an offender who would receive two and a half years of probation under current law is being given half of the maximum time; a court might give the same offender five years under the new law to reflect the seriousness of the offense.
2. Probation Officers are currently carrying caseloads averaging 75-80 offenders. Larger caseloads would dilute the effectiveness of supervision and defeat the purpose of extending the period of supervision. Additional probation-days cannot be absorbed without additional resources. The department's liability for inadequate supervision of probationers has been set forth in court decisions such as Neokok.
3. Salary, benefits, and insurance for a beginning Probation Officer II are estimated to be approximately \$52,243 per year.
4. A longer period of probation supervision may increase the likelihood of the court imposing probation as an alternative to incarceration. However, the longer an offender is on probation, the greater the chances the offender may be caught violating his or her conditions and being returned to prison. Therefore, the bill may reduce or increase prison populations.

Operating Expenses

It is not possible to estimate a dollar figure. Increases in Community Corrections personnel costs are inevitable, probably beginning five years after the change goes into effect. There may be increases in operating costs for prisons, due to more violators being placed in prison. That increase may be offset by use of probation as an alternative to incarceration.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO: SB 24

Revision Date: _____ Dept. Affected: Public Safety
 Title: "An Act extending the maximum period
of probation" BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: Senator Donlev
 Requestor: S. JUD 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-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
<small>Revenue Code</small>						

FUNDING: (Thousands of Dollars)

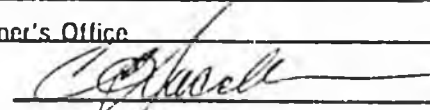
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 94) impact: \$ _____

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.)
 No fiscal impact upon the Alaska State Troopers is anticipated.

Prepared By: Lee Ann Lucas Phone: 465-4322
 Division: Commissioner's Office Date: 2/1/94
 Approved by Commissioner:  Date: 2/1/94
 Agency: Richard L. Burton, Dept. of Public Safety

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