

HOUSE BILL NO. 324

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE BY REQUEST

Introduced: 4/27/95

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to day fines in certain criminal cases and release of employment
2 information for use in the collection of criminal judgments."

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

4 * **Section 1.** AS 12.55.036(a) is amended to read:

5 (a) Upon conviction of a misdemeanor, other than a violation of AS 11.41 and
6 AS 11.56.740, a defendant may be sentenced to pay a day fine as authorized by this
7 section. If a day fine is imposed under this section, the defendant may not be
8 sentenced to pay a fine under AS 12.55.035, serve a term of imprisonment, or be
9 placed on probation. **However, the court may order a defendant to participate in**
10 **or comply with a screening, evaluation, or treatment program related to the**
11 **defendant's offense.**

12 * **Sec. 2.** AS 12.55.036(b) is amended to read:

13 (b) The Alaska Supreme Court shall adopt a day fine plan that includes
14 (1) an assessment of the gravity of **common** [ALL] misdemeanor

1 offenses [, WHICH ASSESSMENT MUST INCLUDE THE EXISTENCE OF PRIOR
2 OFFENSES,] and the assignment of presumptive penalties to them in day fine units
3 within the following ranges:

4 (A) for class A and unclassified misdemeanors, not to exceed
5 365-day fine units;

6 (B) for class B misdemeanors, not to exceed 90-day fine units;

7 (2) a schedule of the presumptive day fine penalties;

8 (3) procedures for a court to increase or decrease the presumptive day
9 fine penalties if the court finds the existence of an aggravating factor [UNDER
10 AS 12.55.155(c)] or a mitigating factor [UNDER AS 12.55.155(d)];

11 (4) a table for the conversion of a defendant's actual, potential, or
12 estimated net [GROSS] income after taxes, less one-third for a defendant above the
13 federal poverty guideline as determined by the United States Department of Health and
14 Human Services, and less one-half for a defendant below the federal poverty guideline
15 into net daily income amounts; the table must include adjustments for the number of
16 dependents actually supported by the defendant;

17 (5) procedures for a court to gather information about the defendant's
18 occupation, actual, estimated, and potential income, number of dependents, and other
19 facts necessary or relevant to sentencing a person to a day fine; a court may order the
20 production of the financial or other records of a person it determines to be relevant to
21 a determination under this section; the procedures must include a requirement that the
22 facts shall be received

23 (A) under oath so that the defendant is subject to prosecution
24 under AS 11.56.200; or

25 (B) in a writing or recording that bears notice that false
26 statements made in it are punishable under AS 11.56.210; and

27 (6) other information the court determines to be necessary for
28 implementing the day fine plan.

29 * **Sec. 3.** AS 12.55.036(c) is amended to read:

30 (c) The amount of a day fine shall be the product of the net daily income of
31 the defendant, adjusted for the number of dependents actually supported by the

1 defendant, times the day fine penalty. When imposing a sentence of a day fine, the
2 court shall

3 [(1)] state on the record the

4 (1) [(A)] presumptive day fine penalty for the offense, and whether the
5 court is adjusting the presumptive day fine penalty for the existence of aggravating or
6 mitigating factors;

7 (2) [(B)] net daily income of the income of the defendant, adjusted for
8 the number of dependents actually supported by the defendant; and

9 (3) [(C)] amount of the day fine [;

10 (2) MAKE WRITTEN FINDINGS OF THE FACTS CONSIDERED

11 IN

12 (A) FINDING THE EXISTENCE OF AGGRAVATING OR
13 MITIGATING FACTORS AND IN ASSIGNING A VALUE TO THOSE
14 FACTORS; AND

15 (B) DETERMINING THE DEFENDANT'S GROSS AND
16 DAILY NET INCOMES].

17 * **Sec. 4.** AS 12.55.036(d) is amended to read:

18 (d) When imposing a sentence of a day fine, the court may permit the payment
19 of the day fine in specified installments or within a certain period of time, provided
20 the entire day fine is paid within one year [180 DAYS] of imposition.

21 * **Sec. 5.** AS 12.55.036(f) is amended to read:

22 (f) The Alaska Court System shall evaluate and report every two years to the
23 legislature not later than February 1 on the use of day fines and their effectiveness.
24 The report must include

25 (1) a comparison of the number of defendants receiving a day fine as
26 a sentence with the number of other defendants, eligible to receive a day fine, who
27 receive another sentence;

28 (2) to the extent that recidivism information is available, a
29 comparison of the recidivism rates between defendants receiving a day fine with other
30 defendants,

31 (A) eligible for a day fine, who receive another sentence; and

- 1 (B) not eligible for a day fine, who receive another sentence;
2 (3) the potential savings to the state from the number of defendants
3 who are eligible to receive a sentence of imprisonment, and who receive a day fine,
4 assuming those defendants would have been sentenced to a term of imprisonment;
5 (4) the amount of day fines collected, the success rate of collections,
6 and the number of cases requiring civil process to collect the day fine; and
7 (5) recommendations concerning expansion or restriction of the use of
8 day fines, including proposals for legislation.

9 * **Sec. 6.** AS 12.55.036 is amended by adding a new subsection to read:

10 (h) When there are mitigating circumstances, when the ends of justice will be
11 served, and when the good conduct and reform of the defendant warrant it, the court
12 may upon payment of the entire day fine within the time specified by the court set
13 aside the conviction and issue to the defendant a certificate to that effect.

14 * **Sec. 7.** AS 23.20.110(a) is amended to read:

15 (a) Except as provided in (h)₂ [AND] (i), and (l) of this section, the
16 department shall hold information obtained from an employing unit or individual in
17 the course of administering this chapter and determinations as to the benefit rights of
18 an individual confidential and may not disclose them or open them to public inspection
19 in a manner that [WHICH] reveals the identity of the individual or employing unit.
20 A claimant or the legal representative of the claimant is entitled to information from
21 the records of the department to the extent necessary for the proper presentation of the
22 claim in a proceeding under this chapter. Subject to restrictions that [WHICH] the
23 department prescribes by regulation, the information may be made available to an
24 agency of this state or another state or federal agency charged with the administration
25 of an unemployment compensation law or the maintenance of a system of public
26 employment offices, or, for the purposes of the Federal Unemployment Tax Act, to the
27 Internal Revenue Service of the United States, or, for tax purposes, to the Department
28 of Revenue. Information obtained in connection with the administration of the
29 employment service may be made available to persons or agencies for purposes
30 appropriate to the operation of a public employment service.

31 * **Sec. 8.** AS 23.20.110(j) is amended to read:

1 (j) Notwithstanding (h), [OR] (i), **or (l)** of this section, the department may not
2 release information to an administrator under (h) of this section, [OR] on an employer's
3 hiring practices under (i) of this section, **or to the Department of Law as provided**
4 **under (l) of this section** if the United States Secretary of Labor rules that release of
5 the information would be grounds to find that the state is in substantial noncompliance
6 with 42 U.S.C. 503(a).

7 * **Sec. 9.** AS 23.20.110 is amended by adding a new subsection to read:

8 (l) The department shall make information obtained from an employing unit
9 or an individual available on request to the Department of Law to assist the
10 Department of Law in the collection of criminal judgments.