

HB

47

SECTIONAL ANALYSIS

CSHB 47(STA)

An Act relating to the crime of unlawful evasion.

Sections 1 & 2

References to unlawful evasion in the second degree are deleted from statutes referring to the crime of escape in the second and third degree.

Section 3

The crime of unlawful evasion in the second degree is eliminated--leaving the single crime of unlawful evasion for those charged with, or convicted of either a felony or misdemeanor who "walk away" from detention, correctional facilities or half-way houses. Unlawful evasion is a class "A" misdemeanor.

Section 4

Cites unlawful evasion and the *former* unlawful evasion in the second degree (repealed by this bill) as offenses creating ineligibility for a concealed handgun permit.

Section 5

References the single crime of unlawful evasion in Department of Corrections statutes.

Section 6

Unlawful evasion in the second degree is repealed.

B

HOUSE COMMITTEE REPORT

2/3/95

(7)

Date Referred: January 16, 1995

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: _____

The STATE AFFAIRS Committee considered:

HB 47

HOUSE BILL NO. 47

UNLAWFUL EVASIONS CLASS A MISDEMEANOR

"An Act relating to the crime of unlawful evasion."

recommends it be replaced with the following committee substitute

CSHB 47(STA)

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) _____

a) zero fiscal note(s) Law
corrections

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Jeanette James</i>	James	✓			
<i>Scott Ogan</i>	Ogan			✓	
<i>Ed Willis</i>	Willis	✓			
<i>Carol Robinson</i>	ROBINSON	✓			
<i>Ivan</i>	Ivan	✓			
<i>Brian Porter</i>	Porter			✓	
		(4)		(2)	

CHAIR'S SIGNATURE *Jeanette James*

SPONSOR STATEMENT

CSHB 47(STA)

An Act relating to the crime of unlawful evasion.

Current law has two degrees of unlawful evasion--which is the failure to return to detention at a correctional facility or a "half-way" house when so required. For individuals charged with or convicted of a felony, the offense of unlawful evasion is a class "A" misdemeanor, carrying a sentence of up to one year. For those charged with or serving time for misdemeanor offenses, the crime becomes unlawful evasion in the second degree and is lowered to a class "B" misdemeanor.

CSHB 47 would eliminate the distinction between first and second degree unlawful evasion, creating a single crime of unlawful evasion with a possible maximum class "A" misdemeanor penalty.

The success of a community corrections program depends on responsibility and trust. An individual serving time for a felony or a serious misdemeanor like drunk driving, earns the privilege of participating in a community corrections program by demonstrating personal responsibility and trustworthiness. Appropriate sanctions for violating that trust must be in place for the system to have the respect of participants.

A class "B" misdemeanor charge for unlawful evasion in the second degree, is not considered a serious enough offense to warrant efforts by law enforcement and prosecutors to apprehend and convict offenders. The penalties are relatively insignificant and carry little or no leverage to deter an inmate from simply failing to return to custody when required.

The crime of unlawful evasion is as much a violation of trust by an individual serving time for a serious misdemeanor as for one serving time for a felony.

It is appropriate that there be only the single crime of unlawful evasion carrying the potential maximum class "A" misdemeanor penalty. When it comes to a violation of trust, the status of the offender (felon or misdemeanant) should be irrelevant.

FISCAL NC I

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 47

Revision Data: NA Dept. Affected: Corrections
 Title: _____ BRU: institutions
An Act relating to the crime of unlawful evasion Component: all inst.
 Sponsor: Rep. Brown
 Requester: Rep. Brown 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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0					
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CHANGE IN REVENUES ()						
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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 (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill removes the phrase in the first degree for the crime of unlawful evasion in AS11.56.340 and expands it to include those convicted of a misdemeanor. Sec. 5 of the bill amends AS 33.30.141 to include the changes to AS 11.56.340.

The impact of this bill on DOC are deemed to be negligible based on the following assumptions:

- 1/ Furloughed felons are currently returned to prison in incidents that would be within the scope of of 11.56.340. Thus there would be no additional impact.
- 2/ Prosecutors would continue the past practice of declining to charge in these cases.

Assumption 2 is based on very limited past practice and is not a position taken by the Department of Law. Should this practice change, DOC would be required to re-evaluate this issue as DOC would have no choice but to accept the offender into the prison system to serve any additional sentence.

Prepared by: Jerry Shriner
 Division: Comm. Office

Phone: 465-4640
 Date: 1/19/95

Approved by Commissioner: *Wendell M. Pugh*
 Agency: Department of Corrections

Date: 1-21-95

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FISCAL NO' 1

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 47

Revision Date: _____ Dept. Affected: Department of Law
 Title: "An Act relating to the crime of unlawful evasion." BRU: _____ Prosecution
 Component: _____ All
 Sponsor: Representative Brown
 Requester: Representative Brown 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						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

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 (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 11.56 to consolidate the crimes of unlawful evasion in the first and second degrees into a single offense. Under current law, unlawful evasion in the first degree applies to persons charged or convicted of a felony, and the penalty is a class A misdemeanor. And, currently, unlawful evasion in the second degree applies to persons charged or convicted of a misdemeanor, and the penalty is a class B misdemeanor. The bill has the effect of raising the penalty for a person charged or convicted of a misdemeanor, who fails to return to official detention within the time authorized following temporary leave, or who, while on furlough under AS 33.30, fails to return to the place of confinement or residence, from a class B misdemeanor to a class A misdemeanor. Typically, this offense occurs when an offender walks away from or fails to return to a half-way house or residential treatment center. As a result, the bill treats all unlawful evasion offenses consistently by making them class A misdemeanors. The department believes that the change in penalties is not sufficiently different to cause many defendants to go to trial. Therefore, a fiscal impact is not expected.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Division Date: 1/23/95
 Approved by Commissioner: Bruce M. Botelhof, Attorney General Date: 1/23/95
 Agency: Department of Law

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A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: HB 47

1 Page 2, following line 17:

2 Insert new bill sections to read:

3 *** Sec. 4.** AS 12.55.135(e) is amended to read:

4 (e) Except as provided in AS 12.55.055(f), if a defendant is sentenced under
5 (c), (d), [OR] (f) or (g) of this section,

6 (1) execution of sentence may not be suspended and probation or
7 parole may not be granted until the minimum term of imprisonment has been served:

8 (2) imposition of a sentence may not be suspended except upon
9 condition that the defendant be imprisoned for no less than the minimum term of
10 imprisonment provided in the section; and

11 (3) the minimum term of imprisonment may not otherwise be reduced.

12 *** Sec. 5.** AS 12.55.135 is amended by adding a new subsection to read:

13 (g) A defendant convicted of ~~unlawful~~ evasion shall be sentenced to a
14 minimum term of imprisonment of 180 days."

15 Renumber the following bill sections accordingly.

Not included in CSRS-VA (SM)

180 days

doubling

SPONSOR STATEMENT

HB 47

An Act relating to the crime of unlawful evasion.

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HB 47 would eliminate the distinction between first and second degree unlawful evasion, creating a single crime of unlawful evasion with the maximum class "A" misdemeanor penalty.

The success of a community corrections program depends on responsibility and trust. An individual serving time for a felony or a serious misdemeanor like drunk driving, earns the privilege of participating in a community corrections program by demonstrating personal responsibility and trustworthiness. Appropriate sanctions for violating that trust must be in place for the system to have the respect of participants.

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The crime of unlawful evasion is as much a violation of trust by an individual serving time for a serious misdemeanor as for one serving time for a felony.

It is appropriate that there be only the single crime of unlawful evasion carrying the maximum class "A" misdemeanor penalty. When it comes to a violation of trust, the status of the offender (felon or misdemeanant) should be irrelevant.

Legislative Information Office
716 W. 4th Ave., #420
Anchorage, AK 99501-2133
(907) 258-8162

During Session
State Capitol
Juneau, Alaska 99801-1182
(907) 465-4998

January 25, 1995

Representative Jeanette James
Chair, State Affairs Committee

Dear Representative James;

Attached is an amendment I propose to HB 47, An Act relating to the crime of unlawful evasion.

I believe this is of particular interest to you because it would correct an inadvertent oversight in the concealed weapons permit statutes.

While preparing the sectional analysis for HB 47, I noticed that conviction for unlawful evasion in the second degree (AS 11.56.350, a class "B" misdemeanor) was cited as one of the offenses that would result in a five-year prohibition on eligibility for a concealed weapons permit. However, no citation was made to the crime of unlawful evasion in the first degree, a class "A" misdemeanor (AS 11.56.340).

The purpose of HB 47 is to clarify the crime of unlawful evasion—failure to return to a community corrections facility when required. The bill would eliminate the class "B" misdemeanor and leave only the single offense of unlawful evasion, a class "A" misdemeanor. The penalty would be the same whether the individual was serving a sentence for a felony or misdemeanor.

The attached amendment to HB 47 conforms the concealed weapons permit statutes to provide that conviction for unlawful evasion (AS 11.56.340) would make an individual ineligible for a permit for five years.

Please contact me or my staff (Dan Austin) at 465-4998/3768 if you have any questions on the bill or this proposed amendment.

Sincerely,



Representative Kay Brown

DISTRICT 15

Downtown • Fairview • Northstar • Romig • South Addition • Spenard

AMENDMENT

OFFERED IN THE HOUSE
TO: HB 47

BY REPRESENTATIVE BROWN

- 1 Page 2, line 26, following "AS 11.56.330,":
- 2 Insert "11.56.340."

For HB 47

**MUNICIPALITY OF ANCHORAGE
1995 LEGISLATIVE PROGRAM**

**OTHER LEGISLATIVE ISSUES
DESCRIPTION**

**Page/
Reference**

- 8-2 • Real Property Tax Collection on Contaminated Properties - AS 29.45.320
- 8-3 • Paying Interest on Tax Remittance Refunds - AS 29.45.500(b)
- 8-4 • Priority of Liens for Building Abatement and Demolition - AS 29.35.010
- 8-5 • Alaska Statute Change Concerning Public Utilities
- 8-7 • Providing for Defense and Indemnification of Public Employees - AS 39.90.160
- 8-8 • Purchase by Record Owner - Extinguishment of Right of Redemption - AS 29.45.470
- 8-9 • Establishment of a 50/50 Capital Matching Grant Program to Provide Funding for Road and Drainage Capital Improvements within Road Improvement Districts and Limited Road Service Areas
- 8-10 • AS 9.65.090 Regarding Immunity for Volunteer Crossing Guards
- 8-12 • AS 47.10.020 and Delinquency Rule 6 of the Alaska Rules of Court - Revision to Delegate Juvenile Intake Authority to Municipalities
- 8-14 • Requesting the State to Abide by Local Codes
- 8-15 • Senate Bill No. 6 or Similar Legislation Relating to Registration of a Motor Vehicle and Suspension of a Driver's License for Failure to Appear in Court or Failure to Pay a Fine
- 8-16 • House Bill No. 47 or Similar Legislation Relating to the Crime of Unlawful Evasion

**MUNICIPALITY OF ANCHORAGE
1995 LEGISLATIVE PROGRAM**

LEGISLATIVE ISSUES

TITLE: House Bill No. 47 or Similar Legislation Relating to the Crime of Unlawful Evasion

In 1994, the Anchorage Assembly passed legislation regarding unlawful evasion similar to what is outlined HB No. 47(b). We believe that extending the crime of unlawful evasion to misdemeanants is a step in the right direction and consistent with local law.

The Municipality of Anchorage strongly supports amendments to Alaska State Statutes to include misdemeanors to those committing crimes relating to unlawful evasion.

**Contact: Mark Begich
Assemblymember**
Phone: 337-6748