

Offered: 5/7/88
Referred: Rules

5-0378Z

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

1 IN THE HOUSE BY THE FINANCE COMMITTEE
2 SENATE CS FOR CS FOR HOUSE BILL NO. 106 (Finance)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND 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 AS 12.55.045(a) is repealed and reenacted to read: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 on dependents of the defendant.
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 state presents evidence of the
8 defendant's failure to pay restitution, the court may presume that the
9 defendant has intentionally refused to pay the fine or restitution or
10 has not made a good faith effort to pay the fine or restitution unless
11 the defendant presents some evidence that the defendant's failure to
12 pay the fine or restitution was not intentional or that the defendant
13 has made a good faith effort to pay the fine or restitution. If the
14 court finds by a preponderance of the evidence that the default was
15 attributable to an intentional refusal or failure to make a good faith
16 effort to pay the fine or restitution, the court may order the de-
17 fendant imprisoned until the order of the court is satisfied. A term
18 of imprisonment imposed under this section may not exceed one day for
19 each \$50 of the unpaid portion of the fine or restitution or one year,
20 whichever is shorter. Credit shall be given toward satisfaction of
21 the order of the court for every day a person is incarcerated for
22 nonpayment of a fine or restitution.

23 * Sec. 4. AS 12.55.051 is amended by adding a new subsection to read:

24 (d) The state may enforce payment of a fine and the restitution
25 recipient may enforce payment of a restitution order against a defen-
26 dant under AS 09.35 as if the order were a civil judgment enforceable
27 by execution. This subsection does not limit the authority of the
28 court to enforce fines and orders of restitution to victims.