

HB

245

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: April 10, 1997

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 4/24/97

The STATE AFFAIRS Committee considered:

HB 245

HOUSE BILL NO. 245

DOM. VIOL. ASSAULTS; PRISONER CONTACTS

"An Act relating to minimum sentences for assault in the fourth degree that is a crime involving domestic violence; providing that a prisoner may not contact the victim of the offense when provided access to a telephone or otherwise immediately after an arrest; and amending Rule 5(b), Alaska Rules of Criminal Procedure."

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)

fiscal note(s) Corrections, Admin fiscal note(s) _____

zero fiscal note(s) Low, DPS zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Janette James</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			

CHAIR'S SIGNATURE *Janette James*



Alaska State Legislature

- Interim (Mar.-Dec.) -
10928 Eagle River Rd. Suite 140
Eagle River, Alaska 99577
☎ (907) 694-6683
FAX (907) 694-1015

- Session (Jan.-May) -
Alaska State Capitol
Juneau, Alaska 99801-1182
☎ (907) 465-2199
FAX (907) 465-4517

Toll free (800) 342-2199

REPRESENTATIVE FRED DYSON

HB 245

Sponsor Statement

Minimum Sentences For Domestic Violence And Phone Call Restrictions For Prisoners

"An Act relating to minimum sentences for assault in the fourth degree that is a crime involving domestic violence; providing that a prisoner may not contact the victim of the offense when provided access to a telephone or otherwise immediately after an arrest; and amending Rule 5(b), Alaska Rules of Criminal Procedure."

HB 245 takes two important steps against Domestic Violence (DV).

First, it establishes graduated minimum sentences for domestic violence offenders. Just as the law recognizes the need to ratchet up penalties for drunk drivers, mandatory minimum sentences for repeat DV offenders delivers the message that Alaska does not tolerate the cycle of violence.

Second, HB 245 prevents defendants from using their "one phone call" to contact victims following arrest. Victims groups and police departments throughout Alaska recognize this as another important step in the fight for victims' rights.

Many organizations have expressed approval of this legislation and appreciate your assistance in giving police and prosecutors needed tools to arrest Domestic Violence.

- E-mail -
representative_fred_dyson@legis.state.ak.us

- Internet -
HTTP://www.4krepUBLICans.org

cc:Mail for: Barbara Cotting

Subject: fiscal note

From: Barbara Cotting 04/22/1997 02:25 PM

To: SHARI_KOCHMAN@GOV.STATE.AK.US at CC2MHS1

To:

I have scheduled HB 245, "Domestic Violence Assalts," for State Affairs hearing on Thursday, April 24, and need fiscal notes. Thanks.

* PRIME SPONSOR CHANGE *

PLEASE DISREGARD PREVIOUS VERSION

AND

REPLACE WITH THIS CORRECTED VERSION

HB 245

**HOUSE OF REPRESENTATIVES
COSPONSOR REQUEST**

TO: CHIEF CLERK

Please add my name as ^{PRIME} cosponsor and remove it as ^{co-} sponsor to the following:

HB 245

*Use one slip for each request.

Paul Ryan
Member's Signature
4/17/97
Date

Send to Chief Clerk before consideration of the daily calendar.

**HOUSE OF REPRESENTATIVES
COSPONSOR REQUEST**

TO: CHIEF CLERK

Please add my name as cosponsor and remove it to the following:

HB 245

*Use one slip for each request.

U. N. B. out
Member's Signature
4/17/97
Date

Send to Chief Clerk before consideration of the daily calendar.

They Switched!
OK to Schedule?



Alaska State Legislature

- Interim (May-Dec.) -
10928 Eagle River Rd., Suite 140
Eagle River, Alaska 99577
☎ (907) 694-6683
FAX (907) 694-1015

- Session (Jan-May) -
Alaska State Capitol
Juneau, Alaska 99801-1182
☎ (907) 465-2199
FAX (907) 465-4587

Toll free (800) 342-2199

REPRESENTATIVE FRED DYSON

4/16/97
Discussion Speaker
WJ

April 15, 1997

Representative Jeannette James
Chair, House State Affairs Committee
Alaska State Capitol
Juneau, Alaska 99801

Dear Jeannette,

House Bill 245 has been referred to your committee for an initial hearing. Recognizing that the committee is very busy with numerous issues, we request the bill be waived to its next committee of referral, the House Judiciary Committee.

HB 245 does two very important things. First, it establishes minimum sentences for repeat domestic violence offenders. Second, it precludes accused criminals from contacting their alleged victims following arrest. This latter step has been specifically requested by victims groups and police departments throughout Alaska.

Many organizations have expressed approval of this legislation and assured us letters of support are on the way. If you have any questions or concerns we would be happy to answer them.

Sincerely,

Fred Dyson

Ethan Berkowitz

cc: Representative Al Vezey
Representative Mark Hodgins
Representative Ivan Ivan
Representative Kim Elton
Representative Joe Green

- E-mail -
Representative_Fred_Dyson
@Legis.state.ak.us

- Internet -
<http://www.akrepublicans.org>



CITY OF HOMER

POLICE DEPARTMENT

4060 HEATH STREET

HOMER, AK 99603-7609

EMERGENCY 911
TELEPHONE (907) 235-3150
TELECOPIER (907) 235-3151

April 14, 1997

Representative Gail Phillips
State Capitol Building
Room 208
Juneau, AK 99811-1182

Representative Jeannette James
State Capitol Building
Room 102
Juneau, AK 99811-1182

Ref: House Bill No. 245
Introduced 4/10/97

As submitted, House Bill No. 245 will correct a serious deficiency that now exists within the Alaska criminal justice system. I urge you to support this legislation.

Currently, after arrest a prisoner is granted the right to place a phone call to ANYONE they so choose. A.S. 12.25.150(b) even mandates that the prisoner be allowed to make the call immediately. Consequently, a prisoner can telephone the victim of the crime they were just arrested for and continue to victimize that person and is supported in doing so by Alaska State law. This problem is magnified when the crime involves domestic violence and the victim is a battered spouse. Domestic violence victims are particularly vulnerable to on-going verbal abuse by their assailant. The Domestic Violence Protection Act of 1996 was a huge step forward in combating domestic violence and House Bill No. 245 is an excellent follow-up to the Act.

In the last six months we have had two cases involving arrests for assault in the fourth degree as a result of domestic violence in which the perpetrator wanted to phone the victim shortly after being incarcerated. Fortunately, outgoing phone calls by prisoners in our facility have to be placed by a community jail officer. In these two instances, the officers set in motion a chain of events resulting in a judge being contacted and an order being issued preventing the calls from being placed. Most

jails in the state do not have phone call procedures such as we do. Instead, the prisoners are simply given free access to telephones and can call anyone they choose to. Approval of House Bill No. 245 should give police officers and troopers the ability to advise an arrestee that he or she cannot telephone the victim of the crime they just committed, until authorized to do so by a judge or magistrate.

A handwritten signature in cursive script, appearing to read "Mark Robl". The signature is written in dark ink and is positioned above the typed name.

Lt. Mark Robl

04/24/97

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

08:10:36

PARTICIPANT LIST (ALL PARTICIPANTS)

BY:ANC

TCN:70669

SCHEDULED FOR:04/24/97 08:00 TO 10:00

FOR:ANC

PUBLIC HEARING

HOUSE STATE AFFAIRS

LOCATION:ANCHORAGE

HB 245

BARBARA

BRINK

TESTIFY

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 245

Revision Date: _____ Dept. Affected: Corrections
 Title: "An Act relating to minimum sentences for assault in the fourth degree that is a crime involving domestic violence..." BRU: All
 Sponsor: Representative Dyson Component: All
 Requester: House State Affairs Committee COMPONENT SERIAL NO. #0694

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL

Estimate of any current year (FY97) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Section 3 of this legislation provides for new mandatory minimum sentences for persons convicted of assault in the fourth degree involving domestic violence who have previously been convicted of a crime against a person under AS 11.41.

The Department of Corrections is providing an indeterminate fiscal note since we are unable to provide an accurate estimate from existing data. Data provided from the Department of Law indicates there were 1279 convictions for assault in the fourth degree that involved domestic violence in 1996. This figure does not include municipal cases. The Municipality of Anchorage provided a figure of 1500 cases for 1996 with approximately thirty percent of those having previous convictions of crimes against a person.

To illustrate the impact of incarceration for only 1 day for the 30% with previous convictions:
 834 inmates X 105.25 average daily cost = \$87,778.50

The Department of Corrections believes that Judges are taking into account previous convictions for sentencing. However, it is not clear if they are equal to what is proposed in HB 245. If there is a significant impact resulting from passage of this legislation the Department of Corrections will make a corresponding request for an increase in the next fiscal years budget.

Prepared by: Bruce Richards Phone: 465-3307
 Division: Commissioner's Office Margaret M. Pugh Date: 4/23/97
 Approved by: Commissioner Margaret M. Pugh Date: 4/23/97
 Agency: Department of Corrections

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 245

Revision Date: _____

Department Affected: Administration

Title: "An Act relating to minimum sentences for assault in the fourth degree that is a crime involving domestic violence..."

BRU: Public Defender Agency

Component: Public Defender Agency

Sponsor: Representative Dyson

Requestor: (H) JUD

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	***	***	***	***	***	***
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	***	***	***	***	***	***

CAPITAL EXPENDITURES	***	***	***	***	***	***
-----------------------------	-----	-----	-----	-----	-----	-----

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

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts	***	***	***	***	***	***
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	***	***	***	***	***	***

Estimate of any current year (FY 97) cost: \$ -0-

POSITIONS:

FULL-TIME	***	***	***	***	***	***
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached sheet.

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

Phone: (907) 264-4414
Date: _____

Approved by Commissioner: Mark Bover
Agency: Department of Administration

Mark Bover
Date: 4/23/97

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

nn For further distribution information, call the Governor's Legislative Office

Page 1 of 2

ANALYSIS: (continued)

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 245

This bill creates mandatory minimum jail sentences for a person convicted of misdemeanor assault when it is "a crime involving domestic violence" and the person has a previous conviction for any crime against a person (30 days if one prior; 60 days if 2 or more).

Mandatory minimum sentences remove the judges' ability to fashion an appropriate punishment given the seriousness of the harm, the rehabilitation potential of the defendant, the deterrent value and reaffirmation of societal norms. Such mandatory minimums create anomalies in the overall criminal sentencing scheme. Under this bill a person may be required to serve more jail time than if they had committed a serious felony crime.

Such sentences discourage people from admitting their conduct due to the harsh and somewhat arbitrary consequences. Fewer people will admit their guilt, and more cases will proceed to (costly) jury trials. Last year, according to Department of Law figures, the state prosecuted 1279 domestic assaults. The Municipality of Anchorage alone prosecuted an additional 1500. The estimates are that a good 30% - 50% of those cases involve repeat offenders, such that an even greater percentage of those would have a prior of any crime against a person. If even a small percentage of those cases which routinely settle go to trial, the financial burden placed upon the Public Defender is enormous. Without the ability to predict those trial numbers, quantification is impossible although impact is certain. This will be in our FY 98 supplemental request.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 245

Revision Date: _____ Dept. Affected: Department of Law
 Title: * relating to minimum sentences for assault BRU: Criminal Division
 in the fourth degree that is a crime involving domestic violence . . . Component: Criminal Division
 Sponsor: Representative Dyson
 Requester: House State Affairs Committee COMPONENT SERIAL NO. 2085

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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 (FY97) 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)

HB 245 imposes minimum sentences for assault in the fourth degree that are crimes involving domestic violence if the defendant has a previous conviction(s). The minimum sentences may not be reduced or suspended. HB 245 further prohibits a prisoner from communicating with the alleged victim of the crime that was the basis of the arrest.

The mandatory minimum sentences required by this bill do not appear to be a significant departure from the average sentences that are being imposed under current procedures for crimes involving domestic violence. The bill would serve to equalize these sentencing practices across the state. Because of this, the Department of Law does not anticipate an increase in the number of cases that would go to trial if this bill passes, and so does not anticipate any fiscal impact. If the caseload does increase, contrary to our expectations, we would return to the legislature next year for relief.

Prepared by: Joan M. Kasson
 Division: Administrative Services Division
 Approved by Commissioner: Bruce M. Botelho, Attorney General
 Agency: Department of Law

Phone: 465-5370
 Date: 4/22/97
 Date: 4/22/97

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information, call the Governor's Legislative Office

1997 LEGISLATIVE SESSION

Revision Date: _____
 Title: Domestic Violence Assaults; Prisoner Contacts
 Sponsor: Representative Berkowitz *Difson*
 Requestor: H. State Affairs

Dept. Affected: Public Safety
DPS Statewide Support
 Component: Council on Domestic Violence and Sexual Assault
 COMPONENT SERIAL NO. 0521

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

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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-
Code Revenue						

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 97) impact: \$ _____

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 fiscal impact is anticipated to the Department of Public Safety

Prepared By: Jayne Andreen, Executive Director Phone: 465-4356
 Division: Council on Domestic Violence and Sexual Assault Date: 4/22/97
 Approved by Commissioner: *Ronald L. Otte* Date: _____
 Agency: Ronald L. Otte, Dept. of Public Safety

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information call the Governor's Legislative Office