

Original sponsor: Finance Committee

Offered: 4/20/82
Referred: Finance

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

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CS FOR SENATE BILL NO. 863 (Judiciary)

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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TWELFTH LEGISLATURE - SECOND SESSION

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A BILL

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For an Act entitled: "An Act providing for the award of costs and attorney fees incurred by certain defendants in criminal and civil actions brought by the state and by persons who prevail in certain state administrative proceedings; changing Rules 79 and 82, Rules of Civil Procedure, and Rule 508, Rules of Appellate Procedure; and providing for an effective date."

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

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* Section 1. AS 12.45 is amended by adding a new section to read:

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Sec. 12.45.145. COSTS AND ATTORNEY FEES FOR DEFENDANT IN A CRIMINAL

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ACTION. (a) If a judgment of acquittal is entered in favor of a defendant charged with committing an offense under state law, the court may allow the defendant to recover the reasonable costs of defending the action, including reasonable attorney fees, from the state. The court shall enter on the record the amount of costs awarded to an acquitted defendant.

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(b) If a defendant is acquitted of a charge in the same action in which he is convicted of another charge, the court may award the defendant reasonable costs attributable to defending the charge of which the defendant was acquitted, including reasonable attorney fees, unless the charge of which the defendant is convicted is a lesser included offense of the charge of which the defendant is acquitted.

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(c) If a judgment of conviction entered against a defendant charged with committing an offense under state law is reversed on

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1 appeal, the court that considers the appeal may allow the appellant to
2 recover the reasonable costs of the appeal and of proceedings in lower
3 courts, including reasonable attorney fees, from the state.

4 (d) This section does not apply to a defendant represented by
5 counsel at public expense.

6 * Sec. 2. AS 09.50 is amended by adding new sections to read:

7 ARTICLE 7. COSTS AND ATTORNEY FEES IN ADMINISTRATIVE
8 PROCEEDINGS AND COURT ACTIONS.

9 Sec. 09.50.410. AWARD OF COSTS AND ATTORNEY FEES TO RESPONDENT IN
10 ADMINISTRATIVE PROCEEDING. (a) If action by a state agency results in
11 an administrative proceeding to impose a civil penalty or tax on a
12 person or to revoke, suspend, limit, or condition a right, authority,
13 license, or privilege of a person and the proceeding terminates without
14 the imposition of a civil penalty or without the revocation, suspension,
15 limitation, or conditioning of a right, authority, license, or privilege,
16 the hearing officer or other official who presides over the proceeding
17 may allow the respondent to recover from the state the reasonable costs
18 of defense, including reasonable attorney fees.

19 (b) If a civil penalty is imposed on a person in an administrative
20 proceeding or the proceeding results in the revocation, suspension,
21 limitation, or conditioning of a right, authority, license, or privilege
22 and the decision made in the administrative proceeding is reversed on
23 the merits in a subsequent court proceeding, the court may allow the
24 person who was the subject of that decision to recover reasonable costs
25 of the appeal and of the administrative proceeding, including reasonable
26 attorney fees, from the state.

27 (c) In this section "state agency" means a department, office,
28 agency or other instrumentality of the state, including the University
29 of Alaska.

1 Sec. 09.50.420. AWARD OF COSTS AND ATTORNEY FEES TO DEFENDANT IN
2 CIVIL ACTION BROUGHT BY THE STATE. (a) If an individual defendant
3 prevails in a civil action brought by the state against that defendant,
4 the court may allow the defendant to recover the reasonable costs of
5 defending the action, including reasonable attorney fees, from the
6 state.

7 (b) If an individual defendant does not prevail in a civil action
8 brought by the state against that defendant, but does prevail on the
9 merits of an appeal of the judgment entered in that action, the court
10 that considers the appeal may allow the appellant to recover the reason-
11 able costs of defending the action and of appealing the decision of the
12 lower court, including reasonable attorney fees, from the state.

13 (c) This section does not apply to a defendant represented by
14 counsel at public expense.

15 * Sec. 3. This Act applies only to actions in which a judgment of acquit-
16 tal is entered, or to administrative proceedings or civil actions that are
17 terminated on or after the effective date of this Act.

18 * Sec. 4. Section 2 of this Act has the effect of changing Rules 79 and
19 82, Rules of Civil Procedure, and secs. 1 and 2 of this Act have the effect
20 of changing Rule 508, Rules of Appellate Procedure, to provide for the award
21 of costs and attorney fees to defendants and appellants who prevail in civil
22 actions brought by the state and in appeals of criminal, civil, and adminis-
23 trative actions brought by the state.

24 * Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-
25 070(c).