

HB

127

Representative Pete Kelly

New 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."

9-LS0501NF
Luckhaupt
3/10/95

*Didn't define
Correctional
ec
Bec
AS 12.55.55(c)(13)
uses it
hasn't been
problem*

CS FOR HOUSE BILL NO. 127()

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE KELLY

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to penalties for certain offenses committed against a peace
2 officer, fire fighter, correctional employee, emergency medical technician, paramedic,
3 ambulance attendant, or other emergency responders."

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

5 * Section 1. AS 12.55.125(a) is amended to read:

6 (a) A defendant convicted of murder in the first degree shall be sentenced to
7 a definite term of imprisonment of at least 20 years but not more than 99 years. A
8 defendant convicted of murder in the first degree shall be sentenced to a mandatory
9 term of imprisonment of 99 years when

10 (1) the defendant is convicted of the murder of a uniformed or
11 otherwise clearly identified peace officer, fire fighter, or correctional employee
12 [OFFICER] who was engaged in the performance of official duties at the time of the
13 murder;

14 (2) the defendant has been previously convicted of

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(A) murder in the first degree under AS 11.41.100 or former AS 11.15.010 or 11.15.020;

(B) murder in the second degree under AS 11.41.110 or former AS 11.15.030; or

(C) homicide under the laws of another jurisdiction when the offense of which the defendant was convicted contains elements similar to first degree murder under AS 11.41.100 or second degree murder under AS 11.41.110; or

(3) the court finds by clear and convincing evidence that the defendant subjected the murder victim to substantial physical torture.

* Sec. 2. AS 12.55.125(c) is amended to read:

(c) A defendant convicted of a class A felony may be sentenced to a definite term of imprisonment of not more than 20 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, five years;

(2) if the offense is a first felony conviction, other than for manslaughter, and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, or knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, fire fighter, correctional employee [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 offense, seven years;

(3) if the offense is a second felony conviction, 10 years;

(4) if the offense is a third felony conviction, 15 years.

* Sec. 3. AS 12.55.125(d) is amended to read:

(d) A defendant convicted of a class B felony may be sentenced to a definite term of imprisonment of not more than 10 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 -

1 12.55.175:

2 (1) if the offense is a second felony conviction, four years;

3 (2) if the offense is a third felony conviction, six years;

4 (3) if the offense is a first felony conviction, and the defendant
5 knowingly directed the conduct constituting the offense at a uniformed or otherwise
6 clearly identified peace officer, fire fighter, correctional employee [OFFICER],
7 emergency medical technician, paramedic, ambulance attendant, or other emergency
8 responder who was engaged in the performance of official duties at the time of the
9 offense, two years.

10 * Sec. 4. AS 12.55.125(e) is amended to read:

11 (e) A defendant convicted of a class C felony may be sentenced to a definite
12 term of imprisonment of not more than five years, and shall be sentenced to the
13 following presumptive terms, subject to adjustment as provided in AS 12.55.155 -
14 12.55.175:

15 (1) if the offense is a second felony conviction, two years;

16 (2) if the offense is a third felony conviction, three years;

17 (3) if the offense is a first felony conviction, and the defendant
18 knowingly directed the conduct constituting the offense at a uniformed or otherwise
19 clearly identified peace officer, fire fighter, correctional employee [OFFICER],
20 emergency medical technician, paramedic, ambulance attendant, or other emergency
21 responder who was engaged in the performance of official duties at the time of the
22 offense, one year,

23 (4) if the offense is a first felony conviction, and the defendant violated
24 AS 08.54.520(a)(7) - (10), one year.

25 * Sec. 5. AS 12.55.135(d) is amended to read:

26 (d) A defendant convicted of assault in the fourth degree upon a uniformed or
27 otherwise clearly identified peace officer, fire fighter, correctional employee
28 [OFFICER], emergency medical technician, paramedic, ambulance attendant, or other
29 emergency responder who was engaged in the performance of official duties at the
30 time of the assault shall be sentenced to a minimum term of imprisonment of 120 [30]
31 days.

1 * Sec. 6. AS 12.55.185 is amended by adding a new paragraph to read:

2 (14) "peace officer" has the meaning given in AS 11.81.900.

3 * Sec. 7. This Act applies to all offenses committed on or after the effective date of this
4 Act.

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 30, 1995

SUBJECT: Sectional Summary of HB 127. (Work Order No. 9-LS0501A)

TO: Representative Pete Kelly

FROM: Gerald P. Luckhaupt *JEL*
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

Section 1 of the bill increase the mandatory minimum jail term for assault in the fourth degree committed against a "peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant, or other emergency responder" from 30 days to 120 days.

Section 2 of the bill provides an applicability section.

GPL:glc
95-098.glc



Alaska State Legislature

House

Official Business

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.

Alaska State Legislature

REPRESENTATIVE
PETER KELLY

Mailing Address:
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Fairbanks, Alaska 99701
(907) 456-8161



While in Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-2327

House District 31

House Of Representatives

February 27, 1995

House Judiciary Committee
The Honorable
Brian Porter, Chairman

HB 127

Fiscal Note Summary:

<u>Department</u>	<u>Dollars</u>
Corrections	64.2
Law	0
Public Safety	0
Total	64.2



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,

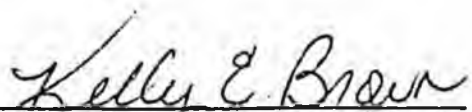
As the prime sponsor of House Bill 127, I am writing to request your consideration of an Amendment to this legislation that would include Adult Probation Officers, Juvenile Probation Officers, Fish and Wildlife Protection Officers and Nurses who work in Correctional Institutions.

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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STATE OF ALASKA
1995 LEGISLATIVE SESSION

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

Revision Date: _____ Dept. Affected: Public Safety
Title: Bill Act increasing the minimum term of
imprisonment for assaults against a peace officer. Component: Alaska State Troopers
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. Orta* Date: 2/10/95
Agency: Ronald L. Orta, Dept. of Public Safety

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FISCAL NOTE

NO. _____
 E /ersion: 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.

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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FISCAL NOTE

No. 1
 B Version: HB 127
 (H) Publish Date: 2/22/95

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Corrections
 Title: An Act increasing the minimum termassult on BRU: Statewide Operations
peace officers.... Component: All Institutions
 Sponsor: Rep. Kailv
 Requester: Rep. Kailv 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 _____
 CHANGE IN REVENUES _____

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 Phone: 465-4640
 Division: Commissioner's Office Date: 2/8/95
 Approved by Commissioner: [Signature] Date: 2/8/95
 Agency: Department of Corrections

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F. USE COMMITTEE REPORT

2/22/95

(7)
Date Referred: January 27, 1995

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: Feb 21, 1995

The STATE AFFAIRS 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 _____ [] 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)
[x] fiscal note(s) corrections [] fiscal note(s) _____

2) [x] zero fiscal note(s) Law, Public Safety [] zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Brandon Porter</i>	Porter	✓			
<i>Cheryl Green</i>	Green	✓			
<i>John Ivan</i>	Ivan	✓			
<i>Caren Robinson</i>	Robinson	✓			
<i>Ed Willis</i>	Willis	✓			
<i>Scott Ogan</i>	Ogan	✓			
<i>Jeanette James</i>	James	✓			
		(7)			

CHAIR'S SIGNATURE *Jeanette James*
James