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Alaska Court System

State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

JANALEE R. STRANDBERG
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Anchorage, AK 99501
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December 21, 1989

Representative Peter Goll
Representative Max Gruenberg
Representative Dave Donley
3111 C Street
Anchorage, AK 99503

Re: HB 348 An Act relating to claims by victims of crime arising from criminal conduct.

Dear Representatives Goll, Gruenberg and Donley:

This bill provides that creditors may levy against exempt property of a debtor to enforce claims arising from criminal conduct of the debtor that results in a felony conviction. Although the purpose of the bill is to allow creditors of these debtors to reach exempt property, the first section of the bill grants these debtors most of the exemptions listed in AS 09.38.020 (omitting only the jewelry, pets and motor vehicle exemptions). This unduly complicates the exemption procedure for the creditors as well as the work of court clerks. Also the court system will need to change its forms and handbooks for creditors and debtors.

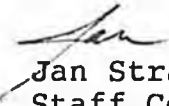
Section 2 of the bill requires creditors of these debtors to use the procedures of AS 09.38.075 on those items (jewelry, pets and motor vehicles) that are not made exempt by Section 1. This is inconsistent with the purpose of AS 09.38.065(c) that allows creditors simply to serve the debtor with a notice of levy stating the basis of the creditor's right to levy on exempt property without having to give the debtor notice and opportunity to apply for exemptions.

Although Section 2 of the bill requires the creditor to use the execution procedures of AS 09.38.075(a), Section 3 of the bill also requires creditors to follow the regular execution procedures.

Representatives Goll, Gruenberg & Donley
December 21, 1989
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The effect of AS 09.38.065(3) is to deny the debtor his exemption. By doing so, this section gives the creditor a relatively straightforward levy procedure to follow. However, this bill gives the debtor of criminal conduct claims most, but not all, of the statutory exemptions and makes it difficult, if not impossible, for the creditor to follow the existing levy procedures.

Sincerely,


Jan Strandberg
Staff Counsel

JS:gah

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act relating to claims... arising from criminal conduct."
 Sponsor: Repr. Donley
 Requestor: House Judiciary

Agency Affected: Department of Law
 BRU: Prosecution, Legal Services
 Components: All, Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 91 | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 |
|------------------------|------------|------------|------------|------------|------------|------------|
| 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 | -0- | -0- | -0- | -0- | -0- | -0- |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | | | | | | |

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

This bill amends AS 09.38 to provide for a private right of action, for victims of a crime, against otherwise exempt property. Because the bill deals with claims between private parties there will not be a fiscal impact on the Department of Law.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: January 9, 1990
 Approved by Commissioner: Richard I. Pegues /FOR/
Douglas B. Bailly, Attorney General Date: January 9, 1990
 Agency: Department of Law

Distribution (by preparer):

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

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: HB 348
PUBLISH DATE: 5/5/89

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Claims by victims of crime
arising from criminal conduct
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Revenue
BRU: Income & Excise Audit
Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

| | FY 90 | FY 91 | FY 92 | FY 93 | FY 94 | FY 95 |
|--------------------|-------|-------|-------|-------|-------|-------|
| OPERATING | | | | | | |
| PERSONAL SERVICES | 0 | 0 | 0 | 0 | 0 | 0 |
| TRAVEL | 0 | 0 | 0 | 0 | 0 | 0 |
| CONTRACTUAL | 0 | 0 | 0 | 0 | 0 | 0 |
| SUPPLIES | 0 | 0 | 0 | 0 | 0 | 0 |
| EQUIPMENT | 0 | 0 | 0 | 0 | 0 | 0 |
| LANDS & STRUCTURES | 0 | 0 | 0 | 0 | 0 | 0 |
| GRANTS, CLAIMS | 0 | 0 | 0 | 0 | 0 | 0 |
| MISCELLANEOUS | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL OPERATING | 0 | 0 | 0 | 0 | 0 | 0 |
| CAPITAL | 0 | 0 | 0 | 0 | 0 | 0 |
| REVENUE | 0 | 0 | 0 | 0 | 0 | 0 |

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page, if necessary)

Prepared By: Steven E. Kettel *Steven E. Kettel* Phone: (907) 465-2320
Division: Income and Excise Audit Date: December 4, 1989
Approved by Commissioner: Hugh Malone *Hugh Malone* Date: December 4, 1989
Agency: Department of Revenue

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

House Bill 348
Analysis
Prepared by:
Steven E. Kettel
Income and Excise Audit Division
December 4, 1989

Analysis:

Although this legislation is intended to provide direct benefit to victims (prsons) of a crime against their property, the amendment will strengthen the state's ability to collect taxes which were fraudently understate or reported.

Fiscal Impact:

We do not anticipate that this legislation will markedly increase revenue collections. It will require no additional appropriation to this division.

STATE OF ALASKA
THE LEGISLATURE

POUCH V. STATE CAPITOL
JUNEAU, ALASKA 99811

HOUSE OF REPRESENTATIVES
Office of the Chief Clerk

TO

Judiciary

REMARKS:

Please return HB 348
you have SS HB 348

FROM

Kris

DATE

1/24

