

**CS FOR SENATE BILL NO. 105(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 3/14/01

Referred: Rules

Sponsor(s): SENATORS HALFORD, Donley, Taylor, Lincoln, Davis, Cowdery, Ward, Green

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to victims' rights; relating to establishing an office of victims' rights;**  
2 **relating to the authority of litigants and the court to comment on the crime victim's**  
3 **choice to appear or testify in a criminal case; relating to compensation of victims of**  
4 **violent crimes; relating to eligibility for a permanent fund dividend for persons**  
5 **convicted of and incarcerated for certain offenses; relating to notice of appropriations**  
6 **concerning victims' rights; amending Rules 16 and 30, Alaska Rules of Criminal**  
7 **Procedure, Rule 9, Alaska Delinquency Rules, and Rule 501, Alaska Rules of Evidence;**  
8 **and providing for an effective date."**

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

10 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
11 to read:

12 SHORT TITLE. This Act may be known as the Crime Victims' Rights and Advocacy

1 Act of 2001.

2 \* **Sec. 2.** AS 12.55.023(b) is amended to read:

3 (b) A victim may submit to the sentencing court a written statement that the  
 4 victim believes is relevant to the sentencing decision [,] and may give sworn testimony  
 5 or make an unsworn oral presentation to the court at the sentencing hearing. If there  
 6 are numerous victims, the court may **reasonably** limit the number of victims who may  
 7 give sworn testimony or make an unsworn oral presentation during the hearing.  
 8 **When requested by the victim of a felony or a class A misdemeanor, if the class A**  
 9 **misdemeanor is a crime involving domestic violence or a crime against a person**  
 10 **under AS 11.41, when the victim does not submit a statement, give testimony, or**  
 11 **make an oral presentation, the victims' advocate may submit a written statement**  
 12 **or make an unsworn oral presentation at the sentencing hearing on behalf of the**  
 13 **victim.**

14 \* **Sec. 3.** AS 12.61 is amended by adding a new section to article 2 to read:

15 **Sec. 12.61.200. Comment not permitted.** (a) The decision of the crime  
 16 victim to testify or appear at a criminal case is not a proper subject of comment by  
 17 judge or counsel.

18 (b) Upon request, a party against whom the jury might draw an adverse  
 19 inference from the failure of a crime victim to appear or testify is entitled to an  
 20 instruction that no inference may be drawn therefrom.

21 \* **Sec. 4.** AS 18.67.130(c) is amended to read:

22 (c) Compensation may not be awarded under this chapter in an amount in  
 23 excess of **\$40,000** [\$25,000] per victim per incident. However, in the case of the death  
 24 of

25 **(1)** a victim who has more than one dependent eligible for  
 26 compensation, the total compensation that may be awarded as a result of that death  
 27 may not exceed **\$80,000; the** [\$40,000. THE] board may prorate the total awarded  
 28 among those dependents according to relative need; **or**

29 **(2) two or more victims in the same incident who jointly have a**  
 30 **dependent eligible for compensation, the total compensation that may be**  
 31 **awarded as a result of those deaths may not exceed \$80,000.**

1 \* **Sec. 5.** AS 24.60.990(a)(9) is amended to read:

2 (9) "legislative director" means the director of the legislative finance  
3 division, the legislative auditor, the director of the legislative research agency, the  
4 ombudsman, the victims' advocate, the executive director of the Legislative Affairs  
5 Agency, and the directors of the divisions within the Legislative Affairs Agency;

6 \* **Sec. 6.** AS 24 is amended by adding a new chapter to read:

7 **Chapter 65. Office of Victims' Rights.**

8 **Sec. 24.65.010. Office of victims' rights.** There is created in the legislative  
9 branch of the state the office of victims' rights. The victims' advocate is the director of  
10 the office of victims' rights.

11 **Sec. 24.65.020. Appointment of the victims' advocate.** (a) A candidate for  
12 appointment as the victims' advocate shall be nominated by the victims' advocate  
13 selection committee composed of three members of the senate appointed by the  
14 president of the senate and three members of the house of representatives appointed by  
15 the speaker of the house. One member of a minority party caucus in each house shall  
16 be appointed to the selection committee.

17 (b) The victims' advocate selection committee shall examine persons to serve  
18 as victims' advocate regarding their qualifications and ability and shall place the name  
19 of the person selected in nomination. The appointment is effective if the nomination is  
20 approved by a roll call vote of two-thirds of the members of the legislature in joint  
21 session. The vote on the appointment shall be entered in the journals of both houses.

22 **Sec. 24.65.030. Qualifications.** A person may not serve as victims' advocate

23 (1) unless the person has been a resident of the state for the three years  
24 immediately preceding the person's appointment;

25 (2) unless the person has been engaged in the active practice of law for  
26 the three years immediately preceding the person's appointment;

27 (3) unless the person has significant experience in criminal law;

28 (4) unless the person is an attorney licensed to practice law in this  
29 state;

30 (5) within one year of the last day on which the person served as a  
31 member of the legislature;

1 (6) while the person is a candidate for or holds another national, state,  
2 or municipal office; the victims' advocate may not become a candidate for national,  
3 state, or municipal office until one year has elapsed from the date the victims'  
4 advocate vacates the office of victims' advocate;

5 (7) while the person is engaged in another occupation for which the  
6 person receives compensation;

7 (8) unless the person is at least 21 years of age and is a qualified voter.

8 **Sec. 24.65.040. Term of office.** (a) The term of office of the victims'  
9 advocate is five years. A victims' advocate may be reappointed but may not serve for  
10 more than three terms.

11 (b) If the term of a victims' advocate expires without the appointment of a  
12 successor under this chapter, the incumbent victims' advocate may continue in office  
13 until a successor is appointed. If the victims' advocate dies, resigns, becomes  
14 ineligible to serve, or is removed or suspended from office, the person appointed as  
15 acting victims' advocate under AS 24.65.070(a) serves until a new victims' advocate is  
16 appointed for a full term.

17 **Sec. 24.65.050. Removal.** The legislature, by a concurrent resolution adopted  
18 by a roll call vote of two-thirds of the members of each house entered in the journal,  
19 may remove or suspend the victims' advocate from office, but only for neglect of duty,  
20 misconduct, or disability.

21 **Sec. 24.65.060. Compensation.** The victims' advocate is entitled to receive  
22 an annual salary equal to Step A, Range 26, on the salary schedule set out in  
23 AS 39.27.011(a) for Juneau.

24 **Sec. 24.65.070. Staff and delegation.** (a) The victims' advocate shall appoint  
25 a person to serve as acting victims' advocate in the absence of the victims' advocate.  
26 The victims' advocate shall also appoint assistants and clerical personnel necessary to  
27 carry out the provisions of this chapter. Subject to AS 36.30.020, the victims'  
28 advocate may enter into personal services and other contracts the victims' advocate  
29 finds necessary to carry out the provisions of this chapter. The victims' advocate shall,  
30 to the maximum extent practicable, conduct the duties and work of the office by  
31 entering into personal services and other contracts the victims' advocate finds

1 necessary to carry out the provisions of this chapter.

2 (b) The victims' advocate may delegate to the assistants any of the victims'  
3 advocate's duties except those specified in AS 24.65.150 and 24.65.160; however,  
4 during the victims' advocate's absence from the principal business offices, the victims'  
5 advocate may delegate the duties specified in AS 24.65.150 and 24.65.160 to the  
6 acting victims' advocate for the duration of the absence. The duties specified in  
7 AS 24.65.150 and 24.65.160 shall be performed by the acting victims' advocate when  
8 serving under AS 24.65.040(b).

9 (c) The victims' advocate and the staff appointed by the victims' advocate are  
10 in the exempt service under AS 39.25.110 and are not subject to the employment  
11 policies under AS 24.10 or AS 24.20.

12 **Sec. 24.65.080. Office facilities and administration.** (a) Subject to  
13 restrictions and limitations imposed by the executive director of the Legislative Affairs  
14 Agency, the administrative facilities and services of the Legislative Affairs Agency,  
15 including computer, data processing, and teleconference facilities, may be made  
16 available to the victims' advocate to be used in the management of the office of  
17 victims' rights and to carry out the purposes of this chapter.

18 (b) The salary and benefits of the victims' advocate and the permanent staff of  
19 the victims' advocate shall be paid through the same procedures used for payment of  
20 the salaries and benefits of other permanent legislative employees.

21 (c) The victims' advocate shall submit a budget for each fiscal year to the  
22 Alaska Legislative Council, and the council shall annually submit an estimated budget  
23 to the governor for information purposes in the preparation of the executive budget.  
24 After reviewing and approving, with or without modifications, the budget submitted  
25 by the victims' advocate, the council shall submit the approved budget to the finance  
26 committees of the legislature.

27 **Sec. 24.65.090. Procedure.** (a) The victims' advocate shall, by regulations  
28 adopted under AS 44.62 (Administrative Procedure Act), establish procedures for  
29 advocacy on behalf of crime victims, receiving and processing complaints, conducting  
30 investigations, reporting findings, and ensuring that confidential information obtained  
31 by the victims' advocate in the course of advocacy on behalf of a crime victim or in

1 the course of an investigation will not be improperly disclosed. The victims' advocate  
 2 may establish procedures so that advocacy and investigations on behalf of crime  
 3 victims in felony cases take a priority over advocacy and investigations on behalf of  
 4 crime victims in misdemeanor cases.

5 (b) The office of victims' rights may not charge fees for the submission or  
 6 investigation of complaints.

7 **Sec. 24.65.100. Jurisdiction; duties.** (a) The victims' advocate has  
 8 jurisdiction to advocate on behalf of crime victims of felony offenses or class A  
 9 misdemeanors, if the class A misdemeanor is a crime involving domestic violence or a  
 10 crime against a person under AS 11.41, in the courts of the state and to investigate the  
 11 complaints of crime victims of felony offenses or class A misdemeanors, if the class A  
 12 misdemeanor is a crime involving domestic violence or a crime against a person under  
 13 AS 11.41, that they have been denied their rights under the constitution and the laws  
 14 of the state. In this subsection, "crime involving domestic violence" has the meaning  
 15 given in AS 18.66.990.

16 (b) The victims' advocate shall exercise reasonable care to

17 (1) ensure that the victims' advocate's exercise of jurisdiction granted  
 18 under this section does not interfere with an ongoing criminal investigation or with a  
 19 criminal prosecution;

20 (2) prevent employees of the office of victims' rights from making  
 21 extrajudicial statements that the victims' advocate is prohibited from making under the  
 22 Alaska Rules of Professional Conduct.

23 (c) The victims' advocate may not advise, counsel, or advocate on behalf of a  
 24 victim in a way that would

25 (1) prevent or discourage a victim from cooperating in a criminal  
 26 investigation;

27 (2) encourage a victim to withhold evidence in a criminal  
 28 investigation; or

29 (3) prevent or discourage a victim from testifying in a criminal  
 30 proceeding.

31 **Sec. 24.65.110. Advocacy on behalf of crime victims; records.** (a) The

1 victims' advocate shall assist crime victims in obtaining the rights crime victims are  
2 guaranteed under the constitution and laws of the state with regard to the contacts  
3 crime victims have with the justice agencies of the state.

4 (b) The victims' advocate may make the statement a crime victim is authorized  
5 to make under art. I, sec. 24, Constitution of the State of Alaska, and AS 12.55.023, in  
6 a court of the state when requested by the crime victim and when the crime victim  
7 does not personally make a statement.

8 (c) When advocating on behalf of a crime victim in an ongoing criminal case  
9 or juvenile adjudication, the victims' advocate is entitled to all information available to  
10 the defendant or juvenile.

11 (d) Records obtained by the victims' advocate shall remain in the exclusive  
12 custody of the victims' advocate. The victims' advocate may not disclose confidential  
13 information to any person.

14 **Sec. 24.65.120. Investigations.** (a) The victims' advocate may investigate  
15 complaints from crime victims that they have been denied the rights they are  
16 guaranteed under the constitution and laws of this state.

17 (b) In an investigation, the victims' advocate may  
18 (1) make inquiries and obtain information considered necessary;  
19 (2) hold private hearings; and  
20 (3) notwithstanding other provisions of law, have access at all times to  
21 records of justice agencies, including court records of criminal prosecutions and  
22 juvenile adjudications, necessary to ensure that the rights of crime victims are not  
23 being denied; with regard to court and prosecution records, the victims' advocate is  
24 entitled to obtain access to every record that the defendant is entitled to access or  
25 receive.

26 (c) The victims' advocate shall maintain confidentiality with respect to all  
27 matters and the identities of the complainants or witnesses coming before the victims'  
28 advocate except insofar as disclosures may be necessary to enable the victims'  
29 advocate to carry out duties and to support recommendations. However, the victims'  
30 advocate may not disclose a confidential record obtained from a court or justice  
31 agency.

1           **Sec. 24.65.130. Powers.** (a) Subject to the privileges that witnesses have in  
2 the courts of this state, the victims' advocate may compel by subpoena, at a specified  
3 time and place, the

4                   (1) appearance and sworn testimony of a person who the victims'  
5 advocate reasonably believes may be able to give information relating to a matter  
6 under investigation under AS 24.65.120; and

7                   (2) production by a person of a record or object that the victims'  
8 advocate reasonably believes may relate to the matter under investigation under  
9 AS 24.65.120.

10           (b) If a person refuses to comply with a subpoena issued under (a) of this  
11 section, the superior court may, on application of the victims' advocate, compel  
12 obedience by proceedings for contempt in the same manner as in the case of  
13 disobedience to the requirements of a subpoena issued by the court or refusal to testify  
14 in the court.

15           (c) This section does not authorize the victims' advocate to issue a subpoena to

16                   (1) a justice, judge, magistrate, or a law clerk acting under the  
17 direction of a justice, judge, or magistrate, concerning a judicial action or nonaction  
18 taken by, or under the direction of, the justice, judge, or magistrate;

19                   (2) a person acting under the direction of a justice, judge, or  
20 magistrate, other than a law clerk, concerning a judicial action or nonaction taken by,  
21 or under the direction of, a justice, judge, or magistrate except to establish the  
22 occurrence or nonoccurrence of the action or nonaction or the person's own actions or  
23 nonactions; this paragraph does not authorize the victims' advocate to inquire into the  
24 decision-making or thought process of the justice, judge, or magistrate;

25                   (3) a member of a jury concerning a matter that was considered by the  
26 jury; or

27                   (4) the person accused or convicted of committing the crime that is the  
28 basis for the complaint, and investigation under AS 24.65.120, concerning a denial of  
29 rights.

30           **Sec. 24.65.140. Consultation.** Before giving an opinion or recommendation  
31 that is critical of a justice agency or person as a result of an investigation under

1 AS 24.65.120, the victims' advocate shall consult with that agency or person. The  
 2 victims' advocate may make a preliminary opinion or recommendation available to the  
 3 agency or person for review, but the preliminary opinion or recommendation is  
 4 confidential and may not be disclosed to the public by the agency or person.

5 **Sec. 24.65.150. Procedure after investigation.** (a) The victims' advocate  
 6 shall report the advocate's opinion and recommendations to a justice agency if the  
 7 victims' advocate finds, after investigation under AS 24.65.120, that the agency has  
 8 denied a crime victim rights the crime victim is guaranteed under the constitution and  
 9 laws of this state.

10 (b) The victims' advocate may request the justice agency to notify the victims'  
 11 advocate, within a specified time, of any action taken on the recommendations.

12 (c) The report provided under (a) of this section is confidential and may not be  
 13 disclosed to the public by the justice agency. The victims' advocate may disclose the  
 14 report under AS 24.65.160 only after providing notice that the investigation has been  
 15 concluded to the agency and after receiving the written approval of the complainant to  
 16 release the report.

17 **Sec. 24.65.160. Publication of recommendations.** Except as provided in  
 18 AS 24.65.150(c), within a reasonable amount of time after the victims' advocate  
 19 reports the advocate's opinion and recommendations to a justice agency, the victims'  
 20 advocate may present the opinion and recommendations to the governor, the  
 21 legislature, a grand jury, the public, or any of these. The victims' advocate shall  
 22 include with the opinion any reply made by the agency.

23 **Sec. 24.65.170. Annual report.** The victims' advocate shall make available to  
 24 the public an annual report of the victims' advocate's activities under this chapter and  
 25 notify the legislature that the report is available.

26 **Sec. 24.65.180. Judicial review.** A proceeding or decision of the victims'  
 27 advocate may be reviewed in superior court only to determine if it is contrary to the  
 28 provisions of this chapter.

29 **Sec. 24.65.190. Immunity of the victims' advocate.** A civil action may not  
 30 be brought against the victims' advocate or a member of the victims' advocate's staff  
 31 for anything done, said, or omitted in performing the victims' advocate's duties or

1 responsibilities under this chapter.

2 **Sec. 24.65.200. Victims' advocate's privilege not to testify or produce**  
 3 **documents or other evidence.** The victims' advocate and the staff of the victims'  
 4 advocate may not be compelled to testify or produce documents or other evidence in a  
 5 court regarding matters coming to their attention in the exercise or purported exercise  
 6 of their official duties except as may be necessary to enforce the provisions of this  
 7 chapter.

8 **Sec. 24.65.210. Penalty.** A person who knowingly hinders the lawful actions  
 9 of the victims' advocate or the staff of the victims' advocate, or who knowingly refuses  
 10 to comply with their lawful demands, is guilty of a misdemeanor and upon conviction  
 11 may be punished by a fine of not more than \$1,000. In this section, "knowingly" has  
 12 the meaning given in AS 11.81.900.

13 **Sec. 24.65.250. Definitions.** In this chapter,

14 (1) "justice agency" means a department, office, institution,  
 15 corporation, authority, organization, commission, committee, council, court, or board  
 16 in the executive or judicial branches of the state government that is, in any manner,  
 17 involved with or responsible for the apprehension, prosecution, incarceration, or  
 18 supervision of criminal or juvenile offenders; it also includes an officer, employee, or  
 19 member of an agency acting or purporting to act in the exercise of official duties,  
 20 including the governor and lieutenant governor, when acting with regard to executive  
 21 clemency, judges, and magistrates;

22 (2) "victim" has the meaning given in AS 12.55.185.

23 \* **Sec. 7.** AS 39.25.110 is amended by adding a new paragraph to read:

24 (34) the victims' advocate established under AS 24.65.010 and the  
 25 advocate's staff.

26 \* **Sec. 8.** AS 39.27.022(d) is amended to read:

27 (d) This section applies to employees of the legislature only if the committee  
 28 responsible for adopting employment policies concerning the employee adopts a  
 29 written policy that the section applies. This section applies to the employees of the  
 30 office of the ombudsman only if the ombudsman adopts a policy that the section  
 31 applies. **This section applies to the employees of the office of victims' rights only**

1 **if the victims' advocate adopts a policy that the section applies.**

2 \* **Sec. 9.** AS 39.35.385(f) is amended to read:

3 (f) Subject to AS 39.35.450, an employee is eligible for a normal retirement  
4 benefit at age 60 or an early retirement benefit at age 55 if the employee was first  
5 hired as a legislative employee before May 30, 1987, and has at least 60 days of  
6 credited service as an employee of the legislature, other than as an employee of the  
7 Office of the Ombudsman **or the office of victims' rights**, during each of five  
8 legislative sessions. An employee who was first hired as a legislative employee on or  
9 after May 30, 1987, and is otherwise eligible under this subsection must have at least  
10 80 days of credited service during each of five legislative sessions to receive benefits  
11 under this subsection.

12 \* **Sec. 10.** AS 43.23.005(d) is amended to read:

13 (d) Notwithstanding the provisions of (a) - (c) of this section, an individual is  
14 not eligible for a permanent fund dividend for a dividend year when

15 (1) during the qualifying year, the individual was sentenced as a result  
16 of conviction in this state of a felony;

17 (2) during all or part of the qualifying year, the individual was  
18 incarcerated as a result of the conviction in this state of a

19 (A) felony; or

20 (B) misdemeanor if the individual has been convicted of

21 **(i) a prior felony as defined in AS 11.81.900; or**

22 **(ii) two or more prior misdemeanors [CRIMES] as**

23 defined in AS 11.81.900.

24 \* **Sec. 11.** AS 43.23.028 is amended to read:

25 **Sec. 43.23.028. Public notice.** (a) By October 1 of each year, the  
26 commissioner shall give public notice of the value of each permanent fund dividend  
27 for that year and notice of the information required to be disclosed under (3) of this  
28 subsection. In addition, the stub attached to each individual dividend check and direct  
29 deposit advice must

30 (1) disclose the amount of each dividend attributable to income earned  
31 by the permanent fund from deposits to that fund required under art. IX, sec. 15,

1 Constitution of the State of Alaska;

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

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

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

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

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

15 (i) felony; or

16 (ii) misdemeanor if the individual has been convicted of  
17 **a prior felony or** two or more prior **misdemeanors** [CRIMES];

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

20 (A) obtain reimbursement for some of the costs imposed on the  
21 state criminal justice system related to incarceration or probation of those  
22 individuals;

23 (B) provide funds for **services for and** payments to crime  
24 victims and for grants for the operation of domestic violence and sexual assault  
25 programs;

26 (6) disclose the total amount that would have been paid during the  
27 previous fiscal year to individuals who were ineligible to receive dividends under  
28 AS 43.23.005(d) if they had been eligible;

29 (7) disclose the total amount appropriated for the current fiscal year  
30 under (b) of this section for each of the funds and agencies listed in (b) of this section.

31 (b) To the extent that amounts appropriated for a fiscal year do not exceed the

1 total amount that would have been paid during the previous fiscal year to individuals  
 2 who were ineligible to receive dividends under AS 43.23.005(d) if they had been  
 3 eligible, the notice requirements of (a)(3) of this section do not apply to appropriations  
 4 from the dividend fund to [THE]

5 (1) **the** crime victim compensation fund established under  
 6 AS 18.67.162 for payments to crime victims;

7 (2) **the** council on domestic violence and sexual assault established  
 8 under AS 18.66.010 for grants for the operation of domestic violence and sexual  
 9 assault programs; [OR]

10 (3) **the** Department of Corrections for incarceration and probation  
 11 programs;

12 **(4) the office of victims' rights; or**

13 **(5) nonprofit victims' rights organizations for grants for services to**  
 14 **crime victims.**

15 \* **Sec. 12.** AS 44.62.040(c) is amended to read:

16 (c) Before submitting the regulations and orders of repeal to the lieutenant  
 17 governor under (a) of this section, every state agency that by statute possesses  
 18 regulation making authority, except boards and commissions, **the office of victims'**  
 19 **rights,** and the office of the ombudsman, shall submit to the governor for review a  
 20 copy of every regulation or order of repeal adopted by the agency, except regulations  
 21 and orders of repeal identified in (a)(1) - (2) of this section. The governor may review  
 22 the regulations and orders of repeal received under this subsection. The governor may  
 23 return the regulations and orders of repeal to the adopting agency before they are  
 24 submitted to the lieutenant governor for filing under (a) of this section [,] (1) if they  
 25 are inconsistent with the faithful execution of the laws, or (2) to enable the adopting  
 26 agency to respond to specific issues raised by the Administrative Regulation Review  
 27 Committee. The governor may not delegate the governor's review authority under this  
 28 subsection to a person other than the lieutenant governor.

29 \* **Sec. 13.** AS 44.62.215 is amended to read:

30 **Sec. 44.62.215. Record of public comment.** In the drafting, review, or other  
 31 preparation of a proposed regulation, amendment, or order of repeal, an agency, other

1 than a board or commission, the office of victims' rights, and the office of the  
 2 ombudsman, shall keep a record of its use or rejection of factual or other substantive  
 3 information that is submitted in writing as public comment and that is relevant to the  
 4 accuracy, coverage, or other aspect of the proposed regulatory action.

5 \* **Sec. 14.** AS 44.66.050(c) is amended to read:

6 (c) A determination as to whether a board or commission or agency program  
 7 has demonstrated a public need for its continued existence must take into  
 8 consideration the following factors:

9 (1) the extent to which the board, commission, or program has  
 10 operated in the public interest;

11 (2) the extent to which the operation of the board, commission, or  
 12 agency program has been impeded or enhanced by existing statutes, procedures, and  
 13 practices that it has adopted, and any other matter, including budgetary, resource, and  
 14 personnel matters;

15 (3) the extent to which the board, commission, or agency has  
 16 recommended statutory changes that are generally of benefit to the public interest;

17 (4) the extent to which the board, commission, or agency has  
 18 encouraged interested persons to report to it concerning the effect of its regulations  
 19 and decisions on the effectiveness of service, economy of service, and availability of  
 20 service that it has provided;

21 (5) the extent to which the board, commission, or agency has  
 22 encouraged public participation in the making of its regulations and decisions;

23 (6) the efficiency with which public inquiries or complaints regarding  
 24 the activities of the board, commission, or agency filed with it, with the department to  
 25 which a board or commission is administratively assigned, or with the office of  
 26 victims' rights or the office of the ombudsman have been processed and resolved;

27 (7) the extent to which a board or commission that regulates entry into  
 28 an occupation or profession has presented qualified applicants to serve the public;

29 (8) the extent to which state personnel practices, including affirmative  
 30 action requirements, have been complied with by the board, commission, or agency to  
 31 its own activities and the area of activity or interest; and

1 (9) the extent to which statutory, regulatory, budgeting, or other  
 2 changes are necessary to enable the agency, board, or commission to better serve the  
 3 interests of the public and to comply with the factors enumerated in this subsection.

4 \* **Sec. 15.** AS 44.99.240(2) is amended to read:

5 (2) "state agency" means

6 (A) a department, institution, board, commission, division,  
 7 authority, public corporation, or other administrative unit of the executive  
 8 branch, including the University of Alaska and the Alaska Railroad  
 9 Corporation;

10 (B) a committee, division, or administrative unit of the  
 11 legislative branch, including the Alaska Legislative Council, the leadership of  
 12 each house, the office of victims' rights, and the office of the ombudsman;

13 (C) an administrative unit of the judicial branch, including the  
 14 Alaska Judicial Council and the Commission on Judicial Conduct.

15 \* **Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to  
 16 read:

17 INDIRECT COURT RULE AMENDMENT. AS 12.61.200, added by sec. 3 of this  
 18 Act, has the effect of amending Rule 30, Alaska Rules of Criminal Procedure, relating to  
 19 instructions to the jury.

20 \* **Sec. 17.** The uncodified law of the State of Alaska is amended by adding a new section to  
 21 read:

22 INDIRECT COURT RULE AMENDMENT. AS 24.65.110 and 24.65.120, added by  
 23 sec. 6 of this Act, have the effect of amending Rule 16, Alaska Rules of Criminal Procedure,  
 24 and Rule 9, Alaska Delinquency Rules, by allowing the victims' advocate a right of access to  
 25 information in criminal prosecutions and juvenile adjudications that is equal to that available  
 26 to criminal defendants or juveniles when the advocate is engaging in advocacy or that is  
 27 unlimited when the advocate is engaging in investigations concerning victims' rights.

28 \* **Sec. 18.** The uncodified law of the State of Alaska is amended by adding a new section to  
 29 read:

30 INDIRECT COURT RULE AMENDMENT. AS 24.65.200, added by sec. 6 of this  
 31 Act, amends Rule 501, Alaska Rules of Evidence, by creating a new privilege from being

1 compelled to testify in a court.

2 \* **Sec. 19.** The uncodified law of the State of Alaska is amended by adding a new section to  
3 read:

4 **APPLICABILITY.** AS 12.61.200, added by sec. 3 of this Act, is not intended to  
5 interfere with any constitutional rights and applies only to the extent permitted by the United  
6 States Constitution and the Constitution of the State of Alaska.

7 \* **Sec. 20.** The uncodified law of the State of Alaska is amended by adding a new section to  
8 read:

9 **TRANSITION.** Notwithstanding the effective date of secs. 1 - 9 and 12 - 19 of this  
10 Act, to the extent that there are appropriations for the purpose, the executive director of the  
11 Legislative Affairs Agency may purchase supplies and equipment, obtain office space, and  
12 employ clerical staff so that the office of victims' rights, created in sec. 6 of this Act, is able to  
13 begin work on July 1, 2002.

14 \* **Sec. 21.** Sections 10, 11, and 20 of this Act take effect immediately under  
15 AS 01.10.070(c).

16 \* **Sec. 22.** Sections 1 - 9 and 12 - 19 of this Act take effect July 1, 2002.