

**SENATE BILL NO. 274**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY SENATORS WARD, Pearce

Introduced: 2/4/98

Referred: Judiciary, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to fees for probation and parole."

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

3 \* **Section 1.** AS 12.55.051(a) is amended to read:

4 (a) If the defendant defaults in the payment of a fine or any installment, of a  
5 probation fee or any installment, or of restitution or any installment, the court may  
6 order the defendant to show cause why the defendant should not be sentenced to  
7 imprisonment for nonpayment and, if the payment was made a condition of the  
8 defendant's probation, may revoke the probation of the defendant. In a contempt or  
9 probation revocation proceeding brought as a result of failure to pay a fine, fee, or  
10 restitution, it is an affirmative defense that the defendant was unable to pay despite  
11 having made continuing good faith efforts to pay the fine, fee, or restitution. If the  
12 court finds that the defendant was unable to pay despite having made continuing good  
13 faith efforts, the defendant may not be imprisoned solely because of the inability to  
14 pay. If the court does not find that the default was attributable to the defendant's  
15 inability to pay despite having made continuing good faith efforts to pay the fine, fee,

1 or restitution, the court may order the defendant imprisoned until the order of the court  
 2 is satisfied. A term of imprisonment imposed under this section may not exceed one  
 3 day for each \$50 of the unpaid portion of the fine, fee, or restitution or one year,  
 4 whichever is shorter. Credit shall be given toward satisfaction of the order of the court  
 5 for every day a person is incarcerated for nonpayment of a fine, fee, or restitution.

6 \* **Sec. 2.** AS 12.55.051(d) is amended to read:

7 (d) The state may enforce payment of fine or fee and the restitution recipient  
 8 may enforce payment of a restitution order against a defendant under AS 09.35 as if  
 9 the order were a civil judgment enforceable by execution. This subsection does not  
 10 limit the authority of the court to enforce fines or fees and orders of restitution to  
 11 victims.

12 \* **Sec. 3.** AS 12.55.100(a) is amended to read:

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

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

16 (2) to make restitution or reparation to aggrieved parties for actual  
 17 damages or loss caused by the crime for which conviction was had;

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

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

21 (5) to participate in or comply with the treatment plan of an inpatient  
 22 or outpatient rehabilitation program specified by either the court or the defendant's  
 23 probation officer that is related to the defendant's offense or to the defendant's  
 24 rehabilitation; [AND]

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

28 (7) to pay a periodic probation fee as provided in AS 12.55.104.

29 \* **Sec. 4.** AS 12.55 is amended by adding a new section to read:

30 **Sec. 12.55.104. Probation fee.** (a) A court granting probation shall require  
 31 a periodic probation fee to be paid to the Department of Corrections as a condition of

1 probation. The fee amount shall be established by regulation by the Department of  
2 Corrections but may not be less than \$3.30 a day.

3 (b) A probationer shall assign the probationer's permanent fund dividend to  
4 make probation fee payments under this section. The Department of Corrections shall  
5 provide an assignment form to the probationer. The Department of Corrections shall  
6 attach the permanent fund dividend of a probationer who is in arrears on the probation  
7 fee and who has failed or refused to execute the assignment. If the permanent fund  
8 dividend exceeds the total of the probation fee payments owed by the probationer, the  
9 Department of Corrections shall refund the difference to the probationer.

10 \* **Sec. 5.** AS 33.16.150(a) is amended to read:

11 (a) As a condition of parole, a prisoner released on special medical,  
12 discretionary, or mandatory parole

13 (1) shall obey all state, federal, or local laws or ordinances, and any  
14 court orders applicable to the parolee;

15 (2) shall make diligent efforts to maintain steady employment or meet  
16 family obligations;

17 (3) shall, if involved in education, counseling, training, or treatment,  
18 continue in the program unless granted permission from the parole officer assigned to  
19 the parolee to discontinue the program;

20 (4) shall report

21 (A) upon release to the parole officer assigned to the parolee;

22 (B) at other times, and in the manner, prescribed by the board  
23 or the parole officer assigned to the parolee;

24 (5) shall reside at a stated place and not change that residence without  
25 notifying, and receiving permission from, the parole officer assigned to the parolee;

26 (6) shall remain within stated geographic limits unless written  
27 permission to depart from the stated limits is granted the parolee;

28 (7) may not use, possess, handle, purchase, give, distribute, or  
29 administer a controlled substance as defined in AS 11.71.900 or under federal law or  
30 a drug for which a prescription is required under state or federal law without a  
31 prescription from a licensed medical professional to the parolee;

1 (8) may not possess or control a firearm; in this paragraph, "firearm"  
2 has the meaning given in AS 11.81.900;

3 (9) may not enter into an agreement or other arrangement with a law  
4 enforcement agency or officer that will place the parolee in the position of violating  
5 a law or parole condition without the prior approval of the board;

6 (10) may not contact or correspond with anyone confined in a  
7 correctional facility of any type serving any term of imprisonment or a felon without  
8 the permission of the parole officer assigned to **the** [A] parolee;

9 (11) shall agree to waive extradition from any state or territory of the  
10 United States and to not contest efforts to return the parolee to the state;

11 **(12) shall pay a periodic parole fee as provided in AS 33.16.155.**

12 \* **Sec. 6.** AS 33.16 is amended by adding a new section to read:

13 **Sec. 33.16.155. Parole fee.** (a) The board shall require a periodic parole fee  
14 to be paid to the department as a condition of special medical, discretionary, or  
15 mandatory parole. The fee amount shall be established by regulation by the  
16 department but may not be less than \$3.30 a day.

17 (b) A parolee shall assign the parolee's permanent fund dividend to make  
18 parole fee payments under this section. The department shall provide an assignment  
19 form to the parolee. The department shall attach the permanent fund dividend of a  
20 parolee who is in arrears on the parole fee and who has failed or refused to make the  
21 assignment. If the permanent fund dividend exceeds the total of the parole fee  
22 payments owed by a parolee, the department shall refund the difference to the parolee.

23 \* **Sec. 7.** AS 33.16.220 is amended by adding a new subsection to read:

24 (j) The board shall revoke the parole of a parolee who defaults in the payment  
25 of the parole fee imposed under AS 33.16.155 or any installment unless the parolee  
26 shows by a preponderance of the evidence that the parolee was unable to pay despite  
27 having made continuing good faith efforts to pay the fee. If the board finds that the  
28 parolee was unable to pay despite having made continuing good faith efforts, the  
29 parole may not be revoked solely because of the inability to pay. If the board does  
30 not find that the default was attributable to the parolee's inability to pay despite having  
31 made continuing good faith efforts to pay the fee, the board shall revoke the parole.

1 \* **Sec. 8.** AS 43.23.065(b) is amended to read:

2 (b) An exemption is not available under this section for permanent fund  
3 dividends taken to satisfy

4 (1) child support obligations required by court order or decision of the  
5 child support enforcement agency under AS 25.27.140 - 25.27.220;

6 (2) court ordered restitution under AS 12.55.045 - 12.55.051, 12.55.100,  
7 or AS 47.12.120(b)(4);

8 (3) claims on defaulted scholarship loans under AS 43.23.067;

9 (4) court ordered fines;

10 (5) writs of execution under AS 09.35 of a judgment that is entered

11 (A) against a minor in a civil action to recover damages and  
12 court costs;

13 (B) under AS 34.50.020 against the parent, parents, or legal  
14 guardian of an unemancipated minor;

15 (6) a debt owed by an eligible individual to an agency of the state,  
16 unless the debt is contested and an appeal is pending, or the time limit for filing an  
17 appeal has not expired;

18 (7) a debt owed to a person for a program for the rehabilitation of  
19 perpetrators of domestic violence required under AS 12.55.101, AS 18.66.100(c)(15),  
20 AS 25.20.061(3), or AS 33.16.150(f)(2);

21 **(8) probation fee ordered by a court under AS 12.55.104 or a**  
22 **parole fee required by the Board of Parole under AS 33.16.155.**

23 \* **Sec. 9.** AS 44.28 is amended by adding a new section to read:

24 **Sec. 44.28.040. Contract for collection of probation and parole fees.** The  
25 Department of Corrections shall contract with a collection agency or other person for  
26 the administration and collection of probation fees imposed under AS 12.55.104 and  
27 parole fees imposed under AS 33.16.155.