

Offered: 5/26/83
Referred: Rules

Original sponsors: Flood, Clocksin,
Grussendorf, et al

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

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CS FOR HOUSE BILL NO. 345 (Judiciary)

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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For an Act entitled: "An Act relating to victim's rights; and amending

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Rule 32(d)(2) of the Alaska Rules of Criminal Proce-

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dure."

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

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* Section 1. AS 12.55 is amended by adding a new section to read:

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Sec. 12.55.022. VICTIM IMPACT STATEMENT. As part of the presen-

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tence report prepared on each felony offender, the probation officer

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shall prepare a victim impact statement reporting in a

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nonargumentative style the following verified information:

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(1) the financial, emotional, and medical impact of the

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offense on the victim;

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(2) the need of the victim for restitution; and

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(3) any other information required by the court.

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* Sec. 2. AS 12.55.025(a) is amended to read:

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(a) When imposing a sentence for conviction of a felony offense

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or a sentence of imprisonment exceeding 90 days or upon a conviction

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of a violation of AS 04, a regulation adopted under AS 04, or an

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ordinance adopted in conformity with AS 04.21.010, the court, shall

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prepare, as a part of the record, a sentencing report which includes

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the following:

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(1) a verbatim record of the sentencing hearing and any

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other in-court sentencing procedures;

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(2) findings on material issues of fact and on factual

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questions required to be determined as a prerequisite to the selection

1 of the sentence imposed;

2 (3) a clear statement of the terms of the sentence imposed;

3 [AND]

4 (4) recommendations as to the place of confinement or the
5 manner of treatment; and

6 (5) in the case of a conviction for a felony offense,
7 verified information assessing

8 (A) the financial, emotional, and medical impact of
9 the offense on the victim;

10 (B) the need of the victim for restitution; and

11 (C) any other information required by the court.

12 * Sec. 3. AS 12.55.185 is amended by adding a new paragraph to read:

13 (11) "victim" means the victim of the offense or, in the
14 case in which the victim has died, is a minor, or is incapacitated to
15 the extent that the victim is unable to take advantage of the victim's
16 rights under this chapter, the term includes a spouse, parent, child,
17 brother, sister or legal guardian of the victim.

18 * Sec. 4. AS 12 is amended by adding a new chapter to read:

19 CHAPTER 61. RIGHTS OF VICTIMS.

20 Sec. 12.61.010. RIGHTS OF VICTIMS. (a) Victims of crimes have
21 the following rights:

22 (1) the right to be informed by the appropriate law en-
23 forcement agency or the prosecuting attorney of the date of trial and
24 the date of sentencing of the case in which the victim is involved;

25 (2) the right to be notified that a sentencing hearing or a
26 court proceeding to which the victim has been subpoenaed will not
27 occur as scheduled, in order to save the person an unnecessary trip to
28 court;

29 (3) the right to receive protection from harm and threats

1 of harm arising out of cooperation with law enforcement and prosecu-
2 tion efforts, and to be provided with information as to the protection
3 available;

4 (4) the right to be informed of the procedure to be fol-
5 lowed to apply for and receive any victim compensation to which the
6 person may be entitled;

7 (5) the right to cooperate with the criminal justice pro-
8 cess without loss of pay and other employee benefits and without
9 interference in any form by the employer of the victim of crime; and

10 (6) the right to access to immediate medical assistance and
11 not to be detained for an unreasonable length of time by a law en-
12 forcement agency before having medical assistance administered; how-
13 ever, an employee of the law enforcement agency may, if necessary
14 accompany the person to a medical facility to question the person
15 about the criminal incident if the questioning does not hinder the
16 administration of medical assistance.

17 (b) Law enforcement agencies, prosecutors, and the courts shall
18 make every reasonable effort to assure that victims of crimes have the
19 rights set out in (a) of this section. However, a failure to assure
20 these rights does not give rise to a separate cause of action against
21 law enforcement agencies, or other agencies of the state, or a
22 political subdivision of the state.

23 * Sec. 5. AS 18.66.060 is amended to read:

24 Sec. 18.66.060. QUALIFICATIONS. A local community entity is
25 qualified to receive a grant or contract under this chapter if it
26 agrees to provide services approved by the council to victims of
27 domestic violence or sexual assault or their families or to perpetra-
28 tors of domestic violence or sexual assault without regard to ability
29 to pay. The local community entity may not condition provision of

1 services to a victim on the victim's cooperation with a prosecuting
2 attorney in the filing of criminal charges.

3 * Sec. 6. AS 33.15.060(a) is amended to read:

4 (a) In considering a prisoner, the board shall consider the
5 presentence report made to the sentencing court, comments received
6 from the victim under AS 33.15.065, the recommendations by the sen-
7 tencing court and the prosecuting attorney, the report from the proper
8 officers of the institution where the prisoner is incarcerated, the
9 record of the prisoner and all pertinent information that will enable
10 the board to make a determination.

11 * Sec. 7. AS 33.15 is amended by adding a new section to read:

12 Sec. 33.15.065. RIGHT OF VICTIM TO COMMENT ON PAROLE OF PRIS-
13 ONER. (a) Upon request of the victim, as defined in AS 12.55.185-
14 (11), notice of a hearing to review or consider the parole eligibility
15 or the setting of a parole date for a prisoner in a state prison who
16 is convicted of a crime against a person as defined in AS 33.30.900(8)
17 shall be sent to the victim of the crime at least 30 days before the
18 scheduled hearing.

19 (b) It shall be the responsibility of the victim to keep the
20 board apprised of the person's most current mailing address. If the
21 board has not been kept apprised of the person's most current mailing
22 address, the board shall send the notice required under (a) of this
23 section to the last known address of the victim. The address of the
24 victim may not be disclosed to the prisoner or the prisoner's attor-
25 ney.

26 (c) The victim has a right to comment in writing on the proposed
27 action of the board. Copies of the comments shall be provided to the
28 prisoner and the prisoner's attorney.

29 (d) The board shall consider the comments presented under (c) of

1 this section in deciding whether to release the prisoner on parole.

2 (e) Upon request of the victim, if the board decides to release
3 on parole a prisoner who is convicted of a crime against a person as
4 defined in AS 33.30.900(8), the board shall notify the victim before
5 the prisoner's release date. Notification under this subsection shall
6 include the expected date of the prisoner's release, the geographic
7 area in which the prisoner is required to reside, and other pertinent
8 information concerning the prisoner's conditions of parole that may
9 impact the victim. The board shall make every reasonable effort to
10 notify the victim of the pending parole of the prisoner unless the
11 victim does not wish to be notified.

12 * Sec. 8. AS 33.30.250 is amended by adding a new subsection to read:

13 (h) Upon request of the victim, as defined in AS 12.55.185(11),
14 in the case of a prisoner convicted of a crime against a person as
15 defined in AS 33.30.900(8), notice of the commissioner's intent to
16 consider the prisoner for release under (a) of this section shall be
17 sent to the victim. The victim may comment in writing on the intent
18 of the commissioner to release the prisoner on work furlough status.
19 The commissioner shall consider the comments of the victim before
20 making a final decision to release a prisoner under (a) of this sec-
21 tion. The victim shall keep the commissioner apprised of the person's
22 current mailing address. The commissioner shall make every reasonable
23 effort to notify the victim of an intent to consider a release of a
24 prisoner under (a) of this section, unless the victim does not wish to
25 be notified. The notice shall contain the expected date of the pris-
26 oner's release and the geographic area in which the prisoner will
27 reside.

28 * Sec. 9. AS 33.30.260 is amended by adding a new subsection to read:

29 (b) In the case of a prisoner convicted of a crime against a

1 person as defined in AS 33.30.900(8) notice of the commissioner's
2 intent to consider the prisoner for release under (a) of this section
3 shall be sent upon request to the victim as defined in AS 12.55.185-
4 (11). The victim may comment in writing on the intent of the commis-
5 sioner to release the prisoner in rehabilitation furlough status. The
6 commissioner shall consider the comments of the victim before making a
7 final decision to release a prisoner under (a) of this section. The
8 victim shall keep the commissioner apprised of the person's current
9 mailing address. The commissioner shall make every reasonable effort
10 to notify the victim of an intent to release a prisoner under (a) of
11 this section, unless the victim does not wish to be notified. The
12 notice shall contain the expected date of the prisoner's release and
13 the geographic area in which the prisoner will reside.

14 * Sec. 10. AS 33.30.900 is amended by adding a new paragraph to read:

15 (8) "crime against a person" means a crime as set out in
16 AS 11.41, except custodial interference under AS 11.41.320 and AS 11.-
17 41.330, or a crime against a person in this or another jurisdiction
18 having elements substantially identical to those of a crime as set out
19 in AS 11.41, except custodial interference under AS 11.41.320 and
20 AS 11.41.330.

21 * Sec. 11. The effect of sec. 1 of this Act is to amend Rule 32(d)(2)
22 of the Alaska Rules of Criminal Procedure by adding a requirement for a
23 Victim Impact Statement as part of a court ordered presentence report.