

Offered: 3/4/87
Referred: Finance

5-0378L

Original sponsors: Davidson, Brown,
Goll, et al.

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 106 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - FIRST SESSION
5 A BILL

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

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

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 AS 12.55.045(a) is repealed and reenacted to read:

10 (a) The court may order a defendant convicted of an offense to
11 make restitution as provided in this section, including restitution to
12 the victim for services rendered by a public or private nonprofit
13 organization that has provided counseling, medical, or shelter ser-
14 vices to the victim, or as otherwise authorized by law. A defendant
15 is presumed to have the ability to pay restitution unless the defen-
16 dant establishes the inability to pay by a preponderance of the evi-
17 dence. In determining the amount and method of payment of restitu-
18 tion, the court shall take into account the

19 (1) public policy that favors requiring criminals to com-
20 pensate their victims;

21 (2) financial burden placed on the victim as a result of
22 the criminal conduct of the defendant; and

23 (3) the financial resources of the defendant and the nature
24 of the burden its payment will impose.

25 * Sec. 2. AS 12.55.045(d) is amended to read:

26 (d) In any case, including a case in which the defendant is
27 convicted of a violation of AS 11.46.120 - 11.46.150 and in which the
28 property is commercial fishing gear as defined in AS 16.43.990, the
29 court shall consider the victim's need for, and may order, restitution

1 that may include compensation for loss of income.

2 * Sec. 3. AS 12.55.051(a) is amended to read:

3 (a) If the defendant defaults in the payment of a fine or any
4 installment or of restitution or any installment, the court may order
5 the defendant to show cause why the defendant should not be sentenced
6 to imprisonment for nonpayment. If the defendant fails to establish
7 [COURT FINDS] by a preponderance of the evidence that the defendant
8 did not intentionally refuse or fail [DEFAULT WAS ATTRIBUTABLE TO AN
9 INTENTIONAL REFUSAL OR FAILURE] to make a good faith effort to pay the
10 fine or restitution, the court may order the defendant imprisoned
11 until the order of the court is satisfied. A term of imprisonment
12 imposed under this section may not exceed one day for each \$50 of the
13 unpaid portion of the fine or restitution or one year, whichever is
14 shorter. The state may enforce payment of a fine and the restitution
15 recipient may enforce payment of a restitution order against a defen-
16 dant under AS 09.35 as if the order were a civil judgment enforceable
17 by execution. Credit shall be given toward satisfaction of the order
18 of the court for every day a person is incarcerated for nonpayment of
19 a fine [OR RESTITUTION].