

(LIMITED RUN SHOWING ALL ADDITIONAL SPONSORSHIPS)

**SENATE CS FOR CS FOR HOUSE BILL NO. 297(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 3/27/02

Referred: Finance

Sponsor(s): REPRESENTATIVES MEYER, Dyson, Croft

SENATORS Leman, Taylor

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to restitution and to aggravating factors at sentencing."**

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

3 \* **Section 1.** AS 12.55.045(l) is amended to read:

4 (l) An order by the court that the defendant pay restitution is a civil judgment  
5 for the amount of the restitution. An order by the court that the defendant pay  
6 restitution when the court suspends imposition of sentence under AS 12.55.085 is  
7 a civil judgment for the amount of the restitution and remains enforceable and is  
8 not discharged when a conviction is set aside under AS 12.55.085. The victim or  
9 the state on behalf of the victim may enforce the judgment through any procedure  
10 authorized by law for the enforcement of a civil judgment. If the victim enforces or  
11 collects restitution through civil process, collection costs and full reasonable attorney  
12 fees shall be awarded. If the state on the victim's behalf enforces or collects restitution  
13 through civil process, collection costs and full reasonable attorney fees shall be  
14 awarded, up to a maximum of twice the amount of restitution owing at the time the  
15 civil process was initiated. This section does not limit the authority of the court to

1 enforce orders of restitution.

2 \* **Sec. 2.** AS 12.55.155(c) is amended by adding a new paragraph to read:

3 (30) the defendant is convicted of an offense specified in AS 11.41.410  
4 - 11.41.455, and the defendant knowingly supplied alcohol or a controlled substance to  
5 the victim in furtherance of the offense with the intent to make the victim  
6 incapacitated; in this paragraph, "incapacitated" has the meaning given in  
7 AS 11.41.470;

8 \* **Sec. 3.** AS 47.12.120(b)(4) is amended to read:

9 (4) order the minor and the minor's parent to make suitable restitution  
10 in lieu of or in addition to the court's order under (1), (2), or (3) of this subsection;  
11 under this paragraph,

12 (A) except as provided in (B) of this paragraph, the court may  
13 not refuse to make an order of restitution to benefit the victim of the act of the  
14 minor that is the basis of the delinquency adjudication; under this  
15 subparagraph, the court may require the minor to use the services of a  
16 community dispute resolution center that has been recognized by the  
17 commissioner under AS 47.12.450(b) to resolve any dispute between the minor  
18 and the victim of the minor's offense as to the amount of or manner of payment  
19 of the restitution; [AND]

20 (B) the court may not order payment of restitution by the parent  
21 of a minor who is a runaway or missing minor for an act of the minor that was  
22 committed by the minor after the parent has made a report to a law  
23 enforcement agency, as authorized by AS 47.10.141(a), that the minor has run  
24 away or is missing; for purposes of this subparagraph, "runaway or missing  
25 minor" means a minor who a parent reasonably believes is absent from the  
26 minor's residence for the purpose of evading the parent or who is otherwise  
27 missing from the minor's usual place of abode without the consent of the  
28 parent; **and**

29 **(C) at the request of the department, the Department of**  
30 **Law, the victims' advocate, or on its own motion, the court shall, at any**  
31 **time, order the minor and the minor's parent, if applicable, to submit**

financial information on a form approved by the Alaska Court System to the court, the department, and the Department of Law for the purpose of establishing the amount of restitution or enforcing an order of restitution under AS 47.12.170; the form must include a warning that submission of incomplete or inaccurate information is punishable as unsworn falsification under AS 11.56.210;

\* Sec. 4. AS 47.12.170(a) is amended to read:

(a) An order by the court under AS 47.12.120 that a minor or the minor's parent pay restitution is a civil judgment that remains enforceable after the expiration of the court's jurisdiction over the minor under AS 47.12.160. A [PERSON WHO IS A] recipient of a restitution order [INVOLVING A MINOR FOUND DELINQUENT UNDER AS 47.12.120], or the state on behalf of the restitution recipient, may enforce a restitution [AN] order [FOR RESTITUTION UNDER AS 47.12.120] against the minor and the minor's parent by any procedure authorized by law for enforcement of [UNDER AS 09.35 AS IF THE ORDER WERE] a civil judgment [ENFORCEABLE BY EXECUTION]. If the restitution recipient enforces or collects restitution through civil process, collection costs and full reasonable attorney fees shall be awarded. If the state on the restitution recipient's behalf enforces or collects restitution through civil process, collection costs and full reasonable attorney fees shall be awarded, up to a maximum of twice the amount of restitution owing at the time the civil process was initiated. This section does not limit the authority of the court to otherwise enforce orders of payment for restitution. An order of restitution enforced under this section does not limit under other law the civil liability of the minor or the minor's parent as a result of the delinquent conduct.

\* Sec. 5. AS 47.12.170(c) is amended to read:

(c) The court shall forward a copy of the [AN ORDER OF] restitution order to the department when the order [JUDGMENT] is entered. [ALONG WITH THE COPY OF THE ORDER, THE COURT SHALL PROVIDE THE NAME, DATE OF BIRTH, SOCIAL SECURITY NUMBER, AND CURRENT ADDRESS OF THE RECIPIENT OF THE RESTITUTION, THE MINOR, AND THE MINOR'S PARENT, TO THE EXTENT THAT THE COURT HAS THAT INFORMATION IN

ITS POSSESSION.] Upon receipt of the order [AND OTHER INFORMATION FROM THE COURT], the department shall send a notice to the recipient regarding the recipient's rights under this section, including the right to elect to enforce the order of restitution without the assistance of the Department of Law. When 30 days have passed since the recipient received the notice, or when the department receives the recipient's response to the notice, whichever is earlier, the department shall send to the Department of Law a copy of the order of restitution; the name, date of birth, social security number, and current address of the recipient, the minor, and the minor's parent; the notice sent to the recipient under this subsection; and the recipient's response, if any. If a response from the recipient reaches the department after the department has sent the order of restitution and other information to the Department of Law under this subsection, the department shall immediately send the response to the Department of Law. The information provided to the Department of Law under this subsection is confidential and is not open to inspection as a public record under AS 40.25.110. The Department of Law or its agents may not disclose the information except as necessary to collect on the restitution.

\* **Sec. 6.** AS 47.12.130(c) is repealed.