

SENATE BILL NO. 104

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY SENATORS DYSON, Fairclough

Introduced: 1/22/14

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to appropriations from the dividend fund; creating the criminal fund;**
2 **and providing for an effective date."**

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

4 * **Section 1.** AS 12.55.051 is amended by adding a new subsection to read:

5 (k) The Department of Law shall pay the outstanding balances on orders of
6 restitution as provided in AS 43.23.031.

7 * **Sec. 2.** AS 43.23.028 is amended to read:

8 **Sec. 43.23.028. Public notice.** (a) By October 1 of each year, the
9 commissioner shall give public notice of the value of each permanent fund dividend
10 for that year and notice of the information required to be disclosed under (3) of this
11 subsection. In addition, the stub attached to each individual dividend disbursement
12 advice must

13 (1) disclose the amount of each dividend attributable to income earned
14 by the permanent fund from deposits to that fund required under art. IX, sec. 15,

1 Constitution of the State of Alaska;

2 (2) disclose the amount of each dividend attributable to income earned
3 by the permanent fund from appropriations to that fund and from amounts added to
4 that fund to offset the effects of inflation;

5 (3) disclose the amount by which each dividend has been reduced due
6 to each appropriation from the dividend fund, including amounts to pay the costs of
7 administering the dividend program and the hold harmless provisions of
8 AS 43.23.075;

9 (4) include a statement that an individual is not eligible for a dividend
10 when

11 (A) during the qualifying year, the individual was convicted of
12 a felony;

13 (B) during all or part of the qualifying year, the individual was
14 incarcerated as a result of the conviction of a

15 (i) felony; or

16 (ii) misdemeanor if the individual has been convicted of
17 a prior felony or two or more prior misdemeanors;

18 (5) include a statement that the legislative purpose for making
19 individuals listed under (4) of this subsection ineligible is to

20 (A) pay restitution to the victims of the individuals' crimes
21 [OBTAIN REIMBURSEMENT FOR SOME OF THE COSTS IMPOSED ON
22 THE STATE CRIMINAL JUSTICE SYSTEM RELATED TO
23 INCARCERATION OR PROBATION OF THOSE INDIVIDUALS];

24 (B) make child support payments and reduce child support
25 arrearages for the individuals;

26 (C) pay for court-ordered rehabilitation programs for the
27 individuals; and

28 (D) obtain reimbursement for some of the costs of
29 incarceration or probation of the individuals [PROVIDE FUNDS FOR
30 SERVICES FOR AND PAYMENTS TO CRIME VICTIMS AND FOR
31 GRANTS FOR THE OPERATION OF DOMESTIC VIOLENCE AND

SEXUAL ASSAULT PROGRAMS];

(6) disclose the total amount that would have been paid during the previous fiscal year to individuals who were ineligible to receive dividends under AS 43.23.005(d) if they had been eligible;

(7) disclose the total amount appropriated for the current fiscal year under **AS 43.23.031 and** (b) of this section for each of the funds and agencies listed in **AS 43.23.031 and** (b) of this section.

(b) To the extent that amounts appropriated for a fiscal year do not exceed the total amount that would have been paid during the previous fiscal year to individuals who were ineligible to receive dividends under AS 43.23.005(d) or under AS 43.23.021(b) if they had been eligible, the notice requirements of (a)(3) of this section do not apply to appropriations from the dividend fund to **the criminal fund (AS 43.23.048) or, after the appropriation to the criminal fund, to**

(1) the crime victim compensation fund established under AS 18.67.162 for payments to crime victims;

(2) the Council on Domestic Violence and Sexual Assault established under AS 18.66.010 for grants for the operation of domestic violence and sexual assault programs;

(3) the Department of Corrections for incarceration and probation programs;

(4) the office of victims' rights;

(5) nonprofit victims' rights organizations for grants for services to crime victims; or

(6) the Department of Revenue for grants to minor children of incarcerated individuals under a grant program established by regulations of the Department of Revenue under AS 44.62 (Administrative Procedure Act).

* **Sec. 3.** AS 43.23 is amended by adding a new section to read:

Sec. 43.23.031. Appropriations from the criminal fund. (a) The legislature may appropriate amounts from the criminal fund (AS 43.23.048) to the following recipients in the priority order listed based on the amounts determined in (g) of this section:

1 (1) to the Department of Law for restitution payments as provided in
2 (b) of this section;

3 (2) to the child support services agency for child support arrearages;

4 (3) to a state-approved rehabilitation program for court-ordered
5 rehabilitation program costs; or

6 (4) to the Department of Corrections for costs related to incarceration
7 or probation.

8 (b) The Department of Law shall pay the outstanding balances on orders of
9 restitution under AS 12.55.045 or AS 47.12.120, not to exceed \$10,000 for each
10 victim for each order, from appropriations from the criminal fund (AS 43.23.048). The
11 department shall set aside 10 percent of the money in the criminal fund for the
12 Department of Law to pay the balance on orders of restitution from years before the
13 previous fiscal year. The Department of Law shall pay the outstanding balances on
14 orders of restitution from the previous fiscal year, not to exceed \$10,000 for each
15 victim for each order with the remaining money in the criminal fund. If the money in
16 the criminal fund is insufficient to pay all outstanding orders of restitution, the
17 Department of Law shall pay the oldest outstanding restitution order first. A victim
18 may receive not more than \$10,000 from the criminal fund for each order of
19 restitution, regardless of the age or amount of the order.

20 (c) A person who is subject to an order of restitution all or part of which is
21 paid under this section shall reimburse the state 50 percent of the amount paid by the
22 state. A claim of the state for reimbursement under this subsection is secondary to a
23 victim's claim for the remaining balance on an order of restitution. The state may
24 enforce payment of reimbursement under this subsection as if the reimbursement were
25 a civil judgment enforceable by execution.

26 (d) By October 1 of each year, the Department of Law shall send to the
27 department the total amount of restitution owed to victims from the previous fiscal
28 year and the total amount of restitution owed to victims from years before the previous
29 fiscal year.

30 (e) By October 1 of each year, the child support services agency shall send to
31 the department the total amount of child support arrearages owed by incarcerated

1 individuals in the previous fiscal year.

2 (f) By October 1 of each year, the court system shall send to the department
3 the amount that is owed for court-ordered drug or alcohol treatment.

4 (g) The department shall use the amounts provided in AS 43.23.028(a)(6) in
5 combination with the amounts provided under (d) - (f) of this section to determine the
6 amount each state agency should receive from the criminal fund (AS 43.23.048) in
7 accordance with the priority order in (a) of this section.

8 (h) The department shall submit to the legislature a report listing the amounts
9 determined under (g) of this section. The report shall be submitted at the same time as
10 the governor's budget under AS 37.07.020.

11 (i) Nothing in this section creates a dedicated fund.

12 * **Sec. 4.** AS 43.23 is amended by adding a new section to read:

13 **Sec. 43.23.048. Criminal fund.** The criminal fund is created as a separate
14 account in the dividend fund. The legislature shall appropriate from the dividend fund
15 each fiscal year an amount equal to the amount that would have been paid during the
16 previous fiscal year to individuals who were ineligible to receive dividends under
17 AS 43.23.005(d) if they had been eligible. Money in the fund may be appropriated in
18 accordance with AS 43.23.031.

19 * **Sec. 5.** AS 43.23.055 is amended to read:

20 **Sec. 43.23.055. Duties of the department.** The department shall

21 (1) annually pay permanent fund dividends from the dividend fund;

22 (2) subject to AS 43.23.011 and [PARAGRAPH] (8) of this section,
23 adopt regulations under AS 44.62 (Administrative Procedure Act) that establish
24 procedures and time limits for claiming a permanent fund dividend; the department
25 shall determine the number of eligible applicants by October 1 of the year for which
26 the dividend is declared and pay the dividends by December 31 of that year;

27 (3) adopt regulations under AS 44.62 (Administrative Procedure Act)
28 that establish procedures and time limits for an individual upon emancipation or upon
29 reaching majority to apply for permanent fund dividends not received during minority
30 because the parent, guardian, or other authorized representative did not apply on
31 behalf of the individual;

1 (4) assist residents of the state, particularly in rural areas, who, because
 2 of language, disability, or inaccessibility to public transportation, need assistance to
 3 establish eligibility and to apply for permanent fund dividends;

4 (5) use a list of individuals ineligible for a dividend under
 5 AS 43.23.005(d) provided annually by the Department of Corrections and the
 6 Department of Public Safety to determine the number and identity of those
 7 individuals;

8 (6) adopt regulations that are necessary to implement AS 43.23.005(d)
 9 **and 43.23.031;**

10 (7) adopt regulations that establish procedures for the parent, guardian,
 11 or other authorized representative of a disabled individual to apply for prior year
 12 permanent fund dividends not received by the disabled individual because no
 13 application was submitted on behalf of the individual;

14 (8) adopt regulations that establish procedures for an individual to
 15 apply to have a dividend disbursement under AS 37.25.050(a)(2) reissued if it is not
 16 collected within two years after the date of its issuance; however, the department may
 17 not establish a time limit within which an application to have a disbursement reissued
 18 must be filed;

19 (9) provide any information, upon request, contained in permanent
 20 fund dividend records to the child support services agency created in AS 25.27.010, or
 21 the child support enforcement agency of another state, for child support purposes
 22 authorized under law; if the information is contained in an electronic data base, the
 23 department shall provide the requesting agency with either

24 (A) access to the data base; or

25 (B) a copy of the information in the data base and a statement
 26 certifying its contents;

27 (10) establish a fraud investigation unit for the purpose of assisting the

28 (A) Department of Law in the prosecution of individuals who
 29 apply for or obtain a permanent fund dividend in violation of a provision in
 30 AS 11, by detecting and investigating those crimes; and

31 (B) commissioner to detect and investigate the claiming or

1 paying of permanent fund dividends that should not have been claimed by or
2 paid to an individual and to impose the penalties and enforcement provisions
3 under AS 43.23.035;

4 **(11) use a list of individuals ineligible for a dividend under**
5 **AS 43.23.005(d) provided annually by the Department of Corrections and the**
6 **Department of Public Safety to determine the amount of child support**
7 **arrearages owed by those individuals.**

8 * **Sec. 6.** AS 47.12.170 is amended by adding a new subsection to read:

9 (h) The Department of Law shall pay the outstanding balances on orders of
10 restitution as provided in AS 43.23.031.

11 * **Sec. 7.** This Act takes effect July 1, 2014.