

HB

127

HFIN

FILE

FINANCE COMMITTEE REPORT

(11)

Date Referred: March 22, 1995

FURTHER REFERRALS:

Date of Committee Action: 4/11/95

The FINANCE Committee considered:

HB 127

HOUSE BILL NO. 127

120-DAY JAIL: ASSAULT ON OFFICERS

"An Act increasing the minimum term of imprisonment for assaults in the fourth degree committed against a peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant, or other emergency responders."


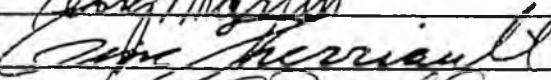
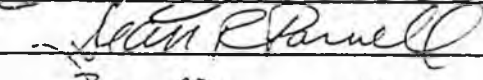
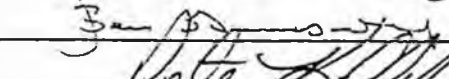
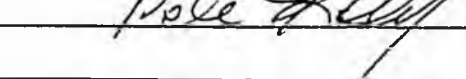
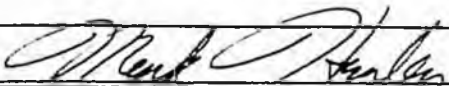
recommends it be replaced with the following committee substitute HS HB 127 (JUD) the same title a new title


additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) _____ fiscal note(s) Corrections 2/22/95

zero fiscal note(s) _____ zero fiscal note(s) Admin 2/22/95
DPS 2/22/95 Law 2/22/95

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
	Martin	✓			
	Theriault	✓			
	Parnell	✓			
	Grussendorf	x			
	Kelly	✓			
	Hanley	x			

CHAIR'S SIGNATURE 
Hanley

FISCAL NOTE

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

BILL NO. HB 127

Revision Date: _____ Dept. Affected: Corrections
 Title: An Act increasing the minimum termassult on BRU: Statewide Operations
...peace officers.... Component: All Institutions
 Sponsor: Rep. Kelly
 Requester: Rep. Kelly COMPONENT SERIAL NO. _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS	64.2	64.2	64.2	64.2	64.2	64.2
TOTAL OPERATING	64.2	64.2	64.2	64.2	64.2	64.2

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	64.2	64.2	64.2	64.2	64.2	64.2
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	64.2	64.2	64.2	64.2	64.2	64.2

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill would increase the minimum sentence for assault defined in AS 12.55.135 (d) from 30 to 120 days imprisonment.

Because this offense involves assault on a clearly identified peace officer, fire fighter or other justice or emergency personnel, these individuals would serve their enhanced sentence in a correctional facility at a cost of \$107.00 per day. Allowing for good time accounting, each inmate affected would serve an additional 60 days at \$107 per day or \$6,420.00. Data concerning assaults on this group are not kept separate from other assaults, however, contacts with the Dept. of Law and Dept. of Public Safety indicate the number is small; perhaps 10 to 12.

$60 \times 10 \times \$107 = \$64,200.00$ annual cost of increase in minimum sentence.

Prepared by: Jerry Shriner
 Division: Commissioner's Office
 Approved by Commissioner: *Harriet M. Pugh*
 Agency: Department of Corrections

Phone: 465-4640
 Date: 2/8/95
 Date: 2/8/95

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FISCAL NOTE

No. 2
 Version: HB 127
 (H) Publish Date: 2/22/95

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Department of Law
 Title: ...assaults in the fourth degree committed against BRU: Prosecution
a peace officer, fire fighter, correctional officer... Component: All
 Sponsor: Representative Kelly
 Requester: Representative Kelly COMPONENT SERIAL NO. 0085-0090

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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 EXPENDITURES						
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CHANGE IN REVENUES						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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 any current year (FY95) cost: \$ 0.0

POSITIONS

POSITIONS	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
FULL-TIME	0.01	0.01	0.01	0.01	0.01	0.01
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 12.55.135(d) to increase the minimum term of imprisonment from 30 days to 120 days for a person convicted of assault in the fourth degree for assaulting a peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the assault. This is a sentencing provision that will not have a fiscal impact on the Department of Law.

R. I. Peques

Prepared by: Richard I. Peques, Director Phone: 465-3672
 Division: Administrative Services Division Date: 2/13/95
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 2/13/95
 Agency: Department of Law

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COMMITTEE COPY

STATE OF ALASKA
1995 LEGISLATIVE SESSION

No. 3
Bill version: HB 127
(H) Publish Date: 2/22/95

Revision Date: _____ Dept. Affected: Public Safety
Title: An Act increasing the minimum term of Alaska State Troopers
imprisonment for assaults against a peace officer Component: Detachments
Sponsor: Representative Kelly
Requestor: (H) State Affairs COMPONENT SERIAL NO. 0799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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-
Revenue Code						

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 95) 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.)

No significant fiscal impact is anticipated.

Prepared By: Francis C. Allan Phone: 269-5691
Division: Alaska State Troopers Date: 02/02/95
Approved by Commissioner: Ronald L. Otto Date: 2/10/95
Agency: Ronald L. Otto, Dept. of Public Safety

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FISCAL NOTE

No. 4
 Bill Version: CSHB 127 (JUD)
 (H) Publish Date: 3/22/95

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: _____
 Title: An Act increasing the minimum term of imprisonment for assaults in the fourth degree
 Sponsor: Rep. Kelly
 Requestor: (H) JUD

Department Affected: Administration
 BRU: Public Defender Agency
 Component: Public Defender

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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 EXPENDITURES	0	0	0	0	0	0
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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	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 95) cost: \$ -0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)
 No measurable impact on the Public Defender Agency is anticipated.

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

Phone: 264-4400
 Date: _____

Approved by Commissioner: Mark Boyer
 Agency: Department of Administration

Date: 3/14/95

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Official Business

Alaska State Legislature

House

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

Representative Pete Kelly

Sponsor Statement

House Bill 127

Bill: "An Act increasing the minimum term of imprisonment for assaults in the fourth degree committed against a peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant, or other emergency responders."

It is the intent of this bill to enhance a serious tool for police officers and others on the front line. It will increase the severity of punishment for acts committed against a police officer while in the performance of official duties.

This bill sends a clear message to individuals that once the police arrive the fight must stop. Alaska is not sending in our "tag team blue" for the next round. Expanding the fracas to include a police officer will result in jail time.

This bill also discourages an officer from "engaging in a fair fight." There is no reason for such a fight to continue, and this bill makes that quite clear.

Although initially intended as a tool for police, it has even more meaning when applied to individuals with even less training or expectation of dealing with persons physically. Volunteers responding to a medical emergency, or fire are neither equipped nor trained to handle assault or violence directed against their persons.

Representative Pete KellyNew Sections 1.2.3. and 4. Addition of correctional nurses:

The existing language in AS 12.55.135(d) uses the phrase "correctional officer. Nurses who treat prisoners without benefit of additional guards or adequate backup are not "correctional officers."

We found that the portion of the statutes covering aggravating factors for sentencing options by judges did not use the term "correctional officer" but rather used the term "correctional employee."

AS 12.55.155 Factors in aggravation and mitigation.

(c) (13) the defendant knowingly directed the conduct constituting the offense at an active officer of the court or at an active or former judicial officer, prosecuting attorney, law enforcement officer, **correctional employee**, fire fighter, emergency technician, paramedic, ambulance attendant, or other emergency responder during or because of the exercise of official duties.

We chose to substitute the phrase "correctional employee" for the existing "correctional officer." This accomplishes our objective of including correctional nurses, and also makes the statutes more consistent. With this adoption AS 12.55.125, AS 12.55.135, and AS 12.55.155 all include the phrase "correctional employee" instead of "correctional officer."

New Section 6. Addition of parole/probation officers:

Parole/probation officers receive police training and certification. They are clearly identified to the parolees or probationers they are involved with. However, extensive discussions with Legislative Legal's Jerry Luckhaupt, and the Department of Law's, Laurie Otto, concluded that the definition of "peace officer" constructionally related to AS 12.55.135 did not include parole/probation officers.

To include parole/probation officers in HB 127 we selected a specific definition of "peace officer" found under AS 11.81.900.

AS 11.81.900 (b)(38) "peace officer" means a public servant vested by law with a duty to maintain public order or to make arrests. whether the duty extends to all offenses or is limited to a specific class of offenses or offenders.

Date: March 17, 1995

For: House Judiciary Committee

By: Representative Pete Kelly

CS HB 127F

Chart: Sectional Analysis

Section 1	AS 12.55.125(a)	"correctional employee"
Section 2	AS 12.55.125(c)	"correctional employee"
Section 3	AS 12.55.125(d)	"correctional employee"
Section 4	AS 12.55.125(e)	"correctional employee"
Section 5	AS 12.55.135(d)	The original bill.
Section 6	AS 11.81.900	Definition of "police officer."



ALASKA STATE EMPLOYEES ASSOCIATION

AFSCME Local 52, AFL-CIO

February 27, 1995

The Honorable Representative Pete Kelly
State Capital Building
Juneau, Alaska 99801

Dear Representative Kelly,

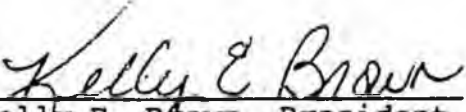
As the prime sponsor of House Bill 127, I am writing to request your consideration of an Amendment to this legislation that would include Adult Probation Officers, Juvenile Probation Officers, Fish and Wildlife Protection Officers and Nurses who work in Correctional Institutions.

It is my opinion that these state employees are at risk of assault from persons that they serve in their professional capacities. As the President of Alaska State Employees Association, I want to ensure that members of ASEA who are at risk as a result of their employment, are protected under this statute. That protection will come in the form of deterrence of criminal behavior directed against them and prosecution when an assault does occur.

The amendment I am requesting could be added during hearings on this legislation before either the House Judiciary Committee or the House Finance Committee. Additionally, I would welcome the opportunity to discuss with you the specific language contained in this proposed amendment.

Thank you for your consideration of this legislative amendment request to House Bill 127. I can be reached at the number above at your earliest convenience.

Sincerely,


Kelly E. Brown, President
Alaska State Employees Association
American Federation of State, County
and Municipal Employees, Local 52

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