

**HB**

**405**

HFIN

FILE

Rough

Adopted

(a) A person commits the offense of failure to stop at the direction of a peace officer in the first degree if the person violates (b) of this section and, during the commission of that offense, the person violates a traffic law or commits another crime.

Then add the following definitions to (d)

- (3) "crime" has the meaning given in AS 11.81.900;
- (4) "traffic law" has the meaning given in AS 28.15.261.

# HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: March 9, 1998

FURTHER REFERRALS:

Date of Committee Action: 5/1/98

The FINANCE Committee considered:

HB 405

HOUSE BILL NO. 405

FLEEING OR EVADING A PEACE OFFICER

“An Act relating to failing to stop a vehicle when directed to do so by a peace officer.”

recommends it be replaced  the same title  
 with the following committee substitute \_\_\_\_\_  a new title

additional referral to \_\_\_\_\_ Committee

attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

3  fiscal note(s) DOC, DORA  
COURT

fiscal note(s) LAW, 3/9/98

zero fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Coe</i>			X	
<i>W. Hill</i>			✓	
<i>W. Hill</i>	✓			
<i>W. Hill</i>			X	
<i>W. Hill</i>		X		
<i>W. Hill</i>	X			
<i>W. Hill</i>			X	
<i>W. Hill</i>			X	
<i>W. Hill</i>	X			
<i>W. Hill</i>				
<i>W. Hill</i>				

CHAIR'S SIGNATURE

*Coe*

# FISCAL NOTE

**STATE OF ALASKA**  
**1998 LEGISLATIVE SESSION**

**BILL NO. HB 405**

Revision Date: \_\_\_\_\_ Dept. Affected: Alaska Court System  
 Title: An Act relating to failing to stop a BRU: Trial Courts  
vehicle when directed to do so by a police officer Component: \_\_\_\_\_  
 Sponsor: Rep. Kott  
 Requestor: House Finance COMPONENT SERIAL NO. 788

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	45.8	45.8	45.8	45.8	45.8	45.8
TRAVEL						
CONTRACTUAL	30.6	30.6	30.6	30.6	30.6	30.6
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>78.5</b>	<b>78.5</b>	<b>78.5</b>	<b>78.5</b>	<b>78.5</b>	<b>78.5</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**Fund Source** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	78.5	76.5	78.5	76.5	76.5	76.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>78.5</b>	<b>76.5</b>	<b>76.5</b>	<b>76.5</b>	<b>76.5</b>	<b>76.5</b>

Estimate of any current year (FY 98) cost: \$ None

**Positions**

Full-Time						
Part-Time	2	2	2	2	2	2
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

See attached analysis.

Prepared by: Doug Wooliver, Administrative Attorney  
 Agency: Alaska Court System

Approved by: Stephanie J. Cole, Administrative Director  
 Agency: Alaska Court System

Phone: 264-8265  
 Date: 03/12/98

Date: 03/12/98

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**Alaska Court System  
Fiscal Analysis  
HB 405**

HB 405 makes it a class C felony to fail to stop at the direction of a peace officer if, during the commission of that offense, the person violates another law, ordinance, or traffic regulation. It also raises from a class B to a class A misdemeanor the crime of simply failing to stop at the direction of a peace officer without violating another law, ordinance, or traffic regulation.

The Department of Law's fiscal note states that an average of 220 cases of failure to stop are referred annually to state prosecutors and an additional 100 are referred to municipal prosecutors. Both the Department of Law and the Public Defender's Agency estimate that most of these cases would be charged as felonies under HB 405. This note is based on these estimates.

Assuming that 250 of the 320 cases will be charged as felonies, and assuming that roughly 10% will go to trial, the court system will see an additional 25 felony trials a year.

This note does not reflect the additional costs the court system will incur in handling the many felony charges that do not proceed to trial.

**Alaska Court System****Fiscal Analysis****HB 406****Personal Services**

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Pro Tem Superior Court Judge, Anchorage, PPT, 4.5 months	\$ 21,938	\$ 10,693	\$ 32,631
In-Court Clerk, range 12A, Anchorage, PPT, 4.5 months	10,850	2,352	<u>13,202</u>
<b>Total Personal Services</b>			<b>\$ 45,833</b>

**Contractual**

Jury fees: Twenty-five superior court, 3.5-day trials with 14 jurors at \$25 a day each	<u>30,625</u>
<b>Total Estimated Cost</b>	<b>\$ <u>76,458</u></b>

**FISCAL NOTE**

**STATE OF ALASKA**  
**1998 LEGISLATIVE SESSION**

**BILL NO. HB 405**

Revision Date: March 11, 1998 p.m.  
 Title: "An Act relating to failing to stop a vehicle when directed to do so by a peace officer"  
 Sponsor: Representative Kott  
 Requestor: (H) FIN

Department Affected: Administration  
 BRU: Legal and Advocacy Services  
 Component: Public Defender Agency

**COMPONENT SERIAL NO. 1631**

**EXPENDITURES/REVENUES:**

(Thousands of Dollars)

<b>OPERATING EXPENDITURES</b>	<b>FY 99</b>	<b>FY 00</b>	<b>FY 01</b>	<b>FY 02</b>	<b>FY 03</b>	<b>FY 04</b>
PERSONAL SERVICES	176.8	176.8	176.8	176.8	176.8	176.8
TRAVEL	7.0	7.0	7.0	7.0	7.0	7.0
CONTRACTUAL	52.6	52.6	52.6	52.6	52.6	52.6
SUPPLIES	3.8	3.8	3.8	3.8	3.8	3.8
EQUIPMENT	13.0	1.3	1.3	1.3	1.3	1.3
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>253.2</b>	<b>241.5</b>	<b>241.5</b>	<b>241.5</b>	<b>241.5</b>	<b>241.5</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE:**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	253.2	241.5	241.5	241.5	241.5	241.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>	<b>253.2</b>	<b>241.5</b>	<b>241.5</b>	<b>241.5</b>	<b>241.5</b>	<b>241.5</b>

Estimate of any current year (FY 98) cost: \$ -0-

**POSITIONS:**

FULL-TIME	2.0	2.0	2.0	2.0	2.0	2.0
PART-TIME						
TEMPORARY						

**ANALYSIS: (Attach a separate page if necessary.)**

See attached.

Prepared by: Barbara K. Brink, Director  
 Division: Public Defender Agency

Phone: (907) 264-4414  
 Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
 Agency: Department of Administration

Date: 3/11/98

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**FISCAL NOTE**

**STATE OF ALASKA**

**BILL NO. HB 405**

**1998 LEGISLATIVE SESSION**

**ANALYSIS: (continued)**

Failure to stop at the direction of a peace officer is currently a Class B misdemeanor offense with a maximum 90-day penalty. This bill rewrites the offense to create a new Class A misdemeanor if a person knowingly fails to stop, and a Class C felony with up to five years in jail, if while doing so the person violates another law, ordinance, or traffic regulation.

New information from the Department of Law indicates that 220 of these offenses were referred for prosecution last year, with an additional 100 to the Municipality of Anchorage. According to National Standards, two Attorney IVs, one in Anchorage and one in Fairbanks, would be required to handle this volume of new felonies.

The rather dramatic increase in penalties adds substantial work to the processing of a case, including pre-indictment hearings, grand jury challenges, 12-person jury trials, pre-sentence report procedures and felony sentencings. Because of the permanent impact of a felony record, and in some situations, a presumptive two or three-year sentence, these cases will be much more time and labor intensive as C felonies than B misdemeanors. Hopes that such serious penalties will decrease the numbers of such cases are optimistic and speculative at best.

# FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. HB 405

Revision Date (Note if correction) _____	Dept. Affected	Corrections
Title <u>An Act relating to failing to stop a vehicle when</u>	BRU	Administration and Operations
<u>directed to do so by a peace officer.</u>	Component	ALL
Sponsor <u>Representative Kott</u>		
Requester <u>House Judiciary</u>	Component Serial No.	#C694

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous	134.5	134.5	134.5	134.5	134.5	134.5
<b>TOTAL OPERATING</b>	<b>134.5</b>	<b>134.5</b>	<b>134.5</b>	<b>134.5</b>	<b>134.5</b>	<b>134.5</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE**

(Thousands of Dollars)

FUND SOURCE	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
1002 Federal Receipts						
1003 GF Match						
1004 GF	134.5	134.5	134.5	134.5	134.5	134.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>134.5</b>	<b>134.5</b>	<b>134.5</b>	<b>134.5</b>	<b>134.5</b>	<b>134.5</b>

Estimate of any current year (FY98) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

Please see attached.

Prepared by <u>Bruce Richards</u>	Phone <u>455-3307</u>
Division <u>Commissioner's Office</u>	Date <u>3/10/98</u>
Approved by Commissioner Margaret M. Pugh <u>Margaret M. Pugh</u>	Date <u>3/10/98</u>
Agency <u>Department of Corrections</u>	

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FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION  
DEPARTMENT OF CORRECTIONS

BILL NO. HB 405  
DATE 3/10/98  
PAGE 2 of 2

ANALYSIS CONTINUATION

HB 405 creates a new class C felony crime for failure to stop at the direction of a peace officer when directed to, when during the commission of this offense, the person violates another law, ordinance, or traffic regulation. The penalty for simply knowingly failing to stop at the direction of a peace officer is increased from a class B to a class A misdemeanor.

Assumptions:

An average of 220 cases of failure to stop at the direction of a peace officer are referred annually to state prosecutors, and approximately 100 are referred to prosecutors in the Municipality of Anchorage. The Department of Law assumes that a majority of these cases would be charged as felonies if this legislation were enacted.

The Dept. of Corrections estimates that approximately 5 prisoners a year will be convicted of a class C felony which could bring a sentence of up to 5 years. This estimate is based on the assumption that most cases will be plead out or reduced to a misdemeanor. The Dept. of Corrections estimates the average sentence will be one year or 243 days served after statutory good time is subtracted. Of the 243 days, 32 days are subtracted for the sentence that would be served under current statutes. This would result in a total of 211 days served.

5 inmates X 211 days X \$100.07 per day = \$105,573

Since the penalty for failure to stop for a police officer is being increased from a class B misdemeanor to a possible class C felony, the Department of Corrections is required to conduct a presentence investigation report (PSI). The cost for a PSI is approximately \$450.

5 PSI reports X \$450 = \$2250

The Dept. of Corrections estimates that approximately 5 prisoners a year will be convicted of a class A misdemeanor. The sentence is estimated to be 180 days, or 120 days actually served after the subtraction of statutory good time. Of the 120 days, 32 days are subtracted for the sentence that would be served under current statutes. This would result in a total of 88 days, most likely served in a halfway house.

5 inmates X 88 days X \$60.60 per day = \$26,664

The total estimated annual cost if HB 405 is enacted would be \$134,487

The Dept. of Corrections believes this to be a conservative estimate considering the number of people charged with this crime last year was approximately 220 statewide

# FISCAL NOTE

Bill Version: HB 405  
 (H) Publish Date: 3/9/98

**STATE OF ALASKA  
 1998 LEGISLATIVE SESSION**

Revision Date (Note if correction) \_\_\_\_\_ Dept. Affected Law  
 Title An Act relating to failing to stop a vehicle when BRU Criminal Division  
directed to so by a peace officer Component 1st-4th Jud District/OSPA  
 Sponsor Representative Kott #2198/99/  
 Requester House Judiciary Committee Component Serial No 2261/79/01/03

**Expenditures/Revenues (Thousands of Dollars)**

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	56.6	56.6	56.6	56.6	56.6	56.6
Travel	0.2	0.2	0.2	0.2	0.2	0.2
Contractual	9.1	9.1	9.1	9.1	9.1	9.1
Supplies	0.9	0.9	0.9	0.9	0.9	0.9
Equipment	6.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>73.3</b>	<b>66.8</b>	<b>66.8</b>	<b>66.8</b>	<b>66.8</b>	<b>66.8</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF	73.3	66.8	66.8	66.8	66.8	66.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>73.3</b>	<b>66.8</b>	<b>66.8</b>	<b>66.8</b>	<b>66.8</b>	<b>66.8</b>

Estimate of any current year (FY98) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time	1	1	1	1	1	1
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

HB 405 creates a new class C felony crime for failure to stop at the direction of a peace officer when directed to, when during the commission of this offense, the person violates another law, ordinance, or traffic regulation. The penalty for simply knowingly failing to stop at the direction of a peace officer is increased from a class B to a class A misdemeanor.

An average of 220 cases of failure to stop at the direction of a peace officer are referred annually to state prosecutors, and approximately 100 are referred to prosecutors in the Municipality of Anchorage. The Department of Law assumes that a majority of these cases would be charged as felonies if this legislation were enacted. Outside of Anchorage, the cases would be spread around the various district attorney's offices statewide. Although this will increase the workload in each office, it does not justify addition of prosecutor positions outside of Anchorage. However, the Anchorage District Attorney's Office could not absorb such a large increase in felony cases. One-half of a full time equivalent attorney

Prepared by Joan M. Kasson Phone 465-5370  
 Division Attorney General's Office Date 3/5/98  
 Approved by Commissioner Bruce M. Botelho, Attorney General Date 3/5/98  
 Agency Department of Law

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FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. HB 405

ANALYSIS CONTINUATION

position would be needed to handle this new caseload.

The cost estimate is based on the FY98/99 standard attorney cost schedule, and includes clerical support, communications, lease, and other normal overhead costs (\$133,500 per year for FTE attorney). Not included in the standard cost schedule are one-time equipment purchases for the new part-time position. These costs, \$6,500, are added separately for FY99 only.

# Alaska State Legislature House of Representatives

## Committees

Rules Committee, Chair  
Legislative Council  
International Trade & Tourism  
Military & Veterans Affairs  
World Trade & State/Federal Relations



Interim:  
10928 Eagle River Rd. Suite 141  
Eagle River, AK 99577

Session:  
Alaska State Capitol  
Juneau, AK 99801

## SPONSOR STATEMENT HB 405

HB 405 increases the penalties for not stopping at the direction of a police officer. Failure to stop at the direction of a police officer in the first degree occurs if during the commission of the offense the person violates any other law and is a Class C felony. Failure to stop at the direction of a peace officer in the second degree occurs if the person knowingly fails to stop as soon as possible in a safe manner and is a Class A misdemeanor.

The crime of eluding a police officer is inherently dangerous for pedestrians, other drivers and innocent bystanders. As an example in the Municipality of Anchorage in August of 1998, a passenger in a vehicle attempting to avoid arrest was killed when the vehicle ran a red light and struck a building. This is only one of several recent incidents where casualties have resulted from this very serious crime.

Increasing the penalties for this crime will not only help deter this potentially dangerous behavior but will more correctly align the severity of the punishment with the severity of the crime itself.

I urge your support for this legislation.

## Representative Pete Kott

Juneau Office (907) 465-3777 Toll Free 1-800-861-KOTT(5688) Fax (907) 465-2819  
Eagle River Office (907) 694-8944 Fax (907) 694-8945 E-Mail: representative\_pete\_kott@legis.state.ak.us







Rick Mystrom,  
Mayor

# ANCHORAGE POLICE DEPARTMENT

4501 South Bragaw Street • Anchorage, Alaska 99507-1599

Telephone (907) 786-8500



Service since 1921

February 13, 1998

Representative Pete Kott  
Alaska State Legislature  
State Capitol (MS 3100)  
Juneau, Alaska 99801-1182

Dear Representative Kott:

This note is to thank you for your support of HB 405, which will amend certain sections of AS 28.35.182, *Failure to Stop at Direction of Peace Officer*. As you well know, those who flee police officers often put many others at risk of injury or death in their attempt to elude capture. The law, as currently written, fails to hold violators accountable for the seriousness of this crime.

Since the Anchorage Police Department severely restricted its pursuit policy several years ago in the name of public safety, eluding officers has become more common. Even if caught later, drivers faced minor penalties. This new legislation will serve notice to those who consider fleeing that non-compliance can result in a felony conviction, and that Alaska will not tolerate those who recklessly threaten the lives of others.

Again, thanks for your help in bringing this legislation forward.

Sincerely,

Duane S. Udland  
Chief of Police

DSU/ros

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH 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

February 18, 1998

**SUBJECT:** Sectional Summary of HB 405.

**TO:** Representative Pete Kott  
Attn: Jim Hornaday

**FROM:** Gerald P. Luckhaupt   
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 repeals AS 28.35.182, the offense of failing to stop at the direction of a peace officer, and reenacts that section as failure to stop at the direction of a peace officer in the first and second degree.

Subsection (a) creates the new offense of failure to stop at the direction of a peace officer in the first degree which is committed when a person violates subsection (b), failure to stop at the direction of a peace officer in the second degree and the person violates another law, ordinance, or traffic regulation.

Subsection (b) provides that a person commits the offense of failure to stop at the direction of a peace officer in the second degree if the person while operating a vehicle knowing fails to stop when requested to do so by a peace officer.

Subsection (c) provides affirmative defenses<sup>1/</sup> to a person charged with failure to stop at the direction of a peace officer. The defenses are that the peace officer's vehicle (if the peace officer was operating a vehicle when requesting the defendant to stop) did not meet lighting and audible signaling requirements for law enforcement vehicles and was not marked appropriately

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1. AS 11.81.900(b)(1) defines "affirmative defense" to mean that

- (A) some evidence must be admitted which places in issue the defense; and
- (B) the defendant has the burden of establishing the defense by a preponderance of the evidence.

Representative Pete Kott  
February 18, 1998  
Page 2

so as to be recognizable as a law enforcement vehicle or that the peace officer was not wearing the uniform of office or displaying a badge when requesting the defendant to stop.

Subsection (d) supplies definitions.

Subsection (e) provides that failure to stop at the direction of a peace officer in the first degree is a class C felony and failure to stop at the direction of a peace officer in the second degree is a class A misdemeanor.

GPL:glc:jr  
98-089.glc

4/30/97

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**cc:Mail for: Representative Gene Therriault**

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**Subject:** Appointr:ont of Judges to other Judgeships

**From:** Bill@ajc.state.ak.us (William Cotton) at CC2MHS1 5/1/98 3:37 PM

**To:** Representative Gene Therriault at LAA\_HTHR

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You asked me yesterday in the House Finance meeting on HJR 47 what percentage of people appointed to judgeships were already judges -- in other words were moving from one judgeship to another. I estimated the percentage of judges appointed to be about 10 to 20 percent.

I checked this percentage today on returning to the office. The percentage of judgeships since 1985 where a person already a state court judge was appointed was actually 15%. I wish all my estimates were as good.

Please feel free to contact me if you need further information.

Bill Cotton  
Alaska Judicial Council