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Martin
2/12/18

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 216()

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

**Sponsor(s): REPRESENTATIVES KOPP, Westlake, Saddler, Grenn, Claman, Kreiss-Tomkins, Millett,
Wilson, Johnston, Thompson, LeDoux, Fansler**

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to restitution; relating to the office of victims' rights; relating to**
2 **transfers from the dividend fund; creating the restorative justice account; relating to**
3 **appropriations from the restorative justice account for services for and payments to**
4 **crime victims, operating costs of the Violent Crimes Compensation Board, operation of**
5 **domestic violence and sexual assault programs, mental health services and substance**
6 **abuse treatment for offenders, and incarceration costs; relating to contributions from**
7 **dividends; relating to delinquent minors; and providing for an effective date."**

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

9 *** Section 1.** AS 12.55.045(m) is amended to read:

10 (m) Notwithstanding another provision of law, the court shall accept (1)
11 payments of restitution from a defendant at any time, and (2) prepayments of
12 restitution or payments in anticipation of an order of restitution. [IF THE RECIPIENT
13 HAS ELECTED TO HAVE THE DEPARTMENT OF LAW COLLECT THE

JUDGMENT OF RESTITUTION UNDER AS 12.55.051(g), THE COURT SHALL FORWARD ALL PAYMENTS OF RESTITUTION TO THE DEPARTMENT OF LAW WITHIN FIVE DAYS AFTER THE COURT'S ACCEPTANCE.]

* **Sec. 2.** AS 12.55.051(f) is amended to read:

(f) The court shall forward a copy of an order of restitution to the Department of Law **and the office of victims' rights** when the 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 and the defendant, 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 of Law 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 **and of the possibility of and procedure for receiving payment from the restorative justice account**. The information provided to the Department of Law **and the office of victims' rights** under this subsection is confidential and is not open to inspection as a public record under AS 40.25.110. The Department of Law, **the office of victims' rights**, or [ITS] agents **for the Department of Law or office of victims' rights** may not disclose the information except as necessary to collect on the restitution.

* **Sec. 3.** AS 12.55.051(g) is amended to read:

(g) The Department of Law may not begin collection procedures on the order of restitution until the recipient has been given notice and has been given **90** [30] days after receipt of notice to elect to collect the restitution without the assistance of the Department of Law. **If the Department of Law receives a response to the notice before the 90-day period, the Department of Law may begin collection on the restitution.** A recipient may inform the Department of Law at a later time of the recipient's election to collect the restitution without the assistance of the Department of Law; upon receipt of that information, the Department of Law may no longer proceed with collection efforts on behalf of the recipient. A recipient who has elected under this section to collect restitution without the assistance of the Department of Law may not later request the services of that department to collect the restitution.

* **Sec. 4.** AS 24.65 is amended by adding a new section to read:

1 **Sec. 24.65.105. Payment of restitution.** (a) Subject to appropriation, the
2 office of victims' rights is authorized to pay outstanding balances on orders of
3 restitution under AS 12.55.045 of AS 47.12.120. The office of victims' rights shall
4 coordinate and make payments from the restorative justice account (AS 43.23.048) in
5 accordance with the priority in (b) of this section. A crime victim may receive not
6 more than \$10,000 from the restorative justice account, regardless of the amount of the
7 order of restitution.

8 (b) The office of victims' rights shall make restitution payments to eligible
9 victims in the following priority order:

- 10 (1) a natural person;
11 (2) private businesses;
12 (3) state and local governments.

13 (c) The office of victims' rights shall adopt regulations under AS 44.62
14 (Administrative Procedure Act) to establish a process for payments of restitution
15 balances from the restorative justice account established in AS 43.23.048.

16 * **Sec. 5.** AS 43.23.028 is amended to read:

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

22 (1) disclose the amount of each dividend attributable to income earned
23 by the permanent fund from deposits to that fund required under art. IX, sec. 15,
24 Constitution of the State of Alaska;

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

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

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

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

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

(i) felony; or

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

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

(A) provide funds for services for and payments to crime victims and operating costs of the Violent Crimes Compensation Board

[OBTAIN REIMBURSEMENT FOR SOME OF THE COSTS IMPOSED ON THE STATE CRIMINAL JUSTICE SYSTEM RELATED TO INCARCERATION OR PROBATION OF THOSE INDIVIDUALS];

(B) provide funds to pay restitution owed to crime victims;

(C) provide funds for grants to nonprofit organizations for services for crime victims and for mental health services and substance abuse treatment for offenders;

(D) provide funds for the office of victims' rights;

(E) provide funds to the Council on Domestic Violence and Sexual Assault [FOR SERVICES FOR AND PAYMENTS TO CRIME VICTIMS AND] for grants for the operation of domestic violence and sexual assault programs; and

(F) obtain reimbursement for some of the costs imposed on the Department of Corrections related to incarceration or probation of those individuals;

(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 transferred or appropriated for the current fiscal year under AS 43.23.048 [(b) OF THIS SECTION] for each of the accounts, funds, and agencies listed in AS 43.23.048 [(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 transfers [APPROPRIATIONS] from the dividend fund to the restorative justice account (AS 43.23.048)

[(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. 6.** AS 43.23 is amended by adding a new section to read:

Sec. 43.23.048. Restorative justice account. (a) The restorative justice account is created as a separate account in the dividend fund. The commissioner shall transfer from the dividend fund to the restorative justice account each fiscal year an amount equal to the 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.

(b) The legislature may appropriate amounts from the account to the following recipients in the priority order and percentages listed:

(1) 15 to 20 percent to the crime victim compensation fund established under AS 18.67.162 for payments to crime victims and for operating costs of the Violent Crimes Compensation Board;

(2) three to seven percent to the office of victims' rights for payments to crime victims as provided in AS 24.65.105 and for operating costs of the office of victims' rights;

(3) two to four percent to the nonprofit organizations to provide grants for services for crime victims and domestic violence and sexual assault programs;

(4) two to four percent to the nonprofit organizations to provide grants for mental health services and substance abuse treatment for offenders; and

(5) 60 to 65 percent to the Department of Corrections for costs related to incarceration or probation.

(c) A person who is subject to an order of restitution all or part of which is paid under this section shall reimburse the state for the amount paid by the state. The state may enforce payment of reimbursement under this subsection as if the reimbursement were a civil judgment enforceable by execution.

(d) The legislature may appropriate money received under (c) of this section to the restorative justice account.

(e) Nothing in this section creates a dedicated fund.

* **Sec. 7.** AS 43.23.055 is amended to read:

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

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

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

(3) adopt regulations under AS 44.62 (Administrative Procedure Act) that establish procedures and time limits for an individual upon emancipation or upon

1 reaching majority to apply for permanent fund dividends not received during minority
2 because the parent, guardian, or other authorized representative did not apply on
3 behalf of the individual;

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

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

11 (6) adopt regulations that are necessary to implement AS 43.23.005(d)
12 **and 43.23.048;**

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

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

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

27 (A) access to the data base; or

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

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

31 (A) Department of Law in the prosecution of individuals who

1 apply for or obtain a permanent fund dividend in violation of a provision in
2 AS 11, by detecting and investigating those crimes; and

3 (B) commissioner to detect and investigate the claiming or
4 paying of permanent fund dividends that should not have been claimed by or
5 paid to an individual and to impose the penalties and enforcement provisions
6 under AS 43.23.035.

7 * **Sec. 8.** AS 43.23.062(a) is amended to read:

8 (a) Notwithstanding AS 43.23.069, the Department of Revenue shall prepare
9 the electronic Alaska permanent fund dividend application to allow an applicant who
10 files electronically to direct that money be subtracted from the dividend payment and
11 contributed to **the crime victim compensation fund (AS 18.67.162)**, the peace officer
12 and firefighter survivors' fund, or [TO] one or more of the educational organizations,
13 community foundations, or charitable organizations that appear on the contribution list
14 contained in the application. A contribution to **the crime victim compensation fund**,
15 the peace officer and firefighter survivors' fund or to an organization may be \$25, \$50,
16 \$75, \$100, or more, in increments of \$50, up to the total amount of the permanent fund
17 dividend that the applicant is entitled to receive. If the total amount of contributions
18 elected by an applicant exceeds the amount of the permanent fund dividend that the
19 applicant is entitled to receive, contributions shall be deducted from the dividend in
20 the order of priority elected by the applicant on the application until the entire amount
21 of the dividend that the applicant is entitled to receive is allocated for contribution.
22 The electronic dividend application form must include notice that seven percent of the
23 money contributed will be used for administrative costs incurred in implementing this
24 section, and money from the dividend fund will not be used for that purpose.

25 * **Sec. 9.** AS 43.23.062(b) is amended to read:

26 (b) The department shall list each educational organization, community
27 foundation, or charitable organization eligible under (c) and (d) of this section, each
28 university campus that applies under (l) of this section, **the crime victim**
29 **compensation fund**, and the peace officer and firefighter survivors' fund on the
30 contribution list. The department shall maintain an electronic database for the
31 contribution list that is accessible to the public and that permits searches by

organization or fund name, geographic location, and type. The department shall provide a statement of the contributions made by an individual that is suitable for federal income tax purposes to each individual who elects to contribute under (a) of this section.

* **Sec. 10.** AS 43.23.062(m) is amended to read:

(m) In addition to the application fee in (f) of this section, the department shall withhold a coordination fee from each organization, foundation, or university campus that receives contributions under this section in the immediately preceding dividend year. The coordination fee for an organization, foundation, or university campus that receives contributions under this section shall be seven percent of the amount of contributions reported by the department under (j) of this section for the organization, foundation, or university campus for the immediately preceding dividend year. The coordination fee shall be separately accounted for under AS 37.05.142 and shall be accounted for separately from the application fee collected under (f) of this section. The annual estimated balance in the account maintained under AS 37.05.142 for coordination fees collected under this subsection may be appropriated for costs of administering this section. The department may not withhold a coordination fee for contributions to the crime victim compensation fund or the peace officer and firefighter survivors' fund.

* **Sec. 11.** AS 47.12.160(f) is amended to read:

(f) Notwithstanding another provision of law, the court shall accept (1) payments of restitution from a minor and the minor's parent at any time, and (2) prepayments of restitution or payments in anticipation of an order of restitution. [IF THE RECIPIENT HAS ELECTED TO HAVE THE DEPARTMENT OF LAW COLLECT THE JUDGMENT OF RESTITUTION UNDER AS 12.55.051(g), THE COURT SHALL FORWARD ALL PAYMENTS OF RESTITUTION TO THE DEPARTMENT OF LAW WITHIN FIVE DAYS AFTER THE COURT'S ACCEPTANCE.]

* **Sec. 12.** AS 47.12.170(c) is amended to read:

(c) The court shall forward a copy of the restitution order to the department and the office of victims' rights when the order is entered. Upon receipt of the order,

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 **and of the possibility of and procedure for receiving payment from the restorative justice account**. When **90** [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 **and the office of victims' rights** under this subsection is confidential and is not open to inspection as a public record under AS 40.25.110. The Department of Law, **the office of victims' rights**, or [ITS] agents **for the Department of Law or office of victims' rights** may not disclose the information except as necessary to collect on the restitution.

* **Sec. 13.** AS 47.12.170(d) is amended to read:

(d) The Department of Law may not begin collection procedures on the order of restitution until the recipient has been given notice under (c) of this section and has been given **90** [30] days after receipt of notice to elect to collect the restitution without the assistance of the Department of Law. **If the Department of Law receives a response to the notice before the 90-day period, the Department of Law may begin collection on the restitution.** A recipient may inform the Department of Law at a later time of the recipient's election to collect the restitution without the assistance of the Department of Law; upon receipt of the information, the Department of Law may no longer proceed with collection efforts on behalf of the recipient. A recipient who has elected under this section to collect restitution without the assistance of the Department of Law may not later request the services of that department to collect the restitution.

1 * **Sec. 14.** This Act takes effect July 1, 2018.