

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) am  
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 AS 12.55.045(a) is repealed and reenacted to read: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 determin-  
17 ing the amount and method of payment of restitution, the court shall  
18 take into account the

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

21 (2) financial burden placed on the victim and those who  
22 provide services to the victim as a result of the criminal conduct of  
23 the defendant; and

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

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

27 (d) In any case, including a case in which the defendant is  
28 convicted of a violation of AS 11.46.120 - 11.46.150 and [IN WHICH]  
29 the property is commercial fishing gear as defined in AS 16.43.990,

1 the court shall consider the victim's loss [NEED FOR,] and may order  
2 [,] restitution that may include compensation for loss of income.

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

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