

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

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

January 23, 2018

SUBJECT: Eligibility for PFD (SSHB 216; Work Order No. 30-LS0572\T.3)

TO: Representative David Eastman

FROM: Hilary V. Martin *HVM*
Legislative Counsel

Attached is the amendment you requested which removes the words "if they had been eligible" from three places in SSHB 216.

This language does not require persons who are ineligible under AS 43.23.005(d) to apply for a permanent fund dividend (PFD) in order to be counted for purposes of public notice and deposit into the restorative justice account. When the sentence is read in total, the language requires a count of the people who are ineligible under AS 43.23.005(d) who would otherwise have been eligible. This assumes they would have completed all steps to be eligible, including applying for the dividend.

Removing the language "if they had been eligible" also potentially increases the number of people counted. There are presumably some people who have been sentenced for a felony, or incarcerated as a result of conviction of a felony or misdemeanor that are not otherwise eligible for a PFD. For example, it could be a person who is not a state resident and committed a crime here and therefore is not otherwise eligible for a PFD.

Further, I would advise caution in amending a statute to remove language that has existed for a number of years and has been interpreted one way. The Department of Revenue (Department) currently interprets this language in AS 43.23.028 to not require the persons ineligible due to AS 43.23.005(d) to apply to be counted for purposes of AS 43.23.028(a)(6). To remove the language could possibly require the Department to interpret this language in a different way.

If I may be of further assistance, please advise.

HVM:boo
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Attachment