

SENATE BILL NO. 5

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY SENATOR MICCICHE

Introduced: 1/9/15

Referred: Prefiled

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to loss of income and valuing property for orders of restitution."**

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

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

4 (a) The court shall, when presented with credible evidence, unless the victim
5 or other person expressly declines restitution, order a defendant convicted of an
6 offense to make restitution as provided in this section, including restitution to the
7 victim or other person injured by the offense, to a public, private, or private nonprofit
8 organization that has provided or is or will be providing counseling, medical, or
9 shelter services to the victim or other person injured by the offense, or as otherwise
10 authorized by law. The court shall, when presented with credible evidence, unless the
11 victim expressly declines restitution, also order a defendant convicted of an offense to
12 compensate a victim that is a nonprofit organization for the value of labor or goods
13 provided by volunteers if the labor or goods were necessary to alleviate or mitigate the
14 effects of the defendant's crime. In determining the amount and method of payment of
15 restitution or compensation, the court shall take into account the

(1) public policy that favors requiring criminals to compensate for damages and injury, including loss of income, to their victims; and

(2) financial burden placed on the victim and those who provide services to the victim and other persons injured by the offense as a result of the criminal conduct of the defendant.

* **Sec. 2.** AS 12.55.045(n) is amended to read:

(n) In this section,

(1) "conviction" means that the defendant has entered a plea of guilty, guilty but mentally ill, or nolo contendere, or has been found guilty or guilty but mentally ill by a court or jury;

(2) "loss of income" includes the total loss of income a business or person suffers as a result of not having stolen property available during the time it takes to obtain a replacement.

* **Sec. 3.** AS 12.55.045 is amended by adding a new subsection to read:

(o) In determining the amount of actual damage or loss for restitution under this section, the court shall value property as the market value of the property at the time and place of the crime or, if the market value cannot reasonably be ascertained, the cost of replacement of the property within a reasonable time after the crime.

* **Sec. 4.** AS 12.55.100(a) is amended to read:

(a) While on probation and among the conditions of probation, the defendant may be required

(1) to pay a fine in one or several sums;

(2) to make restitution or reparation to aggrieved parties for actual damages or loss caused by the crime for which conviction was had, including compensation to a victim that is a nonprofit organization for the value of labor or goods provided by volunteers if the labor or goods were necessary to alleviate or mitigate the effects of the defendant's crime; **when determining the amount of actual damages or loss under this paragraph, the court shall value property as the market value of the property at the time and place of the crime or, if the market value cannot reasonably be ascertained, the cost of the replacement of the property within a reasonable time after the crime;**

1 (3) to provide for the support of any persons for whose support the
2 defendant is legally responsible;

3 (4) to perform community work in accordance with AS 12.55.055;

4 (5) to participate in or comply with the treatment plan of an inpatient
5 or outpatient rehabilitation program specified by either the court or the defendant's
6 probation officer that is related to the defendant's offense or to the defendant's
7 rehabilitation;

8 (6) to satisfy the screening, evaluation, referral, and program
9 requirements of an agency authorized by the court to make referrals for rehabilitative
10 treatment or to provide rehabilitative treatment; and

11 (7) to comply with a program established under AS 47.38.020.

12 * **Sec. 5.** The uncoded law of the State of Alaska is amended by adding a new section to
13 read:

14 **APPLICABILITY.** The amendments to AS 12.55.045 in secs. 1 - 3 of this Act and to
15 AS 12.55.100(a)(2) in sec. 4 of this Act apply to an order of restitution for an offense
16 committed on or after the effective date of this Act.