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Referred: Judiciary and  
Finance

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1 IN THE HOUSE

2

HOUSE BILL NO. 106

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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For an Act entitled: "An Act relating to the payment of criminal fines and  
7 restitution."

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

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\* Section 1. AS 12.55.045(a) is repealed and reenacted to read:

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(a) The court may order a defendant convicted of an offense to

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make restitution as provided in this section, including restitution to

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a public or private nonprofit organization that has provided counsel-

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ing, medical, or shelter services to the victim, or as otherwise

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authorized by law. A defendant is presumed to have the ability to pay

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restitution unless the defendant establishes the inability to pay by a

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preponderance of the evidence. In determining the amount and method

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of payment of restitution, the court shall take into account the

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(1) public policy that favors requiring criminals to com-

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pensate their victims;

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(2) fact that a victim may encounter difficulty in obtain-

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ing an enforceable civil judgment;

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(3) financial burden placed on the victim as a result of

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the criminal conduct of the defendant; and

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(4) need of the victim and society for punitive compen-

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sation to be extracted from the defendant.

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\* Sec. 2. AS 12.55.051(a) is amended to read:

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(a) If the defendant defaults in the payment of a fine or any

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installment or of restitution or any installment, the court may order

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the defendant to show cause why the defendant should not be sentenced

1 to imprisonment for nonpayment. If the defendant fails to establish  
2 [COURT FINDS] by a preponderance of the evidence that the defendant  
3 did not intentionally refuse or fail [DEFAULT WAS ATTRIBUTABLE TO AN  
4 INTENTIONAL REFUSAL OR FAILURE] to make a good faith effort to pay the  
5 fine or restitution, the court may order the defendant imprisoned  
6 until the order of the court is satisfied. If the defendant was not  
7 given a suspended sentence of imprisonment conditioned upon paying a  
8 fine or restitution, a [A] term of imprisonment imposed under this  
9 section may not exceed one day for each \$50 of the unpaid portion of  
10 the fine or restitution or one year, whichever is shorter. If the  
11 defendant was given a suspended sentence of imprisonment conditioned  
12 upon paying a fine or restitution, the defendant shall be incarcerated  
13 for the duration of the sentence or until the fine or restitution is  
14 totally paid, whichever is shorter. The state may enforce payment of  
15 a fine and the restitution recipient may enforce payment of a re-  
16 stitution order against a defendant under AS 09.35 as if the order  
17 were a civil judgment enforceable by execution [CREDIT SHALL BE GIVEN  
18 TOWARD SATISFACTION OF THE ORDER OF THE COURT FOR EVERY DAY A PERSON  
19 IS INCARCERATED FOR NONPAYMENT OF A FINE OR RESTITUTION].