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1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2

CS FOR HOUSE BILL NO. 36 (Finance)

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IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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For an Act entitled: "An Act relating to crimes, the rights, entitlements,
7 and services that are due to victims of crime, and to
8 service of process on prisoners; redefining the term
9 'crime against a person'; and amending Rules 32 and
10 35 of the Alaska Rules of Criminal Procedure."

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

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* Section 1. SHORT TITLE. This Act may be referred to as the "Alaska
13 Crime Victim's Rights Act."

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* Sec. 2. AS 09.05 is amended by adding a new section to read:

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Sec. 09.05.050. SERVICE OF PROCESS ON STATE PRISONERS. (a) In

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a civil action to which a person committed to the custody of the

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commissioner of corrections is a party or witness, service of process

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shall be made by delivering a copy of the summons and the complaint or

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pleadings, together with a form for affidavit of proof of service, to

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the shift supervisor of the correctional facility in which the person

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is housed. The shift supervisor shall

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(1) immediately hand deliver the summons and complaint or

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pleadings to the person whose name appears on the summons; and

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(2) promptly complete the affidavit of proof of service on

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the form provided and return it to the party requesting service of

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process.

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(b) A party requesting service of process under this section may

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locate a person committed to the custody of the commissioner of cor-

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rections by contacting the chief classification officer of the

1 Department of Corrections during that officer's regular hours of work.

2 * Sec. 3. AS 12.47 is amended by adding a new section to read:

3 Sec. 12.47.095. NOTICE TO VICTIMS. (a) If an offender has been
4 committed to the custody of the commissioner of health and social
5 services under AS 12.47.090, the victim of that crime is entitled to
6 notice of a pending change in the status of the offender. The commis-
7 sioner of health and social services shall give notice as required by
8 this section if

9 (1) the offender has been continued in commitment following
10 expiration of the maximum term of imprisonment under AS 12.47.090(f)
11 and the commissioner gives notice of release of the offender;

12 (2) the court is to consider modification of an order of
13 conditional release for the offender under AS 12.47.092(a);

14 (3) a court is to consider conditional release of the
15 offender under AS 12.47.090(k) and 12.47.092(a); or

16 (4) the offender petitions for discharge under AS 12.47.-
17 092(f).

18 (b) If a victim desires notice under this section, the victim
19 shall maintain a current, valid mailing address on file with the
20 commissioner of health and social services. The commissioner shall
21 send the notice required by this section to the victim's last known
22 address. The victim's address may not be disclosed to the offender or
23 offender's attorney.

24 (c) The commissioner of health and social services is required
25 to give notice of a change in the status of an offender under this
26 section to any victim who has requested notice.

27 (d) If more than one person who qualifies as a victim under
28 AS 12.55.105 desires notice, the commissioner of health and social
29 services shall designate one person for purposes of receiving any

1 notice required and exercising the rights granted by this section.

2 (e) In this section

3 (1) "offender" has the meaning given in AS 12.61.020;

4 (2) "victim" has the meaning given in AS 12.55.185.

5 * Sec. 4. AS 12.55 is amended by adding a new section to read:

6 Sec. 12.55.023. PARTICIPATION BY VICTIM IN SENTENCING. (a) If
7 a victim requests, the prosecuting attorney shall provide the victim
8 with a copy of the following portions of the presentence report:

9 (1) the summary of the offense prepared by the Department
10 of Corrections;

11 (2) the defendant's version of the offense;

12 (3) all statements and summaries of statements of the
13 victim; and

14 (4) the sentence recommendation of the Department of Cor-
15 rections.

16 (b) A victim may submit to the sentencing court a written state-
17 ment that the victim believes is relevant to the sentencing decision.

18 * Sec. 5. AS 12.55.088 is amended by adding new subsections to read:

19 (d) A victim has the right to comment in writing to the court on
20 a motion to modify or reduce a sentence filed by the person who perpe-
21 trated the offense against the victim.

22 (e) If a motion is filed to modify or reduce a sentence by a
23 defendant who perpetrated a crime against a person or arson in the
24 first degree, the court shall, if feasible, send a copy of the motion
25 to the Department of Corrections sufficiently in advance of any
26 scheduled hearing or briefing deadline to enable the department to
27 notify the victim of that crime. If that victim has earlier requested
28 to be notified, the Department of Corrections shall send the victim a
29 copy of the motion and inform the person of that person's rights under

1 this section, the deadline for receipt of written comments, the hear-
2 ing date, and the court's address.

3 (f) The court shall provide copies of the victim's comments to
4 the prosecuting attorney, the person filing the motion to reduce or
5 modify a sentence, and that person's attorney.

6 (g) In deciding whether to modify or reduce a sentence, the
7 court shall consider the victim's comments, when relevant, and any
8 response by the prosecuting attorney and the person filing the motion.

9 (h) If a victim desires notice under this section, the victim
10 shall maintain a current, valid mailing address on file with the
11 commissioner of corrections. The commissioner shall send the notice
12 to the victim's last known address. The victim's address may not be
13 disclosed to the offender or to the offender's attorney.

14 * Sec. 6. AS 12.55 is amended by adding a new section to read:

15 Sec. 12.55.172. DESIGNATION OF REPRESENTATIVE. If more than one
16 person who qualifies as a victim under AS 12.55.185 desires notice
17 under AS 12.55.088, the prosecuting attorney shall designate one
18 person to represent all victims for purposes of receiving the notice
19 required and exercising the rights granted under this chapter.

20 * Sec. 7. AS 12.55.185 is repealed and reenacted to read:

21 Sec. 12.55.185. DEFINITIONS. In this chapter, unless the con-
22 text requires otherwise,

23 (1) "crime against a person" has the meaning given in
24 AS 33.30.901;

25 (2) "dangerous instrument" has the meaning given in AS 11.-
26 81.900;

27 (3) "firearm" has the meaning given in AS 11.81.900;

28 (4) "first felony conviction" means that the defendant has
29 not been previously convicted of a felony;

1 (5) "judicial officer" has the meaning given in AS 11.56.-
2 900;

3 (6) "pecuniary gain" means the amount of money or value of
4 property at the time of commission of the offense derived by the
5 defendant from the commission of the offense, less the amount of money
6 or value of property returned to the victim of the offense or seized
7 by or surrendered to lawful authority before sentence is imposed;

8 (7) "second felony conviction" means that the defendant
9 previously has been convicted of a felony;

10 (8) "serious physical injury" has the meaning given in
11 AS 11.81.900;

12 (9) "third felony conviction" means that the defendant has
13 been at least twice previously convicted of a felony;

14 (10) "unconditional discharge" means that a defendant is
15 released from all disability arising under a sentence, including
16 probation and parole;

17 (11) "victim" means

18 (A) a person against whom an offense has been perpe-
19 trated;

20 (B) one of the following, not the perpetrator, if the
21 person specified in (A) of this paragraph is a minor, incompe-
22 tent, or incapacitated:

23 (i) an individual living in a spousal relation-
24 ship with the person specified in (A) of this paragraph; or

25 (ii) a parent, adult child, guardian, or custodian
26 of the person;

27 (C) one of the following, not the perpetrator, if the
28 person specified in (A) of this paragraph is dead:

29 (i) a person living in a spousal relationship

1 with the deceased before the deceased died;

2 (ii) an adult child, parent, brother, sister,
3 grandparent or grandchild of the deceased; or

4 (iii) any other interested person, as may be des-
5 ignated by a person having authority in law to do so.

6 * Sec. 8. AS 12.61.010 is amended to read:

7 Sec. 12.61.010. RIGHTS OF CRIME VICTIMS. (a) Victims of crimes
8 have the following rights:

9 (1) the right to be informed by the appropriate law en-
10 forcement agency or the prosecuting attorney of the date of trial and
11 the date of sentencing of the case in which the victim is involved;

12 (2) the right to be notified that a sentencing hearing or a
13 court proceeding to which the victim has been subpoenaed will not
14 occur as scheduled;

15 (3) the right to receive protection from harm and threats
16 of harm arising out of cooperation with law enforcement and prosecu-
17 tion efforts, and to be provided with information as to the protection
18 available;

19 (4) the right to be informed of the procedure to be fol-
20 lowed to apply for and receive any [VICTIM] compensation under AS 18.-
21 67;

22 (5) at the request of the prosecution or a law enforcement
23 agency, the right to cooperate with the criminal justice process
24 without loss of pay and other employee benefits except as authorized
25 by AS 12.61.017 and without interference in any form by the employer
26 of the victim of crime; [AND]

27 (6) the right to obtain access to immediate medical assis-
28 tance and not to be detained for an unreasonable length of time by a
29 law enforcement agency before having medical assistance administered;

1 however, an employee of the law enforcement agency may, if necessary,
2 accompany the person to a medical facility to question the person
3 about the criminal incident if the questioning does not hinder the
4 administration of medical assistance;

5 (7) the right to make a written or oral statement for use
6 in preparation of the presentence report of a felony defendant;

7 (8) if the crime for which the defendant was convicted was
8 a felony or a domestic violence assault, the right to appear person-
9 ally at the defendant's sentencing hearing to present a written or
10 oral statement; and

11 (9) the right to be informed by the prosecuting attorney,
12 at any time after the defendant's conviction, about the complete
13 record of the defendant's convictions.

14 (b) Law [VICTIMS' EMPLOYERS, LAW] enforcement agencies, prosecu-
15 tors, and the courts shall make every reasonable effort to ensure that
16 victims of crimes have the rights set out in (a) of this section.
17 However, a failure to ensure these rights does not give rise to a
18 separate cause of action against [VICTIMS' EMPLOYERS,] law enforcement
19 agencies, other agencies of the state, or a political subdivision of
20 the state.

21 * Sec. 9. AS 12.61 is amended by adding new sections to read:

22 Sec. 12.61.015. DUTIES OF PROSECUTING ATTORNEY. (a) If a
23 victim of a felony or a domestic violence assault requests, the pros-
24 ecuting attorney shall make a reasonable effort to

25 (1) confer with the person against whom the offense has
26 been perpetrated about that person's testimony before the defendant's
27 trial;

28 (2) in a manner reasonably calculated to give prompt actual
29 notice, notify the victim

1 (A) of the defendant's conviction and the crimes of
2 which the defendant was convicted;

3 (B) of the victim's right in a case that is a felony
4 to make a written or oral statement for use in preparation of the
5 defendant's presentence report, and to appear personally at the
6 defendant's sentencing hearing to present a written or oral
7 statement;

8 (C) of the address and telephone number of the office
9 that will prepare the presentence report; and

10 (D) of the time and place of the sentencing proceed-
11 ing;

12 (3) notify the victim in writing of the final disposition
13 of the case within 30 days after final disposition of the case.

14 (b) The notice given under (a)(2) of this section must inform
15 the victim that the statement of the victim may contain any relevant
16 information including

17 (1) an explanation of the nature and extent of physical,
18 psychological, or emotional harm or trauma suffered by the victim;

19 (2) an explanation of the extent of economic loss or prop-
20 erty damage suffered by the victim;

21 (3) an opinion of the need for and extent of restitution
22 and whether the victim has applied for or received compensation for
23 loss or damage; and

24 (4) the recommendation of the victim for an appropriate
25 sentence.

26 (c) The state and the prosecuting attorney may not be held
27 liable in damages for any failure to comply with the requirements of
28 this section.

29 Sec. 12.61.017. INTERFERENCE BY VICTIM'S EMPLOYER. (a) An

1 employer may not penalize or threaten to penalize a victim because the
2 victim is subpoenaed or requested by the prosecuting attorney to
3 attend a court proceeding for the purpose of giving testimony. In
4 this section, "penalize" means to take action affecting the employment
5 status, wages, and benefits payable to the victim, including:

- 6 (1) demotion or suspension;
7 (2) dismissal from employment; and
8 (3) loss of pay or benefits, except pay and benefits that
9 are directly attributable to the victim's absence from employment to
10 attend the court proceeding.

11 (b) A person who violates (a) of this section is guilty of a
12 violation.

13 (c) A victim who suffers a pecuniary loss as a result of an
14 employer's act prohibited by this section may bring a civil action to
15 recover actual damages and punitive damages of three times the actual
16 damages sustained.

17 * Sec. 10. AS 12.61 is amended by adding a new section to read:

18 Sec. 12.61.030. DESIGNATION OF REPRESENTATIVE. If more than one
19 person who qualifies as a victim under AS 12.55.185 makes a request
20 under this chapter, the prosecuting attorney shall designate one
21 person for purposes of receiving the notice required and exercising
22 the rights granted under this chapter.

23 * Sec. 11. AS 12.61 is amended by adding a new section to read:

24 Sec. 12.61.900. DEFINITIONS. In this chapter

25 (1) "domestic violence assault" means an assault under
26 AS 11.41.200 - 11.41.230 or 11.41.410 - 11.41.425 constituting a
27 domestic violence offense under AS 25.35.060;

28 (2) "victim" has the meaning given in AS 12.55.185.

29 * Sec. 12. AS 33.16.120(a) is repealed and reenacted to read:

1 (a) If the victim of a crime against a person or arson in the
2 first degree requests notice of a scheduled hearing to review or con-
3 sider discretionary parole for a prisoner convicted of that crime, the
4 board shall send notice of the hearing to the victim at least 30 days
5 before the hearing. The notice must be accompanied by a copy of the
6 prisoner's application for parole submitted under AS 33.16.130(a).
7 However, the copy of the application sent to the victim may not
8 include the prisoner's proposed residence and employment addresses.

9 * Sec. 13. AS 33.16.120(b) is repealed and reenacted to read:

10 (b) A victim who requests notice under this section shall main-
11 tain a current, valid mailing address on file with the board. The
12 board shall send the notice required by this section to the last known
13 address of the victim. The victim's address may not be disclosed to
14 the prisoner or the prisoner's attorney.

15 * Sec. 14. AS 33.16.120(c) is amended to read:

16 (c) The victim has a right to attend meetings of the parole
17 board in which the status of the prisoner convicted of the crime
18 against that victim is officially considered and to comment, in writ-
19 ing or in person, on the proposed action of the board. Copies of any
20 written [THE] comments shall be provided to the prisoner and the
21 prisoner's attorney before action by the board.

22 * Sec. 15. AS 33.16.120(e) is repealed and reenacted to read:

23 (e) If the victim requests, the board shall make every reason-
24 able effort to notify the victim as soon as practicable in writing of
25 its decision to grant or deny discretionary parole or to release the
26 prisoner under AS 33.16.010(c). The notice under this subsection must
27 include the expected date of the prisoner's release, the geographic
28 area in which the prisoner is required to reside, and other pertinent
29 information concerning the prisoner's conditions of parole that may

1 affect the victim.

2 * Sec. 16. AS 33.16.150(b) is amended to read:

3 (b) The board may require as a condition of discretionary or
4 mandatory parole that a prisoner released on parole

5 (1) meet family obligations;

6 (2) pursue employment, education, counseling, or training;

7 (3) remain within stated geographic limits unless written
8 permission to depart from the stated limits is granted the parolee;

9 (4) report upon release to the parole officer assigned to
10 the parolee;

11 (5) report as required to the parole officer assigned to
12 the parolee;

13 (6) reside at a stated place and notify the board of any
14 change in place of residence;

15 (7) not possess or control firearms or other dangerous
16 weapons;

17 (8) refrain from possessing or consuming alcoholic beverages;
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19 (9) submit to reasonable searches and seizures by a parole
20 officer, or a peace officer acting under the direction of a parole
21 officer;

22 (10) submit to appropriate medical, mental health, or controlled
23 substance or alcohol examination, treatment, or counseling;

24 (11) submit to periodic examinations designed to detect the
25 use of alcohol or controlled substances;

26 (12) make restitution ordered by the court [TO A VICTIM OF
27 THE PRISONER'S CRIME,] according to a schedule established by the
28 board;

29 (13) refrain from opening, maintaining, or using a checking

1 account or charge account;

2 (14) refrain from entering into a contract other than a
3 prenuptial contract or a marriage contract;

4 (15) refrain from operating a motor vehicle;

5 (16) refrain from entering an establishment where alcoholic
6 beverages are served, sold, or otherwise dispensed;

7 (17) refrain from participating in any other activity or
8 associating with any other person that the board determines is rea-
9 sonably likely to diminish the rehabilitative goals of parole, or that
10 may endanger the public.

11 * Sec. 17. AS 33.16 is amended by adding a new section to read:

12 Sec. 33.16.260. DESIGNATION OF REPRESENTATIVE. If more than one
13 person who qualifies as a victim under AS 12.55.185 requests notice
14 under this chapter, the commissioner shall designate one person for
15 purposes of receiving the notice required and exercising the rights
16 granted by this chapter.

17 * Sec. 18. AS 33.20.080 is amended to read:

18 Sec. 33.20.080. BOARD OF PAROLE TO INVESTIGATE APPLICATIONS FOR
19 EXECUTIVE CLEMENCY. The governor may refer applications for executive
20 clemency to the board of parole. The board shall investigate each
21 case and submit to the governor a report of the investigation, to-
22 gether with all other information the board has regarding the appli-
23 cant. When the report or investigation is submitted, the board shall
24 also transmit to the governor the comments it has received under (b)
25 of this section.

26 * Sec. 19. AS 33.20.080 is amended by adding new subsections to read:

27 (b) If requested by the victim of a crime against a person or
28 arson in the first degree, the board shall send notice of an applica-
29 tion for executive clemency submitted by the state prisoner who was

1 convicted of that crime. The victim may comment in writing to the
2 board on the application for executive clemency.

3 (c) If the victim desires notice under (b) of this section, the
4 victim shall maintain a current, valid mailing address on file with
5 the board. The board shall send the notice required under this sec-
6 tion to the victim's last known address. The victim's address may not
7 be disclosed to the applicant for executive clemency or the appli-
8 cant's attorney.

9 (d) In this section,

10 (1) "crime against a person" has the meaning given in
11 AS 33.30.901;

12 (2) "victim" has the meaning given in AS 12.55.185.

13 * Sec. 20. AS 33.30 is amended by adding a new section to read:

14 Sec. 33.30.013. COMMISSIONER TO NOTIFY VICTIMS. (a) The com-
15 missioner shall notify the victim if the offender

16 (1) escapes from custody;

17 (2) is released to the community on a furlough; or

18 (3) is released on an early release program.

19 (b) The commissioner is required to give notice of a change in
20 the status of an offender under this section only if the victim has
21 requested notice of the change.

22 (c) A victim who has requested notice under (b) of this section
23 shall maintain a current, valid mailing address on file with the
24 commissioner. The commissioner shall send the notice from the depart-
25 ment required by this section to the victim's last known address. The
26 victim's address may not be disclosed to the offender or the offend-
27 er's attorney.

28 (d) The state may not be held liable in damages for the failure
29 of the commissioner to comply with the requirements of this section.

1 * Sec. 21. AS 33.30.111(f) is repealed and reenacted to read:

2 (f) If the commissioner considers a prisoner convicted of a
3 crime against a person or arson in the first degree for a prerelease
4 furlough and the victim has requested notice under AS 33.30.013, the
5 commissioner shall send notice of intent to consider the prisoner for
6 a prerelease furlough to the victim. The victim may comment in writ-
7 ing on the commissioner's intent to release the prisoner on prerelease
8 furlough status. The commissioner shall consider the victim's com-
9 ments before making a final decision to release a prisoner on a pre-
10 release furlough. The commissioner shall make a reasonable effort to
11 notify the victim of an intent to release the prisoner on a prerelease
12 furlough. The notice must contain the expected date of the prisoner's
13 release, the geographic area in which the prisoner will reside, and
14 other pertinent information concerning the prisoner's release that may
15 affect the victim.

16 * Sec. 22. AS 33.30 is amended by adding a new section to read:

17 Sec. 33.30.292. DESIGNATION OF REPRESENTATIVE. If more than one
18 person who qualifies as a victim under AS 12.55.185 requests notice
19 under this chapter, the commissioner shall designate one person for
20 purposes of receiving the notice required and of exercising the rights
21 granted by this chapter.

22 * Sec. 23. AS 33.30.901(6) is amended to read:

23 (6) "crime against a person" means a crime as set out in
24 AS 11.41, [EXCEPT CUSTODIAL INTERFERENCE UNDER AS 11.41.320 AND 11.-
25 41.330;] or a crime against a person in this or another jurisdiction
26 having elements substantially identical to those of a crime as set out
27 in AS 11.41 [, EXCEPT CUSTODIAL INTERFERENCE UNDER AS 11.41.320 AND
28 11.41.330];

29 * Sec. 24. AS 47.10 is amended by adding a new section to read:

1 Sec. 47.10.072. ACCESS TO HEARING BY VICTIM. (a) If a crime
2 was committed by a minor who is scheduled for a hearing under AS 47.-
3 10.070, the victim may request from the court permission to attend the
4 hearing. If the victim requests, the department shall provide techni-
5 cal assistance to the victim in preparing a written submission to the
6 court requesting access to the hearing. The department shall make
7 reasonable efforts to inform victims of the availability of this
8 assistance.

9 (b) If more than one person who qualifies as a victim under
10 AS 12.55.185 makes a request, the commissioner of health and social
11 services shall designate one person for purposes of receiving the
12 notice and exercising the rights granted by this section.

13 (c) In this section, "victim" has the meaning given in AS 12.-
14 55.185.

15 * Sec. 25. AS 12.61.020(e)(2) is repealed.

16 * Sec. 26. Rule 32(d)(1), Alaska Rules of Criminal Procedure, is amend-
17 ed to read:

18 (1) WHEN MADE. The probation service shall make a presen-
19 tence investigation and report before the court imposes sentence or
20 grants probation. The presentence investigation and report shall be
21 completed and made available to the court. The report shall not be
22 disclosed to any one except counsel unless the defendant has tendered
23 a plea of guilty or nolo contendere or has been found guilty. If the
24 crime for which the person is to be sentenced is a felony, the con-
25 tents shall be disclosed to counsel for the parties before the time of
26 the hearing on the aggravator and mitigator factors and sentencing.
27 The court may utilize the report in determining if a bargained sen-
28 tence recommendation will be followed pursuant to Rule 11. In the
29 event the attorneys for the parties request the preparation of a

1 presentence report to aid them in plea bargaining the court may order
2 such report to be made prior to the time stated in this rule.

3 * Sec. 27. Rule 32, Alaska Rules of Criminal Procedure, is amended by
4 adding new paragraphs to read:

5 (g) WRITTEN STATEMENT SUBMITTED BY VICTIM OR VICTIM'S REPRESENTATIVE. If a written statement is prepared and submitted by the
6 victim of a felony offense or a domestic violence assault under AS 12.
7 55.023, the trial court

8 (1) shall take the content of the written statement into
9 consideration

10 (A) when preparing those elements of the sentencing
11 report required by AS 12.55.025 that relate to the effect of the
12 offense on the victim;

13 (B) when considering the need for restitution under
14 AS 12.55.045; and

15 (2) may take the content of the written statement into
16 consideration in any other circumstance that the court believes neces-
17 sary.

18 (h) In (g) of this rule,

19 (1) "domestic violence assault" has the meaning given in
20 AS 12.61.900;

21 (2) "victim" has the meaning given in AS 12.55.185.

22 * Sec. 28. Rule 35, Alaska Rules of Criminal Procedure, is amended by
23 adding new paragraphs to read:

24 (c) The victim may comment on motions made under this rule as
25 follows:

26 (1) When an individual convicted of a crime against a
27 person or arson in the first degree files a motion to modify or reduce
28 a sentence, the court shall, if feasible, send a copy of the motion to
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1 the Department of Corrections sufficiently in advance of any scheduled
2 hearing or briefing deadline to enable the department to notify the
3 victim, as directed by AS 12.55.088(e).

4 (2) The court shall provide copies of the victim's comments
5 to the prosecuting attorney and to the person filing the motion to
6 reduce or modify a sentence, or the person's attorney.

7 (3) The court shall consider the comments of the victim
8 when relevant, and any response offered by the prosecuting attorney or
9 the person filing the motion, in deciding whether to reduce or modify
10 a sentence.

11 (4) If more than one person who qualifies as a victim under
12 paragraph (d)(2) of this rule requests the opportunity to exercise
13 rights under this paragraph, the court shall allow the person des-
14 ignated under AS 12.55.172 to exercise those rights, or if a person
15 has not been designated under AS 12.55.172, the court shall designate
16 one person for purposes of exercising rights under this paragraph.

17 (d) In this rule,

18 (1) "crime against a person" has the meaning given in
19 AS 33.30.901;

20 (2) "victim" has the meaning given in AS 12.55.185.

21 * Sec. 29. APPLICABILITY. The provisions of this Act prescribing the
22 rights of a crime victim and of a crime victim's relative or survivor
23 during the course of criminal, civil, and administrative proceedings apply
24 to proceedings against defendants initiated on or after the effective date
25 of this Act.