

**HB**

**484**



# ALASKA STATE LEGISLATURE

Rep. Lesil McGuire, Chair  
Rep. Tom Anderson, Vice-Chair  
Rep. Jim Holm  
Rep. Dan Ogg  
Rep. Ralph Samuels  
Rep. Les Gara  
Rep. Max Gruenberg



State Capitol, Room 120  
Juneau, AK 99801-1182  
(907) 465-4990  
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## House Judiciary Committee

### Memorandum

**To:** Leg. Legal  
**From:** Vanessa Tondini, Committee Aide  
House Judiciary Committee  
**Date:** March <sup>31</sup>25, 2004  
**Re:** CS Request

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Please create a final draft House Judiciary Committee Substitute for work order # 23-GH2046A, HB 484, incorporating the attached amendment. The bill was passed out of committee today.

If you have any questions, please call me at 4990. Thank you!

The information attached to this memo is **CONFIDENTIAL** an/or privileged. It is intended to be reviewed initially by only the individual named above. If the reader of this Memorandum is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of the information contained herein is prohibited. If you have received this in error, please immediately notify the sender by telephone and return this to the sender at the above address.

AMENDMENT #1 - PASSED

OFFERED IN THE HOUSE

TO: HB 484

Page 2, lines 5 and 6:

Delete: ", as a condition of probation,"

Page 2, line 14:

Between "under" and "this" insert: "(a) of"

Page 2, line 15:

After "conviction." insert: "The court shall include the imposition of a surcharge under (c) of this section in the order revoking probation."

Page 2, line 20:

After "28.30.032(o)." insert: "The state may enforce payment of a surcharge under this section under AS 09.35 as if it were a civil judgment enforceable by execution. This subsection does not limit the authority of the court to enforce surcharges."


# STATE OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

## DEPARTMENT OF CORRECTIONS *Office of the Commissioner*

P.O. Box 112000  
Juneau, AK 99811-2000  
PHONE: (907) 465-4652  
FAX: (907) 465-3390

TO: Representative Lesil McGuire, Chairman  
House Judiciary Committee

FROM: Commissioner Marc Antrim   
Department of Corrections

DATE: February 26, 2004

RE: House Judiciary Committee Hearing Request for HB484, An Act Relating to  
Corrections Fees/Surcharges

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At the convenience of the Chairman, I respectfully request that the House Judiciary Committee schedule a hearing to discuss HB484, An Act Relating to Corrections Fees/Surcharges.

Thank you for your consideration of this request. Please contact me or Portia Parker at 465-4652 if you have any concerns, questions or would like supplemental information about HB484.

Attachments: Governor's Transmittal Letter and HB484.

FRANK H. MURKOWSKI  
GOVERNOR  
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February 13, 2004

The Honorable Pete Kott  
Speaker of the House  
Alaska State Legislature  
State Capitol, Room 208  
Juneau, AK 99801-1182

Dear Speaker Kott:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill that would impose a surcharge on persons convicted of an offense and on persons whose probation is revoked. The bill also would require a person under state probation or parole supervision to pay an application fee for a requested transfer of that supervision to another state.

Alaska has an urgent need to mitigate the cost of its correctional facilities. The bill imposes a surcharge on a person who pleads guilty or nolo contendere to, or is convicted of, a crime if the person was arrested and taken to a correctional facility or is sentenced to a term of imprisonment. The amount of the surcharge depends on the seriousness of the crime: \$100 for a felony and \$50 for a misdemeanor.

The bill also would impose a surcharge on a person placed on probation after conviction of a crime. The surcharge is collected only if the defendant's probation is revoked for a probation violation and the person was either arrested and taken to a correctional facility for the violation, or sentenced to prison for it.

Alaska participates in the Interstate Compact for Adult Offender Supervision (Compact), which regulates the transfer of supervision for persons under state probation and parole. The bill would establish an application fee for persons under active probation or parole supervision who request an interstate transfer of supervision under the Compact. According to the Department of Corrections, the great majority of other states already impose a fee for similar services. The bill also would require the applicant to post a bond or deposit cash, which would be forfeited if the state must escort the person back to Alaska for confined supervision.

I urge your prompt and favorable consideration of this proposal.

Sincerely yours,

A handwritten signature in black ink that reads "Frank H. Murkowski".

Frank H. Murkowski  
Governor

Enclosure

**HOUSE BILL NO. 484**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**Introduced: 2/16/04**

**Referred: Judiciary, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act imposing a correctional facility surcharge on persons convicted of a crime  
2 under state law, and on persons whose probation is revoked; relating to fees and  
3 expenses for interstate transfer of probation or parole; and providing for an effective  
4 date."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 \* Section 1. AS 12.55 is amended by adding a new section to read:

7           **Sec. 12.55.041. Correctional facility surcharge.** (a) In addition to any fine  
8 or other penalty prescribed by law, a defendant who pleads guilty or nolo contendere  
9 to, or is convicted of, a crime under state law shall pay a correctional facility surcharge  
10 if, in connection with the crime, the defendant

11                   (1) was arrested and taken to a correctional facility, regardless of  
12 whether the defendant was released or admitted to the facility; or

13                   (2) is sentenced to serve a term of imprisonment.

14           (b) The court shall impose a single surcharge under (a) of this section on a

1 defendant being sentenced for one or more crimes in a single judgment. The  
2 surcharge is

3 (1) \$100 if the judgment includes a sentence for a felony;

4 (2) \$50 if the judgment does not include a sentence for a felony.

5 (c) If the court places the defendant on probation, the court shall order, as a  
6 condition of probation, that the defendant pay an additional correctional facility  
7 surcharge of \$100. The additional surcharge shall be suspended, but later imposed if  
8 the defendant's probation is revoked and, in connection with the probation revocation,  
9 the defendant

10 (1) was arrested and taken to a correctional facility, regardless of  
11 whether the defendant was released or admitted to the facility; or

12 (2) is ordered to serve a term of imprisonment for the probation  
13 revocation.

14 (d) The court shall include a surcharge imposed under this section in the  
15 judgment of conviction. For a surcharge that is not paid by the person as required by  
16 this section, the state shall seek reimbursement from the person's permanent fund  
17 divided as provided under AS 43.23.065. For purposes of collection and priority of  
18 attachment under AS 43.23.065, a surcharge imposed under this section is accounted  
19 for in the same manner as a cost of imprisonment under AS 28.35.030(k) and  
20 28.35.032(o).

21 (e) In this section, "correctional facility" has the meaning given in  
22 AS 33.30.901.

23 \* Sec. 2. AS 33.36 is amended by adding a new section to read:

24 **Sec. 33.36.145. Application fee; deposit.** (a) A person under probation or  
25 parole supervision by the Department of Corrections who applies for a transfer of  
26 supervision to another state under the Interstate Compact for Adult Offender  
27 Supervision shall pay to the Department of Corrections a nonrefundable application  
28 fee of \$100.

29 (b) Before the Department of Corrections may transfer supervision of a person  
30 to another state under the Interstate Compact for Adult Offender Supervision, the  
31 person shall execute and file with the clerk of court a bond, with sufficient solvent

1           sureties, in the amount of \$1,250, or deposit in the registry of the court cash in the  
2           amount of \$1,250. The bond or cash is forfeited if the state is required to assist in the  
3           applicant's return to the state for continued supervision.

4       \* **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to  
5 read:

6           **APPLICABILITY.** (a) Section 1 of this Act applies to offenses committed on or after  
7 the effective date of this Act.

8           (b) Section 2 of this Act applies to applications for transfer of supervision under the  
9 Interstate Compact for Adult Offender Supervision received on or after the effective date of  
10 this Act regarding offenses committed before, on, or after the effective date of this Act.

11       \* **Sec. 4.** This Act takes effect July 1, 2004.

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 484  
 (H) Publish Date: 2/16/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: LAW  
 Title "An Act imposing a correctional facility surcharge....." RDU Criminal  
 Component Collections and Support  
 Sponsor Rules  
 Requester Governor Component No. \_\_\_\_\_

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

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	40.0	40.0	40.0	40.0	40.0	40.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	4.0	4.0	4.0	4.0	4.0	4.0
Supplies	1.0	1.0	1.0	1.0	1.0	1.0
Equipment	1.5	1.5	1.5	1.5	1.5	1.5
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>46.5</b>	<b>46.5</b>	<b>46.5</b>	<b>46.5</b>	<b>46.5</b>	<b>46.5</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	<b>200.5</b>	<b>449.5</b>	<b>657.3</b>	<b>719.3</b>	<b>740.4</b>	<b>767.4</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	46.5	46.5	46.5	46.5	46.5	46.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>46.5</b>	<b>46.5</b>	<b>46.5</b>	<b>46.5</b>	<b>46.5</b>	<b>46.5</b>

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill amends AS 12.55 by adding a requirement that a defendant who pleads guilty or nolo contendere to, or is convicted of a crime under state law shall pay a correctional facility surcharge if the defendant is incarcerated in connection with the crime. The surcharge imposed by the court shall be \$100 if the judgment includes a felony sentence; and \$50 if not. The bill also includes a provision for a surcharge if the defendant is placed on probation. It includes a provision for a fee in the event a person on probation or parole applies for transfer of supervision to another state, and it includes a requirement for a bond or cash deposit to be forfeited in the event the state is required to assist in the applicant's return to the state for continued supervision.

Passage of this legislation will have a fiscal impact on the Department of Law if the Court System

Prepared by: Kathryn Daughhete, Director Phone 465-3673  
 Division Administrative Services Division Date/Time 2/3/04 7:55 AM  
 Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 2/3/2004  
 Agency Department of Law

FISCAL NOTE #1

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

BILL NO. HB 484

ANALYSIS CONTINUATION

begins to transfer the responsibility to collect surcharges - both those that are proposed in this legislation, and those that currently exist in AS 12.55.039 - to the Collections Unit. At this time, the data base and system that is used in the collections effort is at full capacity and cannot be reprogrammed to handle different types of obligations. Thus the basis for this fiscal note is the assumption that the new surcharges will be commingled with the cost of incarceration amounts the Department of Law currently collects and transfers to the Department of Corrections.

The collections unit collects unsecured debts owed to the state. The majority of these debts are criminal judgments (fines, judgments for the cost of appointed counsel, judgments for the cost of incarceration on DUI charges, and court and collection costs in minor offense cases). The collections unit also collects civil judgments, including attorney fee awards, on behalf of the State and civil penalties issued by agencies such as OSHA and APOC. Effective January 1, 2002, the collections unit expanded its work to include the collection of restitution on behalf of victims in criminal and juvenile delinquency proceedings. Passage of the victim restitution legislation with a reduced fiscal note has challenged the unit to resolve system capacity issues. A rebuilt, expandable database that could handle additional types of collection items as well as those already under collection is planned for, but because the plan entails no new financial or human resources, the timeline for completion is uncertain. A second significant issue is the implementation of the Court System's new management information system which will begin to allow the Courts to transfer uncollected surcharges to the Department of Law at a yet uncertain point in the future. Up until now, the Court System has not transferred responsibility to collect any surcharges to the unit.

In the event this legislation passes and the court system begins sending these debts to the collections unit, an additional Administrative Clerk would be needed to deal with the added workload, since at this juncture we are still manually entering judgments into our computerized database.

Any additional revenues that will be generated through passage of this legislation are uncertain, however we have estimated as follows:

Number of Felony Convictions resulting in Jail Time - 2,000 x \$100= \$200,000  
Number of Probation Revokees - 2,000 x \$100=\$200,000  
Number of Misdemeanor Convictions resulting in jail time - 18,000 x \$50= \$900,000

Total surcharges imposed through this legislation would thereby reach \$1,300,000 annually. We have used collection statistics based on years of actual experience collecting fines and other types of debts to the state to come up with the numbers shown as annual anticipated revenues. In the first year, our historical collection rate has been 18.23%. In the second year it has been 19.32%, in the third year it has been 15.38%. Then it drops to 2.84%, 1.4%, and 2.2% in years four through six. However in the first year we anticipate no new revenues from felony probation revocations because such revocations will apply to felonies committed before the effective date of the legislation. Revenue collections quickly climb in the 2nd through 4th year, and then begin to level off where presumably they will hover around \$750,000 per year provided no major swings in the amount of the permanent fund dividend or changes to the laws that govern the garnishment order for certain debts to the state, and no new laws that would require collection of new types of debt that may supersede a criminal judgment.

In terms of new revenues, it is important to note that because the Department of Law does not presently have the capability to track a new type of debt, it will not be possible to distinguish between cost of incarceration charges and the surcharges proposed in this legislation. Whatever positive effects the general fund may see as a result of the surcharges will be in the form of revenues in excess of fee supported services authority in the Department of Corrections operating budget.