

H B

4 6 3

4/15/86

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99011
907-465-3800

1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Rules Committee, 4/15/86, 8:05 am

A M E N D M E N T

OFFERED IN THE HOUSE:

By: REP. GRUENBERG

To: CS HOUSE BILL No. 463 (RULES)

SENATE BILL No. _____

PAGE: _____

LINE: _____

Page 1, line 20 strike present language and insert

"(A) the spouse of the defendant, unless the court finds that a divorce is pending between the individuals, that a restraining order against further assaultive behavior has been issued, and that there will be no danger to the spouse if the crime is compromised;

"(B) the former spouse of the defendant;"

Renumber succeeding subsections.



Official Business

Alaska State Legislature

House of Representatives

Committee on Rules

Pouch V
Juneau, Alaska 99811

Phone:
(907) 465-3764
465-3765

HOUSE RULES STANDING COMMITTEE MEETING

TUESDAY, APRIL 15, 1986

8:30 A.M. - CAPITOL, ROOM 208

A G E N D A

HB 463 - "An Act relating to criminal trials and restitution."
(By Representative Thompson)

I N D E X

- I. PROPOSED VERSION CSHB 463 (RULES)
- II. LETTER DATED APRIL 14, 1986 FROM REPRESENTATIVE THOMPSON
- III. ORIGINAL VERSION HB 463
- IV. CSHB 463 (JUD)
- V. BILL HISTORY HB 463
- VI. Fiscal notes with analysis



Official Business

COMMITTEE:

4/15/86

DATE:

SIGN-IN

Subject of meeting:

HB 463

NAME	ADDRESS	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?



Original sponsors: Thompson, Jenkins,
Uehling, et al

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR HOUSE BILL NO. 463 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: *New Title* "An Act relating to the authority to compromise
7 certain misdemeanors and to the payment of restitu-
8 tion."

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

10 * Section 1. AS 12.45.120 is amended to read:

11 Sec. 12.45.120. AUTHORITY TO COMPROMISE MISDEMEANORS FOR WHICH
12 VICTIM HAS CIVIL ACTION. When a defendant is held to answer on a
13 charge of misdemeanor for which the person injured by the act consti-
14 tuting the crime has a remedy by a civil action, the crime may be
15 compromised except when it was committed

16 (1) by or upon a peace officer, judge, or magistrate while
17 in the execution of the duties of that office;

18 (2) riotously;

19 (3) with an intent to commit a felony;

20 (4) larcenously;

21 (5) by assault against

22 (A) a spouse or a former spouse of the defendant;

23 (B) a parent, grandparent, child, or grandchild of the
24 defendant;

25 (C) a member of the social unit comprised of those
26 living together in the same dwelling as the defendant; or

27 (D) a person who is not a spouse or former spouse of
28 the defendant but who previously lived in a spousal relationship
29 with the defendant.

1 * Sec. 2. AS 12.55.045(a) is amended to read:

2 (a) The court may order a defendant convicted of an offense to
3 make restitution as provided in this section, including restitution to
4 a public or private nonprofit organization that has provided counsel-
5 ing, medical, or shelter services to the victim, or as otherwise au-
6 thorized by law. ^{added:} ~~Before an order of restitution is entered~~ ^{upon request,} ~~the defen-~~
7 ~~dant may have an opportunity to establish, by a preponderance of the~~
8 ~~evidence, the inability to pay restitution during the term of the~~
9 ~~sentence~~ [IN DETERMINING THE AMOUNT AND METHOD OF PAYMENT OF RESTITU-
10 TION, THE COURT SHALL TAKE INTO ACCOUNT THE FINANCIAL RESOURCES OF THE
11 DEFENDANT AND THE NATURE OF THE BURDEN ITS PAYMENT WILL IMPOSE].

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

13 (a) If the defendant defaults in the payment of a fine or any
14 installment or of restitution or any installment, the court may order
15 the defendant to show cause why the defendant should not be sentenced
16 to imprisonment for nonpayment. If the defendant fails to establish
17 [COURT FINDS] by a preponderance of the evidence that the defendant
18 did not intentionally refuse or fail [DEFAULT WAS ATTRIBUTABLE TO AN
19 INTENTIONAL REFUSAL OR FAILURE] to make a good faith effort to pay the
20 fine or restitution, the court may order the defendant imprisoned
21 until the order of the court is satisfied. A term of imprisonment
22 imposed under this section may not exceed one day for each \$50 of the
23 unpaid portion of the fine or restitution or one year, whichever is
24 shorter. Credit shall be given toward satisfaction of the order of
25 the court for every day a person is incarcerated for nonpayment of a
26 fine or restitution.

I

Original sponsors: Thompson, Jenkins,
Uehling, et al

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR HOUSE BILL NO. 463 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

New Title

6 For an Act entitled: "An Act relating to the authority to compromise
7 certain misdemeanors and to the payment of restitu-
8 tion."

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

10 * Section 1. AS 12.45.120 is amended to read:

11 Sec. 12.45.120. AUTHORITY TO COMPROMISE MISDEMEANORS FOR WHICH
12 VICTIM HAS CIVIL ACTION. When a defendant is held to answer on a
13 charge of misdemeanor for which the person injured by the act consti-
14 tuting the crime has a remedy by a civil action, the crime may be
15 compromised except when it was committed

16 (1) by or upon a peace officer, judge, or magistrate while
17 in the execution of the duties of that office;

18 (2) riotously;

19 (3) with an intent to commit a felony;

20 (4) larcenously;

21 (5) by assault against

22 (A) a spouse or a former spouse of the defendant;

23 (B) a parent, grandparent, child, or grandchild of the
24 defendant;

25 (C) a member of the social unit comprised of those
26 living together in the same dwelling as the defendant; or

27 (D) a person who is not a spouse or former spouse of
28 the defendant but who previously lived in a spousal relationship
29 with the defendant.

1 * Sec. 2. AS 12.55.045(a) is amended to read:

2 (a) The court may order a defendant convicted of an offense to
3 make restitution as provided in this section, including restitution to
4 a public or private nonprofit organization that has provided counsel-
5 ing, medical, or shelter services to the victim, or as otherwise au-
6 thorized by law. Before an order of restitution is entered the defen-
7 dant may have an opportunity to establish, by a preponderance of the
8 evidence, the inability to pay restitution during the term of the
9 sentence [IN DETERMINING THE AMOUNT AND METHOD OF PAYMENT OF RESTITU-
10 TION, THE COURT SHALL TAKE INTO ACCOUNT THE FINANCIAL RESOURCES OF THE
11 DEFENDANT AND THE NATURE OF THE BURDEN ITS PAYMENT WILL IMPOSE].

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

13 (a) If the defendant defaults in the payment of a fine or any
14 installment or of restitution or any installment, the court may order
15 the defendant to show cause why the defendant should not be sentenced
16 to imprisonment for nonpayment. If the defendant fails to establish
17 [COURT FINDS] by a preponderance of the evidence that the defendant
18 did not intentionally refuse or fail [DEFAULT WAS ATTRIBUTABLE TO AN
19 INTENTIONAL REFUSAL OR FAILURE] to make a good faith effort to pay the
20 fine or restitution, the court may order the defendant imprisoned
21 until the order of the court is satisfied. A term of imprisonment
22 imposed under this section may not exceed one day for each \$50 of the
23 unpaid portion of the fine or restitution or one year, whichever is
24 shorter. Credit shall be given toward satisfaction of the order of
25 the court for every day a person is incarcerated for nonpayment of a
26 fine or restitution.

Representative M. W. Miller
Chairman, House Rules Committee

April 14, 1986

465-3678

Representative David Thompson *DWT*

Compromise language
for HB 463

The new language contained in Section 2 of the proposed Rules Committee Substitute for HB 463 is a compromise structured to take care of concerns expressed by Representative Clocksin while retaining my intent in the original version.

As originally drafted, Section 2 was intended to eliminate the requirements that a court first determine an offender's earning capacity and then find the offender has the ability to pay before ordering restitution. Representative Clocksin raised a legitimate concern for indigent offenders who would be unable to pay restitution. This language permits an offender to raise the issue at sentencing and to show the inability to pay, while retaining my intent of creating a presumption in favor of the ability to pay restitution.

I wholeheartedly support this version of my bill and urge favorable action by your committee on it.

BILL HB0463
PAGE 01781
DATE 01/13/86
CHAMBER HOUSE
TEXT HOUSE BILL NO. 463 by Thompson, entitled:
"An Act relating to criminal trials and
restitution."
was read the first time and referred to the Judiciary and
Finance Committees.

BILL HB0463
PAGE 01791
DATE 01/14/86
CHAMBER HOUSE
TEXT Representative Jenkins added his name as co-sponsor to HOUSE
BILL NO. 463 (relating to criminal trials and restitution).

BILL HB0463
PAGE 01801
DATE 01/15/86
CHAMBER HOUSE
TEXT Representatives Taylor and Uehling added their names as
co-sponsors to HOUSE BILL NO. 463 (relating to criminal
trials and restitution).

BILL HB0463
PAGE 01809
DATE 01/16/86
CHAMBER HOUSE
TEXT Representative Goll added his name as co-sponsor to HOUSE
BILL NO. 463 (relating to criminal trials and restitution).

BILL HB0463
PAGE 01834
DATE 01/20/86
CHAMBER HOUSE
TEXT Representative Wallis added her name as co-sponsor to HOUSE
BILL NO. 463 (relating to criminal trials and restitution).

BILL HB0463
PAGE 01908
DATE 01/27/86
CHAMBER HOUSE
TEXT Representative Davis added his name as co-sponsor to HOUSE
BILL NO. 463 (relating to criminal trials and restitution).

BILL HB0463
 PAGE 02438
 DATE 03/21/86
 CHAMBER HOUSE
 TEXT The Judiciary Committee has considered HOUSE BILL NO. 463 (relating to criminal trials and restitution), recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 463 (Judiciary):

"An Act relating to the authority to compromise certain misdemeanors and to the payment of restitution."

and reports it back as follows: M.M. Miller (Chairman) and Clocksin recommend do pass; Taylor recommends do not pass; Sund, Gruenberg, Pettyjohn and Phillips have no recommendation. A zero fiscal note was attached.

A zero fiscal note with analysis appears in House Journal Supplement No. 100.

HB 463 was referred to the Finance Committee.

BILL HB0463
 PAGE 02568
 DATE 04/04/86
 CHAMBER HOUSE
 TEXT The Finance Committee has considered HOUSE BILL NO. 463 (relating to criminal trials and restitution) and reports it back as follows: Adams (Chairman), Ringstad, Szymanski, Duncan, Larson, Uehling, Rieger, Frank, Binkley and Cotten recommend do pass; Pourchot has no recommendation. HB 463 was referred to the Rules Committee for placement on the calendar.

Misdemeanor Crimes (assault) HOUSE BILL NO. 463, by Rep. Thompson. Amends AS 12.45.120 (Authority to compromise misdemeanors for which victim has civil action) to provide that when a defendant is held to answer on a misdemeanor charge for which the person injured by the act constituting the crime has a remedy by a civil action, the crime may be compromised except when it was committed by assault against the spouse or former spouse; a parent, grandparent, child or grandchild; or a member of the social unit comprised of those living in the same dwelling as the defendant.

Also provides that a defendant accused of a crime may be ordered by a court to make restitution to a public or private non-profit organization that has provided services to the defendant.

Introduced Jan. 13, and referred to the Judiciary and Finance Committees.

Misdemeanor Crimes HOUSE BILL NO. 463, (see page 27). On January 20 Rep. Wallis added her name as co-sponsor.

Misdemeanor
Crimes
(assault) HOUSE BILL 463, see pages 27,76. 1986 Report. On /27/86
Rep. Davis added his name as co-sponsor.

Misdemeanor
Crimes
(assault) HOUSE BILL NO. 463, (see pages 27, 76 and 128). Reported
back to the House by Judiciary March 21 with a committee
substitute and individual recommendations. M.M. Miller
(chair) and Clocksin recommended do pass; Sund, Gruenberg, Phillips
and Pettyjohn had no recommendation. Taylor recommended do not
pass. To Finance.

The substitute bill rewrites the title and adds new language saying
that a criminal misdemeanor may not be compromised when it was
committed by assault against the spouse of the defendant unless the
court finds that a divorce is pending between the individuals and a
restraining order has been issued against further assaultive
behavior. It would also restore language in existing law saying
that the court shall take into account the financial resources of
the defendant and the nature of the burden its payment will impose
in determining the amount and method of payment and restitution.

Misdemeanor
Crimes
(assault) HOUSE BILL NO. 463, (see pages 27;76;128;368). Reported
back to the House April 4, 1986 with by Finance with a do
pass recommendation. Concurring were Adams (chair), Ringstad,
Szymanski, Duncan, Larson, Uehling, Rieger, Frank, Binkley and
Cotten. Not concurring was Pourchot who had no recommendation. To
Rules.

HB 463 (page 1 of 2)

HB 463 (page 2 of 2)

Revision Date: _____

REQUEST

Bill Resolution No.: HB 463
 Title: "An Act relating to criminal trials and restitution."
 Sponsor: Repr. Thompson
 Requestor: Repr. Thompson
 Date of Request: February 7, 1986

FISCAL DETAIL

Agency Affected: Department of Law
 BRU: Prosecution
 Components: _____

For Bill/Resolution No. HB 463

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
REVENUE						

FUNDING : (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME		-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

- Please see attached analysis. -

Prepared by: Richard I. Pevrus Phone: 465-3672
 Division: Administrative Services Division Date: 2/12/86
 Approved by Commissioner: Richard J. Brown Date: 2/12/86
 Agency: Department of Law

This bill expands the exceptions to the authority to compromise misdemeanors for which a victim has a civil action, under AS 12.45.120, to except certain family members and certain others having a past or present living relationship with a defendant. The bill also provides that a court may order restitution to a public or nonprofit organization that has provided counseling, medical or shelter services to the victim. Neither of these new provisions will have a fiscal impact on the Department of Law.

HB 463 (page 1 of 2)

HB 463 (page 2 of 2)

Revision Date: _____

REQUEST
 Bill/Resolution No.: HB 463
 Title: "An Act relating to criminal trials and restitution."
 Sponsor: Repr. Thompson
 Requirer: Repr. Thompson
 Date of Request: February 7, 1986

FISCAL DETAIL
 Agency Affected: Department of Law
 BRU: Prosecution
 Components: _____

For Bill/Resolution No. HB 463

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
REVENUE						

FUNDING : (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME		-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

-Please see attached analysis.-

Prepared by: Richard J. Perula Phone: 465-3672
 Division: Administrative Services Division Date: 2/12/86
 Approved by Commissioner: Richard J. Brown Date: 2/12/86
 Agency: Department of Law
 Approved by: Harold B. Brown, Attorney General

This bill expands the exceptions to the authority to compromise misdemeanors for which a victim has a civil action, under AS 12.45.120, to except certain family members and certain others having a past or present living relationship with a defendant. The bill also provides that a court may order restitution to a public or nonprofit organization that has provided counseling, medical or shelter services to the victim. Neither of these new provisions will have a fiscal impact on the Department of Law.

VI

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : HB463

Title : "An Act Relating to Criminal Trials and Restitution"

Sponsor : Rep. David Thompson

Requestor : HOUSE JUDICIARY

Date of Request : _____

FISCAL DETAIL

Agency Affected : Public Safety

BRU : Council on Domestic Violence and Sexual Assault

Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

K.M.

Prepared by : Barbara Miklos, Exec. Dir.

Division : Council on DV and SA

Phone : 465-4356

Date : 1/31/86

Approved by Commissioner : *[Signature]*

Agency : Dept. of Public Safety

Date : 2/3/86

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST *10/10/85*
 Bill/Resolution No.: HR 463
 Title: "An Act relating to criminal trials and restitution."
 Sponsor: Repr. Thompson
 Requestor: Repr. Thompson
 Date of Request: February 7, 1986

FISCAL DETAIL
 Agency Affected: Department of Law
 BRU: Prosecution
 Components: _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME		-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

-Please see attached analysis.-

Prepared by: Richard I. Pegues Phone: 465-3672
 Division: Administrative Services Division Date: 2/12/85
 Approved by Commissioner: Richard I. Pegues (for) Date: 2/12/86
 Agency: Department of Law

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 463 #2

Page 2 of 2

This bill expands the exceptions to the authority to compromise misdemeanors for which a victim has a civil action, under AS 12.45.120, to except certain family members and certain others having a past or present living relationship with a defendant. The bill also provides that a court may order restitution to a public or nonprofit organization that has provided counseling, medical or shelter services to the victim. Neither of these new provisions will have a fiscal impact on the Department of Law.

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - HB 463

January 31, 1986

Support

HB 463 - "An Act relating to criminal trials and restitution."

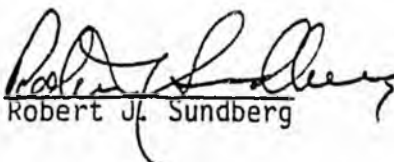
The Council on Domestic Violence and Sexual Assault supports HB 463. Following are comments about the bill.

Section I. Adds domestic violence to the list of exceptions to remedy by a civil compromise.

Many battered women do not have the money to obtain legal counsel to protect their rights under Alaska statute. They may be unknowingly led to believe that a civil compromise is the answer to "the problem" by a perpetrator's attorney. The victim believes that this is the appropriate course of action because a lawyer says so. Civil compromise gives the batterer the message that it is acceptable to use violence to solve problems with anger and frustration, because there are no long term consequences. Domestic violence cases should not be compromised in this manner.

Section II. Allows providing restitution to an organization that has provided counseling, medical or shelter services to a victim of an offense.

Since many agencies that provide services to victims have inadequate funding, additional financial support is needed. It is difficult to determine if this provision will engender much money for domestic violence programs because its use may not be appropriate in most cases. Domestic violence programs cannot reveal clients' identities without the express permission of the victim and guarantee for the victim's safety. However, there may be instances where this could be accomplished and the batterer should be held accountable to the victim and pay for harm done to her as well as services received.


Robert J. Sundberg

HOUSE
COMMITTEE REPORT

(7)

Date referred: 4/14/86

(Returned from Cal. 4/14)

FURTHER REFERRALS:

DATE: 4-15-86

The RULES Committee has considered HB 463

"An Act relating to criminal trials and restitution."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with _____ same title
- new title

and recommends _____

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - new fiscal note
 - zero fiscal note

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

M.W. Miller

Kay Welles

Ben S. ...

Larry ...

John Fuller ...

M.W. Miller
Chairman

Original sponsors: Thompson, Jenkins,
Uehling, et al

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR HOUSE BILL NO. 463 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 *New Title* A BILL
6 For an Act entitled: "An Act relating to the authority to compromise
7 certain misdemeanors and to the payment of restitu-
8 tion."

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

10 * Section 1. AS 12.45.120 is amended to read:

11 Sec. 12.45.120. AUTHORITY TO COMPROMISE MISDEMEANORS FOR WHICH
12 VICTIM HAS CIVIL ACTION. When a defendant is held to answer on a
13 charge of misdemeanor for which the person injured by the act consti-
14 tuting the crime has a remedy by a civil action, the crime may be
15 compromised except when it was committed

16 (1) by or upon a peace officer, judge, or magistrate while
17 in the execution of the duties of that office;

18 (2) riotously;

19 (3) with an intent to commit a felony;

20 (4) larcenously;

21 (5) by assault against

22 (A) a spouse or a former spouse of the defendant;

23 (B) a parent, grandparent, child, or grandchild of the
24 defendant;

25 (C) a member of the social unit comprised of those
26 living together in the same dwelling as the defendant; or

27 (D) a person who is not a spouse or former spouse of
28 the defendant but who previously lived in a spousal relationship
29 with the defendant.

1 * Sec. 2. AS 12.55.045(a) is amended to read:

2 (a) The court may order a defendant convicted of an offense to
3 make restitution as provided in this section, including restitution to
4 a public or private nonprofit organization that has provided counsel-
5 ing, medical, or shelter services to the victim, or as otherwise au-
6 thorized by law. ^{upon request,} Before an order of restitution is entered, the defen-
7 dant may have an opportunity to establish, by a preponderance of the
8 evidence, the inability to pay restitution during the term of the
9 sentence [IN DETERMINING THE AMOUNT AND METHOD OF PAYMENT OF RESTITU-
10 TION, THE COURT SHALL TAKE INTO ACCOUNT THE FINANCIAL RESOURCES OF THE
11 DEFENDANT AND THE NATURE OF THE BURDEN ITS PAYMENT WILL IMPOSE].

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

13 (a) If the defendant defaults in the payment of a fine or any
14 installment or of restitution or any installment, the court may order
15 the defendant to show cause why the defendant should not be sentenced
16 to imprisonment for nonpayment. If the defendant fails to establish
17 [COURT FINDS] by a preponderance of the evidence that the defendant
18 did not intentionally refuse or fail [DEFAULT WAS ATTRIBUTABLE TO AN
19 INTENTIONAL REFUSAL OR FAILURE] to make a good faith effort to pay the
20 fine or restitution, the court may order the defendant imprisoned
21 until the order of the court is satisfied. A term of imprisonment
22 imposed under this section may not exceed one day for each \$50 of the
23 unpaid portion of the fine or restitution or one year, whichever is
24 shorter. Credit shall be given toward satisfaction of the order of
25 the court for every day a person is incarcerated for nonpayment of a
26 fine or restitution.