

HB

313

Alaska State Legislature
House of Representatives

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Representative Pete Kott

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

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

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

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

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



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

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

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

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Representative Pete Kott
SECTIONAL ANALYSIS
CS HB 313(JUD)

Section 1:

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

Section 2:

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

Section 3:

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



FISCAL NOTE

WORK DRAFT

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 313 ()
Dated 1/28/94

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

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

EXPENDITURES/REVENUES:

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

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

ANALYSIS: (Attach a separate page if necessary)

This bill involves sentencing provisions and therefore will not have a fiscal impact on the Department of Law.

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

Phone: 465-3672
Date: January 31, 1994
Date: January 31, 1994

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STATE OF ALASKA
1994 LEGISLATIVE SESSION

FISCAL NOTE
BILL NO.

CSHB313 Workdraft
8-LS 1174-K

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

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	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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CHANGE IN REVENUES ()	0	0	0	0	0	0
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FUNDING:

(Thousands of Dollars)

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

Estimate of current year (FY94) impact: \$ 0

POSITIONS:-

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

ANALYSIS: (Attach a separate page if necessary)

Probation Officers do not supervise misdemeanants. Any change in length of SIS for a misdemeanant would have no impact on the department's regional probation offices.

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

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CS HB 310/JUD

Revision Date: 02/02/94 Date Affected: Alaska Court System
 Title: An Act relating to suspended probation of RRI: Trial Courts
 Original Sponsors: _____
 Sponsor: Rep. Kott _____
 Requester: _____ COMPONENT SERIAL NO. 758

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/MHTA							
Other							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	

POSITIONS							
FULL-TIME							
PART-TIME							
TEMPORARY							

Estimate of current year (FY 94) cost: None

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

Prepared by: C. S. Christensen III, Staff Counsel Phone: 264-9225
 Agency: Alaska Court System Date: 02/02/94

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

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO: CSHB 313(JUD)

Revision Date: _____ Dept. Affected: Public Safety
 Title: "An act relating to suspension of imposition
of criminal sentences." BRU: Alaska State Troopers
 Sponsor: Representative Kott Component: Detachments
 Requestor: H. 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	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE FUND SOURCE:						

FUNDING: (Thousands of Dollars)

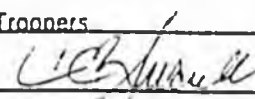
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

Prepared By: Francis C. Allan Phone: (907) 269-6691
 Division: Alaska State Troopers Date: 01/31/94
 Approved by Commissioner:  Date: 01/31/94
 Agency: Richard L. Burton, Dept. of Public Safety

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 313 (Jud)

Revision Date: _____ Dept. Affected: Administration
 Title: An Act relating to suspended imposition of BRU: Public Defender Agency
criminal sentences Component: Public Defender Agency
 Sponsor: Rep. Kott
 Requestor: (H) Jud COMPONENT SERIAL NO. 1631

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

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
Total	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY94) cost: none

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

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

Approved by Commissioner: Nancy Bear Usura Date: 2/12/94
 Agency: Administration

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 313 (Jud)

Revision Date: _____ Dept. Affected: Administration
 Title: *An Act relating to suspended imposition of BRU: Office of Public Advocacy
criminal sentences Component: Office of Public Advocacy
 Sponsor: Rep. Kott
 Requestor: (H) Jud COMPONENT SERIAL NO. 43

Expenditures/Revenues

(Thousands of Dollars)

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

FUND SOURCE

(Thousands of Dollars)

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

Estimate of current year (FY94) cost: none

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

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

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

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