

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

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HOUSE BILL NO. 405

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

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FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

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For an Act entitled: "An Act relating to the right of victims of violent crimes to offer written comment at postconviction proceedings; and changing Rule 35 of the Alaska Supreme Court's Rules of Criminal Procedure."

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

11 * Section 1. AS 12.55.088 is amended by adding new subsections to read:

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(d) Upon the filing of a motion to modify or reduce a sentence

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by a person convicted of a crime against a person, the court shall, if

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feasible given the time constraints and circumstances of the motion,

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send a copy of the motion to the Department of Corrections sufficient-

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ly in advance of any scheduled hearing so as to enable the department

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to notify the victim of the crime of the right to comment in writing

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as set out in (e) of this section.

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(e) Upon request of the victim, in the case of a person con-

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victed of a crime against a person, the Department of Corrections

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shall send to the victim a copy of a motion to modify or reduce a

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sentence upon receipt from the court. The department shall also

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notify the victim of the right to comment in writing to the court on

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the motion to modify or reduce a sentence. It is the responsibility

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of the victim to keep the department apprised of the victim's current

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mailing address.

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(f) Copies of the victim's comments shall be provided by the

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court to the person filing the motion to reduce or modify a sentence,

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or to the person's attorney. The address of the victim may not be

1 disclosed to the person or the person's attorney.

2 (g) The court shall consider the victim's comments when rele-
3 vant, and any response offered by the person filing the motion, in
4 deciding whether to reduce or modify a sentence.

5 * Sec. 2. AS 12.55.185 is amended by adding a new paragraph to read:

6 (12) "crime against a person" has the meaning given in
7 AS 33.30.901.

8 * Sec. 3. AS 33.20.080 is amended to read:

9 Sec. 33.20.080. BOARD OF PAROLE TO INVESTIGATE APPLICATIONS FOR
10 EXECUTIVE CLEMENCY. (a) The governor may refer applications for
11 executive clemency to the board of parole. The board shall investi-
12 gate each case and submit to the governor a report of the investiga-
13 tion, together with all other information the board has regarding the
14 applicant, including comments submitted under (b) of this section.

15 (b) Upon request of the victim, in the case of an individual
16 convicted of a crime against a person, notice of an application for
17 executive clemency from the individual shall be sent by the board to
18 the victim. The victim may comment in writing to the board on the
19 application for executive clemency. It is the responsibility of the
20 victim to keep the board apprised of the victim's current mailing
21 address.

22 (c) As used in this section, "crime against a person" has the
23 meaning given in AS 33.30.901.

24 * Sec. 4. Rule 35 of the Alaska Rules of Criminal Procedure is amended
25 by adding new subsections to read:

26 (c) Upon the filing of a motion to reduce a sentence under (a)
27 of this rule or to modify or reduce a sentence under (b) of this rule
28 by a person convicted of a crime against a person, the court shall, if
29 feasible given the time constraints and circumstances of the motion,

1 send a copy of the motion to the Department of Corrections sufficient-
2 ly in advance of any scheduled hearing so as to enable the department
3 to notify the victim of the crime of the right to comment in writing,
4 as required by AS 12.55.088(e) and set out in (d) of this rule.

5 (d) Upon request of the victim, in the case of a person convict-
6 ed of a crime against a person, the Department of Corrections shall
7 send to the victim a copy of a motion to modify or reduce a sentence
8 upon receipt from the court. The department shall also notify the
9 victim of the right to comment in writing to the court on the motion
10 to modify or reduce a sentence. It is the responsibility of the
11 victim to keep the department apprised of the victim's current mailing
12 address.

13 (e) Copies of the victim's comments shall be provided by the
14 court to the person filing the motion to reduce or modify a sentence,
15 or to the person's attorney. The address of the victim may not be
16 disclosed to the person or the person's attorney.

17 (f) The court shall consider the victim's comments when rele-
18 vant, and any response offered by the person filing the motion, in
19 deciding whether to reduce or modify a sentence.

20 (g) In this rule, "crime against a person" means a crime as set
21 out in AS 11.41, except custodial interference under AS 11.41.320 and
22 11.41.330; or a crime against a person in this jurisdiction having
23 elements substantially identical to those of a crime as set out in
24 AS 11.41, except custodial interference under AS 11.41.320 and
25 11.41.330.