

**HOUSE BILL NO. 55**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

**BY REPRESENTATIVES STOLTZE AND SAMUELS, Neuman**

**Introduced: 1/10/05**

**Referred: Judiciary, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the rights of victims of crime; and amending Rules 12 and 42,**  
2 **Alaska Rules of Criminal Procedure, Rules 204, 205, 210, 212, 213, 217, 508, and 513.5,**  
3 **Alaska Rules of Appellate Procedure, and Rule 9, Alaska Rules of Administration."**

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

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

7 INTENT. It is the intent of the legislature to

8 (1) clarify that victims of crime may seek enforcement of rights granted to  
9 victims by regulation, statute, or constitutional provision in the trial and appellate courts of  
10 the state;

11 (2) protect and advance the rights of victims of crime by allowing victims to  
12 petition trial courts of the state for relief relating to violations or incomplete implementation  
13 of rights granted to victims;

14 (3) promote the rights of victims of crime by allowing victims to seek

1 appellate review of the decisions of trial courts concerning relief sought by victims in relation  
2 to the rights of victims.

3 \* **Sec. 2.** AS 12.61.010(b) is amended to read:

4 (b) Law enforcement agencies, prosecutors, corrections agencies, social  
5 services agencies, and the courts shall make every reasonable effort to ensure that  
6 victims of crimes have the rights set out in (a) of this section. However, a failure to  
7 ensure these rights does not give rise to a separate cause of action against law  
8 enforcement agencies, other agencies of the state, or a political subdivision of the state  
9 **except as provided in AS 12.61.013.**

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

11 **Sec. 12.61.013. Judicial enforcement of rights of crime victims.** (a) A  
12 victim may file a petition in the district or superior court in which a criminal  
13 proceeding related to an offense perpetrated against the victim is taking place for an  
14 order restraining violation or compelling implementation of rights granted to victims  
15 by regulation, statute, or constitutional provision. The petition must include the  
16 following:

17 (1) a statement that the petitioner is a victim of a crime;

18 (2) a statement identifying where the offense perpetrated against the  
19 victim occurred;

20 (3) a description of the right that is being violated or is not being  
21 implemented;

22 (4) a description of the violation of or failure to implement the right;  
23 and

24 (5) a statement of the specific relief requested of the court.

25 (b) The court shall expeditiously schedule proceedings relating to the petition  
26 that are appropriate for proper resolution of the issues raised, including a hearing, if  
27 necessary, and shall grant or deny the relief requested in the petition and order other  
28 relief the court considers appropriate not later than the fifth day after the petition is  
29 filed. The court shall keep a record of all proceedings relating to the petition.

30 (c) The decision of the court may be appealed to the court of appeals. If the  
31 court denies all or part of the relief requested in the petition, the court shall

1 immediately notify the victim that there is a right to appeal.

2 (d) If a notice of appeal authorized by this section is filed, the court shall  
3 deliver a copy of the notice of appeal and the record on appeal to the court of appeals  
4 not later than four days after the notice of appeal is filed. Upon receipt of the notice of  
5 appeal, the clerk of the appellate court shall place the appeal on the docket and  
6 immediately notify the appellant and all appellees. The appellant shall file a brief not  
7 later than five days after the appeal is docketed, an appellee may file an opposition  
8 brief not later than nine days after the appeal is docketed, and the appellant may file a  
9 reply brief not later than 11 days after the appeal is docketed. Unless the appellant  
10 waives the right to oral argument, the court of appeals shall hear oral argument not  
11 later than 14 days after the appeal is docketed. The court of appeals shall enter  
12 judgment in the appeal immediately after the oral argument or, if oral argument has  
13 been waived, within 14 days after the appeal is docketed. In the interest of justice, the  
14 court of appeals, in an appeal under this subsection, shall liberally modify or dispense  
15 with the formal requirements that normally apply as to the contents and form of briefs  
16 and other documents filed in the appeal and may shorten or extend the maximum  
17 times set out in this subsection.

18 (e) The supreme court shall prescribe petition and notice of appeal forms that  
19 may be used by a victim filing a petition or appeal under this section. The clerk of the  
20 superior court shall furnish blank copies of the forms, without charge, to any person  
21 who requests them.

22 (f) A filing fee may not be required of, and court costs or attorney fees may  
23 not be allowed against, a victim filing a petition or seeking appellate review under this  
24 section.

25 (g) Blank copies of the forms prescribed under (e) of this section and  
26 information on the proper procedures for filing a petition or appeal shall be made  
27 available by the court system at the official location of each superior court, district  
28 court, and magistrate in the state. The information required under this subsection must  
29 also include notification to the victim that

30 (1) there is not a filing fee required for either form; and

31 (2) court costs or attorney fees will not be assessed against the victim

1 for procedures under this section.

2 (h) A victim may seek review of a final decision of the court of appeals  
3 concerning the victim's appeal under this section in accordance with AS 22.07.030. In  
4 this subsection, "final decision" has the meaning given in AS 22.07.030.

5 (i) In this section, the term "an offense" shall be interpreted consistently with  
6 the term "an offense" in AS 12.55.185(17)(A).

7 \* **Sec. 4.** AS 22.07.020(a) is amended to read:

8 (a) The court of appeals has appellate jurisdiction in actions and proceedings  
9 commenced in the superior court involving

10 (1) criminal prosecution;

11 (2) post-conviction relief;

12 (3) matters under AS 47.12, including waiver of jurisdiction over a  
13 minor under AS 47.12.100;

14 (4) extradition;

15 (5) habeas corpus;

16 (6) probation and parole; and

17 (7) bail; and

18 **(8) matters under AS 12.61.013.**

19 \* **Sec. 5.** AS 22.07.020(c) is amended to read:

20 (c) The court of appeals has jurisdiction to review (1) a final decision of the  
21 district court in an action or proceeding involving criminal prosecution, post-  
22 conviction relief, extradition, probation and parole, habeas corpus, [OR] bail, or  
23 **matters under AS 12.61.013**; and (2) the final decision of the district court on a  
24 sentence imposed by it if the sentence exceeds 120 days of unsuspended incarceration  
25 for a misdemeanor offense. In this subsection, "final decision" means a decision or  
26 order, other than dismissal by consent of all parties, that closes a matter in the district  
27 court.

28 \* **Sec. 6.** AS 22.07.030 is amended to read:

29 **Sec. 22.07.030. Review by supreme court.** A party may apply to the  
30 supreme court for review of a final decision of the court of appeals in accordance with  
31 AS 22.05.010 and rules adopted by the supreme court. Review is in the discretion of

1 the supreme court as set out in AS 22.05.010(d). In this section,

2 **(1) "final decision" means a decision or order, other than a dismissal**  
 3 **by consent of all parties, that closes a matter in the court of appeals;**

4 **(2) "party" includes a person seeking review of a final decision of**  
 5 **the court of appeals concerning a matter under AS 12.61.013.**

6 \* **Sec. 7.** AS 22.15.060(a) is amended to read:

7 (a) The district court has jurisdiction

8 (1) of the following crimes **and of matters related to a petition filed**  
 9 **under AS 12.61.013 in connection with the crime:**

10 (A) a misdemeanor, unless otherwise provided in this chapter;

11 (B) a violation of an ordinance of a political subdivision;

12 (C) a violation of AS 04.16.050 or AS 11.76.105;

13 (2) to provide post-conviction relief under the Alaska Rules of  
 14 Criminal Procedure, if the conviction occurred in the district court.

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

17 DIRECT COURT RULE AMENDMENT. Rule 205, Alaska Rules of  
 18 Appellate Procedure, is amended to read:

19 **Rule 205. Stays Pending Appeal in Civil Cases and Cases Involving**  
 20 **Petitions Under AS 12.61.013.** In a civil case, the supreme court or a justice thereof,  
 21 **or, in a case involving a petition under AS 12.61.013, the court of appeals or a**  
 22 **judge thereof,** may stay the enforcement or effect of the judgment **or final decision**  
 23 **on a petition** appealed from or the proceedings in the trial court upon such terms as to  
 24 bond or other matters as may be proper. A motion for a stay will normally not be  
 25 considered by the supreme court **or court of appeals** unless application has previously  
 26 been made to the trial court and has been denied, or has been granted on conditions  
 27 other than those requested.

28 \* **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to  
 29 read:

30 INDIRECT COURT RULE AMENDMENT. AS 12.61.013(a) and (b), added by sec.  
 31 3 of this Act, have the effect of amending Rules 12 and 42, Alaska Rules of Criminal

1 Procedure, by amending the method by which certain determinations by the court may be  
2 sought and the time for making those determinations and by amending the method by which  
3 certain applications to the court may be made and the time for resolving those applications.

4 \* **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to  
5 read:

6 **INDIRECT COURT RULE AMENDMENT.** AS 12.61.013(d), added by sec. 3 of  
7 this Act, has the effect of amending Rules 204, 210, 212, 213, 217, and 513.5, Alaska Rules  
8 of Appellate Procedure, by setting specific time limits and procedures applicable to certain  
9 appeals, by permitting the court of appeals to shorten or extend certain time limits, and by  
10 instructing the court of appeals to modify or dispense with formal requirements applicable to  
11 certain briefs.

12 \* **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to  
13 read:

14 **INDIRECT COURT RULE AMENDMENT.** AS 12.61.013(f), added by sec. 3 of this  
15 Act, has the effect of amending Rule 9, Alaska Rules of Administration, and Rule 508, Alaska  
16 Rules of Appellate Procedure, by prohibiting certain fees, allowance of courts costs, and  
17 allowance of attorney fees in certain cases.

18 \* **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to  
19 read:

20 **CONDITIONAL EFFECT.** Sections 1 - 7 of this Act take effect only if secs. 8 - 11 of  
21 this Act receive the two-thirds vote of each house required by art. IV, sec. 15, Constitution of  
22 the State of Alaska.