

Offered: 3/15/84
Referred: Finance

Original sponsors: Flood, Clocksin,
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1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 SENATE CS FOR CS FOR HOUSE BILL NO. 345 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act relating to victims' rights; and amending
7 Rule 32(d)(2) of the Alaska Rules of Criminal Proce-
8 dure."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. AS 12.55 is amended by adding a new section to read:
11 Sec. 12.55.022. VICTIM IMPACT STATEMENT. As part of the presen-
12 tence report prepared on each felony offender, the probation officer
13 shall prepare a victim impact statement reporting the following infor-
14 mation:
15 (1) the financial, emotional, and medical effects of the
16 offense on the victim;
17 (2) the need of the victim for restitution; and
18 (3) any other information required by the court.
19 * Sec. 2. AS 12.55.025(a) is amended to read:
20 (a) When imposing a sentence for conviction of a felony offense
21 or a sentence of imprisonment exceeding 90 days or upon a conviction
22 of a violation of AS 04, a regulation adopted under AS 04, or an
23 ordinance adopted in conformity with AS 04.21.010, the court shall
24 prepare, as a part of the record, a sentencing report which includes
25 the following:
26 (1) a verbatim record of the sentencing hearing and any
27 other in-court sentencing procedures;
28 (2) findings on material issues of fact and on factual
29 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) any recommendations as to the place of confinement or
5 the manner of treatment; and

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

8 (A) the financial, emotional, and medical effects 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, if the
14 victim has died, is a minor, or is incapacitated the term includes a
15 spouse, parent, child, brother, sister or legal guardian of the vic-
16 tim.

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

18 CHAPTER 61. RIGHTS OF VICTIMS.

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

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

24 (2) the right to be notified that a sentencing hearing or a
25 court proceeding to which the victim has been subpoenaed will not
26 occur as scheduled;

27 (3) the right to receive protection from harm and threats
28 of harm arising out of cooperation with law enforcement and prosecu-
29 tion efforts, and to be provided with information as to the protection

1 available;

2 (4) the right to be informed of the procedure to be fol-
3 lowed to apply for and receive any victim compensation under AS 18.67;

4 (5) at the request of the prosecution or a law enforcement
5 agency, the right to cooperate with the criminal justice process
6 without loss of pay and other employee benefits and without interfer-
7 ence in any form by the employer of the victim of crime; and

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

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

22 * Sec. 5. AS 33.15.060(a) is amended to read:

23 (a) In considering a prisoner, the board shall consider the
24 presentence report made to the sentencing court, comments received
25 from the victim under AS 33.15.065, the recommendations by the sen-
26 tencing court and the prosecuting attorney, the report from the proper
27 officers of the institution where the prisoner is incarcerated, the
28 record of the prisoner and all pertinent information that will enable
29 the board to make a determination.

1 * Sec. 6. AS 33.15 is amended by adding a new section to read:

2 Sec. 33.15.065. RIGHT OF VICTIM TO COMMENT ON PAROLE OF PRIS-
3 ONER. (a) Upon request of the victim, notice of a hearing to review
4 or consider the parole eligibility or the setting of a parole date for
5 a prisoner in a state prison who is convicted of a crime against a
6 person shall be sent to the victim of the crime at least 30 days
7 before the scheduled hearing.

8 (b) It shall be the responsibility of the victim to keep the
9 board apprised of the victim's most current mailing address. If the
10 board has not been kept apprised of the victim's most current mailing
11 address, the board shall send the notice required under (a) of this
12 section to the last known address of the victim. The address of the
13 victim may not be disclosed to the prisoner or the prisoner's attor-
14 ney.

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

18 (d) The board shall consider the comments presented under (c) of
19 this section in deciding whether to release the prisoner on parole.

20 (e) Upon request of the victim, if the board decides to release
21 on parole a prisoner who is convicted of a crime against a person, the
22 board shall make every reasonable effort to notify the victim before
23 the prisoner's release date. Notification under this subsection shall
24 include the expected date of the prisoner's release, the geographic
25 area in which the prisoner is required to reside, and other pertinent
26 information concerning the prisoner's conditions of parole that may
27 affect the victim.

28 (f) Upon request of the victim, if a prisoner is released under
29 AS 33.20.040(a), the board shall make every reasonable effort to

1 notify the victim before the prisoner's release date. Notification
2 under this subsection shall include the expected date of the prison-
3 er's release, the geographic area in which the prisoner is required to
4 reside, and other pertinent information concerning the prisoner's
5 conditions of parole that may affect the victim.

6 * Sec. 7. AS 33.15.260 is amended by adding new paragraphs to read:

7 (5) "crime against a person" has the meaning given in
8 AS 33.30.900;

9 (6) "victim" has the meaning given in AS 12.55.185.

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

11 (h) Upon request of the victim, in the case of a prisoner con-
12 victed of a crime against a person, notice of the commissioner's
13 intent to consider the prisoner for release under (a) of this section
14 shall be sent to the victim. The victim may comment in writing on the
15 intent of the commissioner to release the prisoner on work furlough
16 status. The commissioner shall consider the comments of the victim
17 before making a final decision to release a prisoner under (a) of this
18 section. The victim shall keep the commissioner apprised of the
19 victim's current mailing address. If the victim requests to be noti-
20 fied, the commissioner shall make every reasonable effort to notify
21 the victim of an intent to consider a release of a prisoner under (a)
22 of this section. The notice shall contain the expected date of the
23 prisoner's release and the geographic area in which the prisoner will
24 reside and other pertinent information concerning the prisoner's
25 release that may affect the victim.

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

27 (b) In the case of a prisoner convicted of a crime against a
28 person, notice of the commissioner's intent to consider the prisoner
29 for release under (a) of this section shall be sent upon request to

1 the victim. The victim may comment in writing on the intent of the
2 commissioner to release the prisoner in rehabilitation furlough sta-
3 tus. The commissioner shall consider the comments of the victim
4 before making a final decision to release a prisoner under (a) of this
5 section. The victim shall keep the commissioner apprised of the
6 victim's current mailing address. If the victim requests to be noti-
7 fied, the commissioner shall make every reasonable effort to notify
8 the victim of an intent to release a prisoner under (a) of this sec-
9 tion. The notice shall contain the expected date of the prisoner's
10 release and the geographic area in which the prisoner will reside and
11 other pertinent information concerning the prisoner's release that may
12 affect the victim.

13 * Sec. 10. AS 33.30.900 is amended by adding new paragraphs to read:

14 (8) "crime against a person" means a crime as set out in
15 AS 11.41, except custodial interference under AS 11.41.320 and 11.41.-
16 330; or a crime against a person in this or another jurisdiction
17 having elements substantially identical to those of a crime as set out
18 in AS 11.41, except custodial interference under AS 11.41.320 and 11.-
19 41.330;

20 (9) "victim" has the meaning given in AS 12.55.185.

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.