

Offered: 3/18/87
Referred: Rules

5-0378N

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

1 IN THE HOUSE BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 106 (Finance)

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 AS 12.55.045(a) is repealed and reenacted to read: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, to a public, private, or private nonprofit organization
13 that has provided counseling, medical, or shelter services to the
14 victim, or as otherwise authorized by law. A defendant is presumed to
15 have the ability to pay restitution unless the defendant establishes
16 the inability to pay by a preponderance of the evidence. In
17 determining the amount and method of payment of restitution, the court
18 shall take into account the

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

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

23 (3) financial resources of the defendant and the nature of
24 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]
28 the property is commercial fishing gear as defined in AS 16.43.990,
29 the court [SHALL CONSIDER THE VICTIM'S NEED FOR, AND] may order [,]

1 restitution 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].