

CS FOR HOUSE BILL NO. 341 (FINANCE)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 5/5/92
Referred: Rules

Sponsor(s): REPRESENTATIVE PARNELL

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to compensation through the Violent Crimes Compensation Board for loss
2 of certain motor vehicles in the custody of a law enforcement agency; and providing for
3 an effective date."

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

5 * Section 1. AS 12.36 is amended by adding a new section to read:

6 Sec. 12.36.070. NOTICE OF RIGHT OF COMPENSATION FOR LOSS OF MOTOR
7 VEHICLE. A law enforcement agency, within 10 days of seizing a motor vehicle, shall contact
8 the registered owner of the vehicle to advise the owner of the right to obtain compensation for
9 temporary or permanent loss of a motor vehicle under AS 18.67.080.

10 * Sec. 2. AS 18.67.010 is amended to read:

11 Sec. 18.67.010. PURPOSE. It is the purpose of this chapter to facilitate and permit the
12 payment of compensation to innocent persons who are injured [,] or whose motor vehicles are
13 seized by law enforcement agencies, to dependents of persons killed, and to certain other
14 persons who by virtue of their relationship to the victim of a crime incur actual and reasonable

1 expense as a result of certain serious crimes or in attempts to prevent the commission of crime
2 or to apprehend suspected criminals.

3 * Sec. 3. AS 18.67.030(b) is amended to read:

4 (b) In order to be eligible for compensation under this chapter, the applicant shall, before
5 a hearing on an application under this chapter, submit reports, if reasonably available, from all
6 physicians or surgeons who have treated or examined the victim in relation to an [THE] injury
7 for which compensation is claimed at the time of or subsequent to the victim's injury or death.
8 If, in the opinion of the board, reports on the previous medical history of the victim, a report on
9 the examination of the injured victim, [OR] a report on the cause of death of the victim by an
10 impartial medical expert, or a report on the condition of an applicant's motor vehicle seized
11 by a law enforcement agency in connection with investigation or prosecution of a criminal
12 offense would be of material aid to its determination, the board shall order the reports or [AND]
13 examination.

14 * Sec. 4. AS 18.67.070 is amended to read:

15 Sec. 18.67.070. STANDARDS FOR COMPENSATION. For the purpose of determining
16 the amount of compensation payable under this chapter, the board shall, insofar as practicable,
17 formulate standards for uniform application of this chapter and take into consideration rates and
18 amounts of compensation payable for injuries, [AND] death, and deprivation and loss of motor
19 vehicles under other laws of the state and of the United States and the availability of funds
20 appropriated for the purposes of this chapter. The board shall determine the amount of
21 compensation payable under this chapter for temporary or permanent loss of a motor
22 vehicle by ascertaining, based on standard publications used in the retail motor vehicle
23 business, the value of the vehicle at the time it is seized and the vehicle's expected useful
24 life, in months. The value of the vehicle divided by the expected life yields the monthly
25 compensation owed.

26 * Sec. 5. AS 18.67.080(a) is amended to read:

27 (a) In a case in which a person is injured or killed by an incident specified in
28 AS 18.67.101(a)(1) [AS 18.67.101(1),] or by the act of any other person that is within the
29 description of offenses listed in AS 18.67.101(a)(2), or suffers temporary or permanent loss
30 of a motor vehicle in an incident specified in AS 18.67.101(b) [AS 18.67.101(2)], the board
31 may order the payment of compensation in accordance with the provisions of this chapter:

1 (1) to or for the benefit of the [INJURED] person suffering injury or temporary
2 or permanent loss of a motor vehicle;

3 (2) in the case of personal injury or death of the victim, to a person responsible
4 or who had been responsible for the maintenance of the victim who has suffered pecuniary loss
5 or incurred expenses as a result of the injury or death;

6 (3) in the case of death of the victim, to or for the benefit of one or more of the
7 dependents of the victim; or

8 (4) to the provider of a service under AS 18.67.110(b).

9 * Sec. 6. AS 18.67.080(c) is amended to read:

10 (c) In determining whether to make an order under this section, the board shall consider
11 all circumstances determined to be relevant, including provocation, consent, or any other behavior
12 of the victim that directly or indirectly contributed to the victim's injury, [OR] death, or
13 temporary or permanent loss of a motor vehicle; the prior case or social history, if any, of the
14 victim; [,] the victim's need for financial aid; [,] and any other relevant matters.

15 * Sec. 7. AS 18.67.080(d) is amended to read:

16 (d) An order may be made under this section whether or not a person is prosecuted or
17 convicted of an offense arising out of the act that caused the injury, [OR] death, or temporary
18 or permanent loss of a motor vehicle involved in the application. Upon application made by
19 an appropriate prosecuting authority, the board may suspend proceedings under this chapter for
20 a period it considers appropriate on the ground that a prosecution for an offense arising out of
21 the act that caused the injury, [OR] death, or temporary or permanent loss of a motor vehicle
22 involved in the application has been commenced or is imminent.

23 * Sec. 8. AS 18.67.090(a) is amended to read:

24 (a) Up to the maximum set in AS 18.67.130(c), the board may award compensation for
25 losses and expenses allowable under AS 18.67.110 for which the applicant is not compensated
26 by the offender or a person on behalf of the offender, or by the United States, a state, or any of
27 its subdivisions or agencies, or a private source or emergency awards under AS 18.67.120, for
28 injury, [OR] death, or temporary or permanent loss of a motor vehicle compensable under this
29 chapter.

30 * Sec. 9. AS 18.67.101 is amended by adding a new subsection to read:

31 (b) The board may order the payment of compensation in accordance with the provisions

1 of this chapter to the owner of a motor vehicle for temporary or permanent loss of the motor
2 vehicle as a result of seizure of the motor vehicle by a law enforcement agency in connection
3 with investigation and prosecution of a criminal offense listed in (a)(2)(A) - (I) of this section.

4 * Sec. 10. AS 18.67.110(a) is amended to read:

- 5 (a) The board may order the payment of compensation under this chapter for
- 6 (1) expenses actually and reasonably incurred as a result of the victim's personal
7 injury, [OR] death, or temporary or permanent loss of a motor vehicle [OF THE VICTIM];
 - 8 (2) loss of earning power as a result of total or partial incapacity of the victim,
9 and reasonable expenses of job retraining of or similar employment-oriented rehabilitative
10 services for the victim;
 - 11 (3) pecuniary loss to the dependents of the deceased victim; and
 - 12 (4) any other loss resulting from the personal injury or death of the victim that
13 the board determines to be reasonable.

14 * Sec. 11. AS 18.67.110(b) is amended to read:

- 15 (b) The board may order that compensation under (a) of this section for a service
16 provided as a result of the victim's personal injury, [OR] death, or temporary or permanent
17 loss of a motor vehicle [OF THE VICTIM] be paid directly to the provider of the service.

18 * Sec. 12. AS 18.67 is amended by adding a new section to read:

19 Sec. 18.67.115. SPECIAL PROCEDURES FOR COMPENSATING LOSS OF A
20 MOTOR VEHICLE. If the board estimates that the total compensation to be paid for temporary
21 or permanent loss of a motor vehicle will be less than \$1,000, it shall order payment in a lump
22 sum. Otherwise, the board may order compensation by means of either lump sum or monthly
23 installment, with the first payment due no later than 30 days after the date of the order.

24 * Sec. 13. AS 18.67.130(a) is amended to read:

- 25 (a) An [NO] order for the payment of compensation may not be made under
26 AS 18.67.080 unless
- 27 (1) the application has been made within two years after the date of the personal
28 injury, [OR] death, or temporary or permanent loss of a motor vehicle;
 - 29 (2) in a claim for compensation for personal injury or death, the personal
30 injury or death was the result of an incident or offense listed in AS 18.67.101 that had been
31 reported to the police within five days of its occurrence or, if the incident or offense could not

1 reasonably have been reported within that period, within five days of the time when a report
2 could reasonably have been made; and

3 (3) in the discretion of the board, the applicant has cooperated with law
4 enforcement and prosecution officials to further prosecution of the offender if appropriate and,
5 in a claim for compensation for personal injury or death, to avoid further injury by the
6 offender to the applicant and injury to persons in the care of the applicant who are exposed to
7 possible injury by the offender.

8 * Sec. 14. AS 18.67.130(b) is amended to read:

9 (b) Compensation may not be awarded if the victim

10 (1) [REPEALED

11 (2) REPEALED

12 (3)] violated a penal law of the state, which violation caused or contributed to the
13 victim's injuries or death; or

14 (2) in a claim for compensation for personal injury, [(4)] is injured as a result
15 of the operation of a motor vehicle, boat, or airplane unless the vehicle was used by the offender
16 while intoxicated or as a weapon in deliberate attempt to injure or kill the victim.

17 * Sec. 15. AS 18.67.130(c) is amended to read:

18 (c) In a claim for compensation for personal injury or death, compensation
19 [COMPENSATION] may not be awarded under this chapter in an amount in excess of \$25,000
20 per victim per incident. However, in the case of the death of a victim who has more than one
21 dependent eligible for compensation, the total compensation that may be awarded as a result of
22 that death may not exceed \$40,000. The board may prorate the total awarded among those
23 dependents according to relative need.

24 * Sec. 16. AS 18.67.130 is amended by adding a new subsection to read:

25 (e) Compensation for temporary or permanent loss of a motor vehicle may not be ordered
26 under this chapter if

27 (1) the person making the claim for compensation is or could be charged with a
28 criminal offense in connection with which the motor vehicle was seized;

29 (2) the motor vehicle is subject by law to forfeiture; or

30 (3) the motor vehicle is returned undamaged to the owner, or to a person
31 designated by the owner, within seven calendar days of the date it was seized.

1 * **Sec. 17.** AS 18.67 is amended by adding a new section to read:

2 **Sec. 18.67.135. ACTION FOR INVERSE CONDEMNATION OR DAMAGE TO A**
3 **MOTOR VEHICLE.** This chapter does not preclude a person whose motor vehicle is seized by
4 a law enforcement agency from instituting an inverse condemnation action or action for damage
5 done to the vehicle while in the custody of the law enforcement agency.

6 * **Sec. 18.** AS 18.67.140 is amended to read:

7 **Sec. 18.67.140. RECOVERY FROM OFFENDER.** When an order for the payment of
8 compensation for personal injury, [OR] death, or temporary or permanent loss of a motor
9 vehicle is made under this chapter, the board, upon payment of the amount of the order, is
10 subrogated to the cause of action of the applicant against the person responsible for the injury,
11 [OR] death, or loss of the motor vehicle and is entitled to bring an action against the person for
12 the amount of the damages sustained by the applicant. If an amount greater than that paid under
13 the order is recovered and collected in the action, the board shall pay the balance to the applicant.

14 * **Sec. 19.** AS 18.67.180 is amended to read:

15 **Sec. 18.67.180. DEFINITIONS.** In this chapter

16 (1) "board" means the Violent Crimes Compensation Board;

17 (2) "dependent" means a relative of a deceased victim, who was dependent upon
18 the victim's income or services at the time of the victim's death; children of a victim born after
19 a victim's death are included;

20 (3) "motor vehicle" means a device upon which or by which a person or
21 property is or may be transported, and that is propelled by an engine;

22 (4) "personal injury" means actual bodily harm;

23 (5) [(4)] "relative" means spouse, parent, grandparent, stepparent, natural born
24 child, stepchild, adopted child, grandchild, brother, sister, half brother, half sister, or spouse's
25 parents;

26 (6) [(5)] "victim" means a person who is injured or killed by an incident or
27 offense specified in AS 18.67.101(a) or who suffers temporary or permanent loss of a motor
28 vehicle as specified in AS 18.67.101(b) [AS 18.67.101].

29 * **Sec. 20.** This Act takes effect July 1, 1992.