

HOUSE BILL NO. 122

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/10/97

Referred: State Affairs, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to prisoner litigation, post-conviction relief, and sentence appeals
2 and to execution on judgments against prisoners' accounts; amending Alaska
3 Rule of Administrative Procedure 10(e), Alaska Rule of Appellate Procedure
4 502(b), Alaska Rule of Civil Procedure 26, and Alaska Rule of Criminal
5 Procedure 35; and providing for an effective date."

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

7 * **Section 1.** AS 09.19.010(b) is amended to read:

8 (b) To apply for a filing fee exemption, a prisoner shall submit to the court

9 (1) an affidavit that clearly discloses that the person is a prisoner and

10 that sets out

11 (A) the prisoner's complete financial situation, including the

12 prisoner's income, money in financial accounts, assets, and court-ordered

13 payments;

1 (B) the circumstances that prevent the prisoner from paying full
2 filing fees; and

3 (C) the nature of the action or appeal and specific facts that
4 would, if proven, state a claim upon which relief can be granted or entitle the
5 prisoner to reversal on appeal;

6 (2) a certified copy of the prisoner's account statement from the
7 correctional facility in which the prisoner is being or has been held for the six-month
8 period preceding the submission of the application; and

9 (3) other documentation or financial information as the court may
10 require.

11 * **Sec. 2.** AS 09.19.050 is amended to read:

12 **Sec. 09.19.050. Discovery in prisoner cases.** The automatic disclosure
13 provisions of Alaska **Rules** [RULE] of Civil Procedure 16.1 **and 26** do not apply to
14 litigation against the state brought by a prisoner.

15 * **Sec. 3.** AS 09.19.100(1) is amended to read:

16 (1) "litigation against the state" means a civil action or an appeal from
17 a civil action or from the final decision of an administrative agency, **a petition for**
18 **review, a petition for hearing, an original application for relief, or any other**
19 **action filed under the Alaska Rules of Appellate Procedure** that

20 (A) involves the state, an officer or agent of the state, or a state
21 employee, or a former officer or agent of the state or state employee, regarding
22 conduct that occurred during that former officer's, agent's, or employee's state
23 employment or agency, whether the officer, agent, or employee is sued in an
24 official or a personal capacity; and

25 (B) is related to a person's status or treatment as a prisoner,
26 [OR] to a criminal charge against or involving the person, **or alleged violation**
27 **of the person's constitutional rights;**

28 * **Sec. 4.** AS 09.38 is amended by adding a new section to read:

29 **Sec. 09.38.042. Execution on prisoner's account.** (a) In an execution on a
30 prisoner's account at a correctional facility in which a prisoner is being held, the
31 judgment or balance due on the writ of execution becomes a lien on the prisoner's

1 account to the extent that money in the account is not exempt from execution. The
 2 lien continues as to subsequent deposits into the prisoner's account until the total
 3 amount paid under the writ of execution equals the amount stated on the writ, except
 4 that the lien terminates sooner if the underlying judgment is vacated, modified, or
 5 satisfied in full, or if the writ is dismissed.

6 (b) All nonexempt deposits subject to the continuing lien under (a) of this
 7 section shall be paid to the court. Accrued interest on the judgment or balance due as
 8 reflected on the writ of execution may be attached under a supplemental writ of
 9 execution after the principal amount of the original writ of execution has been paid.

10 (c) Notwithstanding the provisions of (a) and (b) of this section, and subject to
 11 the provisions of AS 09.38.065, up to \$20 in a prisoner's account at a correctional
 12 facility is exempt from execution.

13 * **Sec. 5.** Rule 502(b), Alaska Rules of Appellate Procedure, is amended to read:

14 (b) **Extensions of Time.** When by these rules or by a notice given thereunder
 15 or by order of the appellate court an act is required or allowed to be done at or within
 16 a specified time, the appellate court may in its discretion, either on motion of a party,
 17 showing good cause, or sua sponte:

18 (1) Extend the time period, either before or after its expiration or

19 (2) Validate an act done after the expiration of the time period.

20 Motions to extend a time period, or to validate an act done after the expiration of the
 21 time period, must comply with Rule 503. Time periods specified in the Appellate
 22 Rules, including time periods for doing an act or filing a document in the trial court,
 23 may be extended only by the appellate courts and not by the trial court. **In a matter**
 24 **requesting review of or appealing a criminal conviction or sentence, this rule does**
 25 **not authorize an appellate court or the superior court when acting as an**
 26 **intermediate appellate court to allow a notice of appeal, petition for review, or**
 27 **petition for hearing to be filed more than 60 days late from the specified time.**

28 * **Sec. 6.** Rule 35, Alaska Rules of Criminal Procedure, is amended by adding a new
 29 subsection to read:

30 (g) **Relaxing the time period for request.** A court may not relax by more
 31 than 10 days the time period in which a request to modify or reduce a sentence under

1 (b) of this rule must be filed.

2 * **Sec. 7.** The provisions of sec. 2 of this Act have the effect of changing Alaska Rule of
3 Civil Procedure 26 by providing that the automatic disclosure provisions of the rule do not
4 apply to litigation against the state brought by prisoners.

5 * **Sec. 8.** The provisions of sec. 3 of this Act have the effect of changing Alaska
6 Administrative Rule 10(e) by expanding the definition of "litigation against the state" so that
7 it has the meaning given in AS 09.19.100 as amended by sec. 3 of this Act.

8 * **Sec. 9.** This Act applies to offenses committed before, on, or after the effective date of
9 this Act.

10 * **Sec. 10.** Sections 2 and 3 of this Act take effect only if secs. 7 and 8 of this Act take
11 effect.

12 * **Sec. 11.** Sections 5 - 8 of this Act take effect July 1, 1997 only if secs. 5 - 8 of this Act
13 receive the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution
14 of the State of Alaska.

15 * **Sec. 12.** Except as provided in sec. 11 of this Act, this Act takes effect July 1, 1997.