

HOUSE BILL NO. 357

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES SAMUELS, STOLTZE, MCGUIRE, DAHLSTROM

Introduced: 1/12/04
Referred: Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to restitution; and providing for an effective date."**

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

14 (1) public policy that favors requiring criminals to compensate for
15 damages and injury to their victims; and

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

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

5 (d) In any case, including a case in which the defendant is convicted of a
6 violation of AS 11.46.120 - 11.46.150 and the property is commercial fishing gear as
7 defined in AS 16.43.990, the court shall consider the victim's loss, and **the** [MAY]
8 order **of** restitution [THAT] may include compensation for loss of income.

9 * **Sec. 3.** AS 12.55.045(g) is amended to read:

10 (g) **The** [EXCEPT AS PROVIDED BY (f) OF THIS SECTION, THE] court
11 may not, in ordering the amount of restitution, consider the defendant's ability to pay
12 restitution.

13 * **Sec. 4.** AS 12.55.051(c) is amended to read:

14 (c) A defendant who has been sentenced to pay a fine [OR RESTITUTION]
15 may request a hearing regarding the defendant's ability to pay the fine [OR
16 RESTITUTION] at any time that the defendant is required to pay all or a portion of
17 the fine [OR RESTITUTION]. The court may deny the request if it has previously
18 considered the defendant's ability to pay and the defendant's request does not allege
19 changed circumstances. If at a hearing under this subsection, the defendant proves by a
20 preponderance of the evidence that the defendant will be unable through good faith
21 efforts to satisfy the order requiring payment of the fine [OR RESTITUTION], the
22 court shall modify the order so that the defendant can pay the fine [OR
23 RESTITUTION] through good faith efforts. The court may reduce the fine [OR
24 RESTITUTION] ordered, change the payment schedule, or otherwise modify the
25 order.

26 * **Sec. 5.** AS 12.55.045(e) and (f) are repealed.

27 * **Sec. 6.** This Act takes effect immediately under AS 01.10.070(c).