

SB

105

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: April 21, 2001

FURTHER REFERRALS:

Date of Committee Action: 5/16/01

The FINANCE Committee considered:

CSSB 105(FIN)

CS FOR SENATE BILL NO. 105(FIN)

VICTIMS' RIGHTS/ PRISONER'S PFD

"An Act relating to victims' rights; relating to establishing an office of victims' rights; relating to the authority of litigants and the court to comment on the crime victim's choice to appear or testify in a criminal case; relating to compensation of victims of violent crimes; relating to eligibility for a permanent fund dividend for persons convicted of and incarcerated for certain offenses; relating to notice of appropriations concerning victims' rights; amending Rules 16 and 30, Alaska Rules of Criminal Procedure, Rule 9, Alaska Delinquency Rules, and Rule 501, Alaska Rules of Evidence; and providing for an effective date."

Recommends it be replaced with H CSSB 105 (FIN) | Same Title | New Title
 For Senate Bills with new title: | Technical Title | New Title: HCR _____

- attach amendments
- add new referral to _____ Committee
- Letter of intent _____ Committee

List of Abbrev. For Depts.:
 ADM
 CED
 COR
 CRT
 EED
 DEC
 DFG
 GOV
 HSS
 LAA
 LAW
 LWF
 MVA
 DNR
 DPS
 REV
 DOT
 UA

<u>NEW FISCAL NOTES</u>				
*For Chief Clerk's Office Use Only				
FN#	List by Dept(s):	Fiscal	Indet.	Zero
	<u>LAW</u>	✓		

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN #	Fiscal	Indet.	Zero
<u>COR</u>	<u>1</u>	✓		
<u>LAW</u>	<u>2</u>		✓	
<u>REV</u>	<u>3</u>			✓
<u>LAA</u>	<u>4</u>	✓		

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	Bunde	✓			
	Whitaker	✓			
	Harris	✓			
	CROFT	✓			
	Denny	✓			
	MOSES	✓			
	Lancaster	✓			
	Foster	X			
	Hudson	X			
Chair:	William				

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HCS for CSSB105 (JUD)
 () Publish Date: _____

Revised Date/Time: 04/23/01 3:00 pm Dept. Affected: Corrections
 Title: An Act relating to victims' rights; relating to estab- BRU: 271
lishing an office of victims' rights; relating to compensation.... Component: Administrative Services
 Sponsor: Senator Halford
 Requester: House Finance Component Number: 697

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	43.5	43.5	43.5	43.5	43.5	43.5
Travel						
Contractual	0.5	0.5	0.5	0.5	0.5	0.5
Supplies	0.5	0.5	0.5	0.5	0.5	0.5
Equipment	2.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	47.0	44.5	44.5	44.5	44.5	44.5

CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

FUND SOURCE

1002 Federal Receipts						
1003 GF Match						
1004 GF	47.0	44.5	44.5	44.5	44.5	44.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL						

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Section 25 of this legislation amends AS 43.23.005(d) which would deny PFD eligibility for people who are convicted and incarcerated for a misdemeanor and they had been previously convicted of a felony, or two or more misdemeanors. The Department of Corrections has previously asked for a Statistical Technician I position to accommodate appeals and information requests resulting from PFD denials. The data and word processing unit will be unable to carry out their daily operations if more appeals and computer programming are added without a position.

Prepared by: Candace Brower Phone 465-4652
 Division: Commissioner's Office Date/Time 4/23/01/3:00 pm
 Approved by: Margaret Pugh Date 4 1
 Agency: Department of Corrections

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HCS CSSB 105 (JUD)
() Publish Date: _____

Revision Date/Time (Note if correction): 4/23/01 11:25 AM Dept. Affected: Law
Title "An Act relating to victims' rights; . . . an office of BRU Civil Division
victims' rights; . . . restitution for criminal and delinquency acts; . . ." Component Collections and Support
Sponsor Senator Halford
Requester House Finance Committee Component No. 2210

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	143.7	153.4	153.4	153.4	153.4	153.4
Travel	0.3	0.4	0.4	0.4	0.4	0.4
Contractual	99.8	141.1	141.1	141.1	141.1	141.1
Supplies	6.2	5.1	5.1	5.1	5.1	5.1
Equipment	56.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	306.5	300.0	300.0	300.0	300.0	300.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	306.5	300.0	300.0	300.0	300.0	300.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	306.5	300.0	300.0	300.0	300.0	300.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal: X*

POSITIONS

Full-time	3	3	3	3	3	3
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

* A budget increment requesting funding for the collection of victim restitution was included in the Governor's Amended budget request; however, neither the House nor the Senate included the increment in their versions of the operating budget bill. In order for the Collections unit to undertake this new function, this fiscal note must be funded.

HCS CSSB 105 (JUD) establishes in the legislative branch the Office of Victims' Rights, directed by the victims' advocate, effective July 1, 2002. The victims' advocate will advocate on behalf of crime victims in felony cases in the courts of the state and investigate complaints of crime victims in felony and certain class A misdemeanor cases that they have been denied their rights under the constitution and laws of the state.

The bill also will allow the Department of Law, at the option of a crime victim, to collect restitution on behalf of the crime victim or

Prepared by: Joan M. Kasson Phone 465-5370
Division: Attorney General's Office Date/Time 4/23/01 11:25 AM
Approved by: Kathryn Daughhete for Bruce M. Botelho, Attorney General Date 4/23/01
Agency: Department of Law

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

BILL NO. HCS CSSB 105 (JUD)

ANALYSIS CONTINUATION

victim of a delinquent act. The collections would be performed by the Collections unit in the Civil Division's Collections and Support section. The Collections unit will require additional resources to handle this new function.

Currently, the Collections unit collects criminal fines and related costs and certain civil judgments and administrative penalties. The primary means of collecting these judgments is through annual automated attachment of permanent fund dividends. For civil judgments, additional collection actions may be taken, including attachment of bank accounts, garnishment of wages, and judgment debtor exams. With only a few exceptions, all money collected by the unit is paid to the general fund. Thus, the unit does not currently track individual payees.

The unit currently has a collections database which provides a method for efficient and streamlined collection of debts owed the state. With some modifications, the database and related collections procedures could be used to collect restitution on behalf of crime victims.

No actual count of the number of victim restitution judgments per year is maintained. Based on the number of criminal convictions and delinquency dispositions in FY00 for crimes and violations that usually have a restitution judgment entered by the court, we estimate there could be as many as 5,000 to 5,500 restitution orders each year.

In order to add restitution judgments to its caseload, the Collections unit will need to upgrade its existing computer system including 1) the purchase of computer hardware with a larger storage capacity to handle the increased caseload, and 2) computer programming to allow the collections database to recognize restitution judgments and track payee information. Further, four new administrative positions will be necessary to handle these new cases.

The Collections unit anticipates it will need one new full-time Administrative Clerk II to enter judgment data into the database and update victim and defendant information, hold primary responsibility to handle phone calls from victims and defendants, and file paperwork. A full-time Legal Secretary I will also be needed to send introductory letters to victims and defendants regarding the collections process, post payments, prepare check requests and send payments to victims, assist the Administrative Clerk with phone calls from victims and defendants, and calendar and monitor inactive cases for periodic locate efforts. A FTE paraprofessional will be required to obtain writs of execution, prepare court paperwork for bank sweeps and wage garnishments, coordinate with probation officers, the Criminal Division, and other state and municipal agencies as required to obtain information necessary to collect the debts owed the victim, and manage any private collection contracts. An additional full-time Accounting Clerk II will also be necessary to process the payment distribution to victims upon successful collection of the debts. This position will be located in the Administrative Services Division of the Department of Law, and funded by intra-agency receipts from Collections and Support in the Civil Division BRU.

The cost of a FTE paraprofessional (\$92.2) is based on the Civil Division's FY02 standard cost allocation schedule, and includes general clerical support, communications, space, supplies, data processing, and other normal overhead expenses. However, the hourly rate for Civil Division attorneys and paraprofessional does not recover the costs of clerical positions in the Collections unit because these positions are specialized and are not available to other sections. Therefore, the three new clerical/administrative positions to handle victim restitution must be added separately. (Admin Clerk II: \$44.7; Legal Secretary II: \$50.0; Accounting Clerk II: \$43.5)

Computer hardware upgrades and programming upgrades will take place in FY02. It will not be necessary to put all the staff on until the upgrades are complete. This funding request short-funds the positions in FY02, and shifts the funds for equipment and programming in FY03 back into personnel and other on-going costs. Only the equipment costs for the Legal Secretary I position of \$6.5 are considered one-time funds.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: SB 105
(S) Publish Date: 3/1/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title: Victims' Rights / Prisoners' PFDs BRU: Revenue Operations
Sponsor: Senator Halford Component: Permanent Fund Dividend
Requester: Senate Judiciary Committee Component Number: 981

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

As it relates to the Alaska Permanent Fund Dividend Division, this legislation expands the reach of state statute to withhold dividends from Alaskans convicted of criminal offenses. The legislation (Section 9, AS 43.23.005(d)) would expand the number of non-eligible Alaskans to include people convicted or incarcerated on a misdemeanor charge during the dividend eligibility year if they also have a prior conviction for a felony. Existing statute already denies the dividend to applicants convicted or incarcerated during the eligibility year on a felony charge or his or her third misdemeanor.

The Dividend Division does not expect this legislation to have a fiscal impact on the operating budget of the dividend program.

It is not possible to estimate the number of applicants who might lose their dividend eligibility under this legislation. However, it should be noted that denying dividends to some of the applicants covered by this legislation could actually deny the funds to creditors of those applicants, including the Child Support Enforcement Division, state student loan program, private businesses and others.

Prepared by: Nanci A. Jones, Director Pr 1785
Division: Permanent Fund Dividend Division Date/Time: 22, 2001, 1 p.m.
Approved by: Larry Persily, Deputy Commissioner Da. 24, 2001
Agency: Department of Revenue

For distribution information, call the Governor's Legislative Office

FISCAL N

STATE OF ALASKA
2001 LEGISLATIVE SESSION

No. 4
Bill Version: CSSB 105(JUD)
(S) Publish Date: 3/14/01

Revision Date: _____
Title: "An Act relating to victims' rights;
relating to establishing an office of victims' rights;
Sponsor: Senator Halford
Requestor: Senator Halford

Department Affected: Legislature
BRU: Legislative Council
Component: Council and Subcommittees

Component Number: 783

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 02	FY 03	FY 04	FY 05	FY 06	FY 07
PERSONAL SERVICES	11.4	425.3	425.3	425.3	425.3	425.3
TRAVEL	0	4.5	4.5	4.5	4.5	4.5
CONTRACTUAL	7.6	30.4	30.4	30.4	30.4	30.4
SUPPLIES	0.5	2.0	2.0	2.0	2.0	2.0
EQUIPMENT	44.4	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	63.9	462.2	462.2	462.2	462.2	462.2

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER FUND SOURCE <u>PFD FUND -1050</u>	63.9	462.2	462.2	462.2	462.2	462.2
TOTAL	63.9	462.2	462.2	462.2	462.2	462.2

POSITIONS:

FULL-TIME	1	7	7	7	7	7
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary) CSSB105(JUD) establishes an Office of Victims' Rights in the Legislative Branch of Government. The Victims' Advocate will be nominated by the Victims's Advocate Selection Committee. The 5 year appointment is effective if approved by two-thirds of the members of the legislature in a joint session. The Legislative Affairs Agency will acquire office space, purchase furnishings, and hire one clerical worker in FY02 for the office. For purposes of this fiscal note, staff for the office will be 2 attorneys, 1 paralegal and 3 clerical personnel. The Legislative Affairs Agency will provide administrative support services for payroll, accounting, teleconferencing, supply, maintenance and data processing within existing budgets. This bill adds the Office of Victims' Rights to the three other programs under AS 43.23.028(b) requiring annual appropriation from the PFD Fund.

Prepared By: Karla Schofield, Deputy Director *Karla Schofield* Phone: 465-3852
Division: Administrative Services Date: 3/8/01

Approved By: Pamela A. Varni, Executive Director *Pamela Varni*
Agency: Legislative Affairs Agency Date: 3/8/01

Distribution (by preparer): Leg. Finance, Legislative Sponsor, Requestor, OMB, Gov., & Impacted Agency(ies).

COMMITTEE COPY

Expenses of the Victim's Advocate Selection Committee will be absorbed within existing budgets.

SB105
#4

Personal Services

Director	Range 26A	92,373
2 Attorneys	Range 23A	157,516
1 Paralegal	Range 16A	51,454
1 Secretary	Range 14A	45,713
1 Secretary	Range 12A	41,067
1 Secretary	Range 10A	37,167

425,291

425.3

Travel

Travel for the Executive Director

3 in state trips to attend meetings	2,895
1 out of state trip to meet with victims' rights organizations in other states	1,605

1,605

4,500

4.5

Contractual Services

Phones	3,600
Postage	3,000
Copier Maintenance	600
Membership Dues	500
Subscriptions	500
Office Space - 1,000 sq ft	22,200

30,400

30.4

Supplies

Office Supplies	2,000
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2,000

2.0

FY 03 - 06 Annual Cost

462.2

Equipment

7 desktop computers	14,700
3 printers	4,926
1 copier	8,500
7 Phones	4,550
Fax machine	600
3 Executive desks	4,500
4 Administrative desks	2,800
7 chairs	3,150
3 side chairs	600
4 chairs for waiting clients	84

44,410

FY 02 Equipment Cost

44.4

Adopted

22-LS0219\O.1
Luckhaupt
4/26/01

AMENDMENT 1

OFFERED IN THE HOUSE

TO: HCS CSSB 105(JUD)

1 Page 4, line 29, through page 5, line 11:

2 Delete all material and insert:

3 "Sec. 12.30.075. Forfeited cash and other securities. (a) Cash or other
4 security posted by a defendant under AS 12.30.020 that would otherwise be forfeited
5 shall be held by the court in trust for the benefit of the victim if, within 30 days after
6 an order of the court establishing a failure to appear or a violation of conditions of
7 release, the prosecuting authority gives notice that restitution may be requested as part
8 of the sentence if the defendant is convicted.

9 (b) If a restitution order is not entered, the court shall order the cash or other
10 security being held in trust to be forfeited to the state.

11 (c) If a restitution order is entered, the court shall apply the cash or other
12 security to the satisfaction of the order. If the cash or other security held in trust is
13 applied to an order of restitution, the court shall issue a separate judgment against the
14 defendant in favor of the state in the amount that would have otherwise been forfeited,
15 and any cash or other security remaining after payment of the restitution shall be
16 applied against that judgment. Any cash or other security remaining shall be forfeited
17 to the state."

Adopted

AMENDMENT 2

OFFERED IN THE HOUSE
TO: HCS CSSB 105(JUD)

- 1 Page 6, line 15, following "restitution":
- 2 Delete "is"
- 3 Insert "may be"
- 4
- 5 Page 6, lines 20 - 21.
- 6 Delete "The defendant shall file the form with the court within 30 days after
- 7 conviction of a felony and within five days after conviction of a misdemeanor."
- 8 Insert "A defendant who is convicted of (1) a felony shall submit the form. to the
- 9 probation office within 30 days after conviction, and the probation officer shall attach the
- 10 form to the presentence report, or (2) a misdemeanor shall file the form with the defendant's
- 11 response or opposition to the restitution amount."

Adopted

HOUSE CS FOR CS FOR SENATE BILL NO. 105 (JUD)
HOUSE FINANCE COMMITTEE

3

Amendment No. _____

Page 7, lines 1-3:

DELETE: "If the victim or the state on the victim's behalf enforces or collects restitution through civil process, collection costs and full reasonable attorney fees shall be awarded."

INSERT: "If the victim enforces or collects restitution through civil process, collection costs and full reasonable attorney fees shall be awarded. If the the state on the victim's behalf enforces or collects restitution through civil process, collection costs and full reasonable attorney fees shall be awarded, up to a maximum of twice the amount of restitution owing at the time the civil process was initiated."

Page 25, lines 27-29:

DELETE: "If the recipient or the state on the recipient's behalf enforces or collects restitution through civil process, collection costs and full reasonable attorney fees shall be awarded."

INSERT: "If the restitution recipient enforces or collects restitution through civil process, collection costs and full reasonable attorney fees shall be awarded. If the the state on the restitution recipient's behalf enforces or collects restitution through civil process, collection costs and full reasonable attorney fees shall be awarded, up to a maximum of twice the amount of restitution owing at the time the civil process was initiated."

Adopted

22-LS0219\O.1
Luckhaupt
4/26/01

5/4/01

AMENDMENT 1

OFFERED IN THE HOUSE

TO: HCS CSSB 105(JUD)

1 Page 4, line 29, through page 5, line 11:

2 Delete all material and insert:

3 "Sec. 12.30.075. Forfeited cash and other securities. (a) Cash or other
4 security posted by a defendant under AS 12.30.020 that would otherwise be forfeited
5 shall be held by the court in trust for the benefit of the victim if, within 30 days after
6 an order of the court establishing a failure to appear or a violation of conditions of
7 release, the prosecuting authority gives notice that restitution may be requested as part
8 of the sentence if the defendant is convicted.

9 (b) If a restitution order is not entered, the court shall order the cash or other
10 security being held in trust to be forfeited to the state.

11 (c) If a restitution order is entered, the court shall apply the cash or other
12 security to the satisfaction of the order. If the cash or other security held in trust is
13 applied to an order of restitution, the court shall issue a separate judgment against the
14 defendant in favor of the state in the amount that would have otherwise been forfeited,
15 and any cash or other security remaining after payment of the restitution shall be
16 applied against that judgment. Any cash or other security remaining shall be forfeited
17 to the state."

Adopted

22-LS0219\O.2
Luckhaupt
4/30/01

AMENDMENT 2

OFFERED IN THE HOUSE
TO: HCS CSSB 105(JUD)

1 Page 6, line 15, following "restitution":

2 Delete "is"

3 Insert "may be"

4

5 Page 6, lines 20 - 21:

6 Delete "The defendant shall file the form with the court within 30 days after
7 conviction of a felony and within five days after conviction of a misdemeanor."

8 Insert "A defendant who is convicted of (1) a felony shall submit the form to the
9 probation office within 30 days after conviction, and the probation officer shall attach the
10 form to the presentence report, or (2) a misdemeanor shall file the form with the defendant's
11 response or opposition to the restitution amount."

Adopted

HOUSE CS FOR CS FOR SENATE BILL NO. 105 (JUD)
HOUSE FINANCE COMMITTEE

3 5/6/01

Amendment No. _____

Page 7, lines 1-3:

DELETE: "If the victim or the state on the victim's behalf enforces or collects restitution through civil process, collection costs and full reasonable attorney fees shall be awarded."

INSERT: "If the victim enforces or collects restitution through civil process, collection costs and full reasonable attorney fees shall be awarded. If the the state on the victim's behalf enforces or collects restitution through civil process, collection costs and full reasonable attorney fees shall be awarded, up to a maximum of twice the amount of restitution owing at the time the civil process was initiated."

Page 25, lines 27-29:

DELETE: "If the recipient or the state on the recipient's behalf enforces or collects restitution through civil process, collection costs and full reasonable attorney fees shall be awarded."

INSERT: "If the restitution recipient enforces or collects restitution through civil process, collection costs and full reasonable attorney fees shall be awarded. If the the state on the restitution recipient's behalf enforces or collects restitution through civil process, collection costs and full reasonable attorney fees shall be awarded, up to a maximum of twice the amount of restitution owing at the time the civil process was initiated."

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: SB 105
(S) Publish Date: 3/1/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title: Victims' Rights / Prisoners' PFDs BRU: Revenue Operations
Sponsor: Senator Halford Component: Permanent Fund Dividend
Requester: Senate Judiciary Committee Component Number: 981

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

As it relates to the Alaska Permanent Fund Dividend Division, this legislation expands the reach of the statute to withhold dividends from Alaskans convicted of criminal offenses. The legislation (Section 9, AS 43.23.005(d)) would expand the number of non-eligible Alaskans to include people convicted or incarcerated on a misdemeanor charge during the dividend eligibility year if they also have a prior conviction for a felony. Existing statute already denies the dividend to applicants convicted or incarcerated during the eligibility year on a felony charge or his or her third misdemeanor.

The Dividend Division does not expect this legislation to have a fiscal impact on the operating budget of the dividend program.

It is not possible to estimate the number of applicants who might lose their dividend eligibility under this legislation. However, it should be noted that denying dividends to some of the applicants covered by this legislation could actually deny the funds to creditors of those applicants, including the Child Support Enforcement Division, state student loan program, private businesses and others.

Prepared by: Nanci A. Jones, Director Phone 465-4785
Division: Permanent Fund Dividend Division Date/Time Feb. 22, 2001, 1 p.m.
Approved by: Larry Persily, Deputy Commissioner Date Feb. 24, 2001
Agency: Department of Revenue

For distribution information, call the Governor's Legislative Office



ALASKA STATE LEGISLATURE

Senator Rick Halford

President of the Senate

Sponsor Statement

Senate Bill 105

While in Session:
State Capitol
Juneau, AK 99801-1182
907-465-4958

While in Interim:
P.O. Box 670192
Chugiak, AK 99567
907-694-4958

"The Crime Victims' Rights and Advocacy Act of 2001"

On November 8, 1994, the voters of Alaska ratified an amendment to the Constitution of the State of Alaska, which provides specific rights to victims of crime. The overwhelming approval rate -- 86.6% in favor -- was testament of Alaskans' belief that:

"Crime victims, as defined by law, shall have the following rights as provided by law; the right to be reasonably protected from the accused through the imposition of appropriate bail or conditions of release by the court; the right to confer with the prosecution; the right to be treated with dignity, respect, and fairness during all phases of the criminal and juvenile justice process; the right to timely disposition of the case following the arrest of the accused; the right to obtain information about and be allowed to be present at all criminal or juvenile proceedings where the accused has the right to be present; the right to be allowed to be heard, upon request, at sentencing, before or after conviction or juvenile adjudication, and at any proceeding where the accused's release from custody is considered; the right to restitution from the accused; and the right to be informed, upon request, of the accused's escape or release from custody before or after conviction or juvenile adjudication."

---- ARTICLE I, SECTION 24, ALASKA CONSTITUTION

Passage of SB 105 will put in place a mechanism to guarantee the practical application of this very important Constitutional Amendment. It is time for victims to have advocacy when dealing with a judicial system so heavily weighted to the benefit of criminals, and based on a process replete with technicalities and legal jargon, rendering it virtually indecipherable to anyone other than the attorneys.

As was brought out in testimony on similar legislation last session, "While the criminals and the prosecution have their attorneys, the victims are too often left to sit alone in the shadow of justice." I urge your support for this legislation.



ALASKA STATE LEGISLATURE
Senator Rick Halford
President of the Senate

While in Session:
State Capitol
Juneau, AK 99801-1182
907-465-4958

While in Interim:
P.O. Box 670193
Chugiak, AK 99567
907-694-4958

Senate Bill 105
Office of Victims' Rights

State Justice Agency Financial Information

Department of Law - Criminal Division

	FY 00 Actual	FY 01 Authorized	FY 02 Budget
BRU total	12,556.4	13,144.4	14,747.8

Department of Administration - Legal and Advocacy Services

	FY 00 Actual	FY 01 Authorized	FY 02 Budget
Public Advocacy	8,883.5	8,947.8	9,827.4
Public Defender	9,428.0	9,510.3	11,013.9
BRU total	18,311.5	18,459.1	20,843.3

The above represents annual state spending of \$ 35,589,100 for publicly funded criminal defense and state prosecution.

The Office of Victims' Advocacy, established by Senate Bill 105, has a projected annual funding level of approximately \$507,000.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HCS for CSSB105 (JUD)
() Publish Date: _____

Revised Date/Time: 04/23/01 3:00 pm Dept. Affected: Corrections
Title: An Act relating to victims' rights; relating to estab- BRU: 271
lishing an office of victims' rights; relating to compensation.... Component: Administrative Services
Sponsor: Senator Halford
Requester: House Finance Component Number: 697

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	43.5	43.5	43.5	43.5	43.5	43.5
Travel						
Contractual	0.5	0.5	0.5	0.5	0.5	0.5
Supplies	0.5	0.5	0.5	0.5	0.5	0.5
Equipment	2.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	47.0	44.5	44.5	44.5	44.5	44.5

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE

1002 Federal Receipts						
1003 GF Match						
1004 GF	47.0	44.5	44.5	44.5	44.5	44.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL						

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Section 25 of this legislation amends AS 43.23.005(d) which would deny PFD eligibility for people who are convicted and incarcerated for a misdemeanor and they had been previously convicted of a felony, or two or more misdemeanors. The Department of Corrections has previously asked for a Statistical Technician I position to accommodate appeals and information requests resulting from PFD denials. The data and word processing unit will be unable to carry out their daily operations if more appeals and computer programming are added without a position.

Prepared by: Candace Brower Phone 465-4652
Division: Commissioner's Office Date/Time 4/23/01/3:00 pm
Approved by: Margaret Pugh Date 4/23/01
Agency: Department of Corrections

For distribution information, call the Governor's Legislative Office

FISCAL N

STATE OF ALASKA
2001 LEGISLATIVE SESSION

No. 4
Bill Version: CSSB 105(JUD)
(S) Publish Date: 3/14/01

Revision Date: _____
Title: "An Act relating to victims' rights;
relating to establishing an office of victims' rights;
Sponsor: Senator Halford
Requestor: Senator Halford

Department Affected: Legislature
BRU: Legislative Council
Component: Council and Subcommittees
Component Number: 783

Expenditures/Revenues: (Thousands of Dollars)

	FY 02	FY 03	FY 04	FY 05	FY 06	FY 07
OPERATING						
PERSONAL SERVICES	11.4	425.3	425.3	425.3	425.3	425.3
TRAVEL	0	4.5	4.5	4.5	4.5	4.5
CONTRACTUAL	7.6	30.4	30.4	30.4	30.4	30.4
SUPPLIES	0.5	2.0	2.0	2.0	2.0	2.0
EQUIPMENT	44.4	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	63.9	462.2	462.2	462.2	462.2	462.2
CAPITAL	0	0	0	0	0	0
REVENUE FUND SOURCE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER FUND SOURCE <u>PFD FUND -1050</u>	63.9	462.2	462.2	462.2	462.2	462.2
TOTAL	63.9	462.2	462.2	462.2	462.2	462.2

POSITIONS:

FULL-TIME	1	7	7	7	7	7
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary) CSSB105(JUD) establishes an Office of Victims' Rights in the Legislative Branch of Government. The Victims' Advocate will be nominated by the Victims's Advocate Selection Committee. The 5 year appointment is effective if approved by two-thirds of the members of the legislature in a joint session. The Legislative Affairs Agency will acquire office space, purchase furnishings, and hire one clerical worker in FY02 for the office. For purposes of this fiscal note, staff for the office will be 2 attorneys, 1 paralegal and 3 clerical personnel. The Legislative Affairs Agency will provide administrative support services for payroll, accounting, teleconferencing, supply, maintenance and data processing within existing budgets. This bill adds the Office of Victims' Rights to the three other programs under AS 43.23.028(b) requiring annual appropriation from the PFD Fund.

Prepared By: Karla Schofield, Deputy Director *Karla Schofield* Phone: 465-3852
Division: Administrative Services Date: 3/8/01
Approved By: Pamela A. Varni, Executive Director *Pamela A. Varni*
Agency: Legislative Affairs Agency Date: 3/8/01

Distribution (by preparer): Leg. Finance, Legislative Sponsor, Requestor, OMB, Gov., & Impacted Agency(ies).

Expenses of the Victim's Advocate Selection Committee will be absorbed within existing budgets.

SB105
#4

Personal Services

Director	Range 26A	92,373
2 Attorneys	Range 23A	157,516
1 Paralegal	Range 16A	51,454
1 Secretary	Range 14A	45,713
1 Secretary	Range 12A	41,067
1 Secretary	Range 10A	37,167

425,291

425.3

Travel

Travel for the Executive Director

3 in state trips to attend meetings 2,895

1 out of state trip to meet with victims' rights organizations in other states

1,605

4,500

4.5

Contractual Services

Phones 3,600

Postage 3,000

Copier Maintenance 600

Membership Dues 500

Subscriptions 500

Office Space - 1,000 sq ft 22,200

30,400

30.4

Supplies

Office Supplies 2,000

2,000

2.0

FY 03 - 06 Annual Cost 462.2

Equipment

7 desktop computers 14,700

3 printers 4,926

1 copier 8,500

7 Phones 4,550

Fax machine 600

3 Executive desks 4,500

4 Administrative desks 2,800

7 chairs 3,150

3 side chairs 600

4 chairs for waiting clients 84

44,410

FY 02 Equipment Cost 44.4

Sectional Analysis

HCS CS Senate Bill 105 (JUD) "Office of Victims Rights"

Section 1: provides a short title.

Section 2: allows the state, on behalf of a victim for restitution, to get a writ of execution.

Section 3: allows the state, on behalf of a victim for restitution, to execute a judgement against an incarcerated person's correctional facility account.

Section 4: expands the language in the existing statute allowing creditors to make a levy against exempt property to a person convicted of a crime or a delinquent. Current statute only allows the judgements against convicted felons.

Section 5: adds definitions to the Alaska Exemption Act.

Section 6: allows forfeited bond to be paid to the victim.

Section 7: allows the victims' advocate, when requested by the victim, to make a statement on the victim's behalf at time of sentencing.

Section 8: provides direction to the penalty for missed restitution payments.

Section 9: Adds new sections to the statutes regarding restitution:

(j) Requires a convict who is ordered to pay restitution to provide financial information to the courts and requires the court to share the information with the prosecutor.

(k) Allows the court to order a defendant on probation that is ordered to pay restitution to provide financial information and requires the defendant to share the information with their probation officer and the prosecutor.

(l) Specifies that an order for restitution is a civil judgement and can be enforced through the procedures already specified in law. Allows victims, or state on their behalf, to get collection costs and reasonable attorney fees.

(m) defines "conviction" for this section.

Section 10: removes references to restitution in 12.55.051.

Section 11: adds new sections to the statutes regarding enforcement of fines and restitution.

(e) Allows the Department of Law to collect restitution unless the victim doesn't want their assistance or the restitution is not a specific dollar amount.

(f) Requires the court to forward a copy of the order of restitution to DOL. Provides guidelines to DOL about when they can assist a victim in collecting restitution. Specifies that a victim that has rejected DOL's assistance to collect restitution cannot later request their assistance.

(g) Requires the court to provide certain identification information to DOL with the restitution order. Specifies that the information is confidential and cannot be disclosed except for collection purposes.

(h) Specifies that DOL does not have an attorney-client relationship with the recipient and that

DOL cannot settle a judgement for restitution without the recipient's consent.

(i) Gives the state immunity from civil action for carrying out these duties.

(j) Gives DOL the authority to contract out to collection agencies and adopt regulations.

Section 12: prohibits a judge or counsel from commenting on a victim choosing not to testify in a criminal case. Entitles the affected party to ask for a jury instruction that no inference be drawn from a victim not testifying.

Section 13: increases the compensation available to victims of crime by the Violent Crimes Compensation Board.

Section 14: specifies that the Department of Labor can share information in order to assist the state in the collection of restitution.

Section 15: adds a definition to the Alaska Employment Security Act.

Section 16: adds the victims' advocate to the definition of "legislative director" in the legislative ethics code.

Section 17: amends AS 24 by creating a new chapter establishing the Office of the Victims' Rights in the legislative branch. The following sections are created:

AS 24.65.010 creates the Office of Victims' Rights.

AS 24.65.020 establishes appointment procedures.

AS 24.65.030 establishes qualifications.

AS 24.65.040 defines the term of office.

AS 24.65.050 provides for removal of the victims' advocate.

AS 24.65.060 lists the salary for the victims' advocate.

AS 24.65.070 allows employment of staff and establishes their duties.

AS 24.65.080 office space and administration for the Office of Victims' Rights.

AS 24.65.090 requires advocate to adopt regulations.

AS 24.65.100 establishes when the victims' advocate can act.

AS 24.65.110 defines duties of the victims' advocate and access to records.

AS 24.65.120 specifies how and when the victims' advocate may investigate complaints of denial of crime victims' rights.

AS 24.65.130 provides subpoena power to the victims' advocate.

AS 24.65.140 requires the victims' advocate to consult with a justice agency before publishing a report.

AS 24.65.150 specifies the victims' advocate's duties upon completion of investigation.

AS 24.65.160 permits the victim's advocate to publish opinions and recommendations.

AS 24.65.170 requires the victims' advocate to publish an annual report.

AS 24.65.180 limits judicial challenge of the victims' advocate's actions.

AS 24.65.190 provides immunity against civil action to the victims' advocate and staff.

AS 24.65.200 provides evidentiary privilege against being compelled to testify to the victims' advocate and staff.

AS 24.65.210 sets out a criminal penalty for obstruction of the victims' advocate's duties.
AS 24.65.250 contains definitions applicable to this chapter.

Section 18: specifies that the Victims' Advocate and staff are in the exempt category.

Section 19: provides option of adopting longevity pay provisions to the Victims' Advocate.

Section 20: excepts OVR employees from using the conditional service retirement benefit for legislative employees.

Section 21: expands PFD ineligibility to a person who has been convicted of a misdemeanor and has one prior felony conviction.

Section 22: amends the public notice statute to conform with the changes in Section 9 and provides that the proceeds of the PFD forfeiture may be used to fund the Office of Victims' Rights and for grants to nonprofit victims' rights organizations.

Section 23: exempts regulations promulgated by the OVR from gubernatorial review.

Section 24: exempts the victims' advocate from record keeping requirements.

Section 25: requires that sunset review of agencies consider interaction with OVR.

Section 26: names OVR as state agency for purposes of state publications.

Section 27: requires the minor and minor's parent, if applicable, to provide financial information if ordered to pay restitution in a delinquent minor proceeding

Section 28: allows the court to require that a parent or guardian pay restitution ordered in a delinquent minor proceeding.

Section 29: expands the language in the existing section of the delinquent minor law dealing with restitution to include the state on behalf of a recipient. Allows victims, or state on their behalf, to get collection costs and reasonable attorney fees.

Section 30: adds new sections to the statutes regarding enforcement of restitution for delinquent minors.

- (b) Allows the Department of Law to collect restitution unless the victim doesn't want their assistance or the restitution is not a specific dollar amount.
- (c) Specifies the procedure for the courts and HESS to notify DOL and the victim of the restitution order and what information must be provided to DOL. Specifies that the information is confidential and cannot be disclosed except for collection purposes
- (d) Provides guidelines to DOL about when they can assist a victim in collecting restitution. Specifies that a victim that has rejected DOL's assistance to collect restitution cannot later request their assistance.
- (e) Specifies that DOL does not have an attorney-client relationship with the recipient and that DOL cannot settle a judgement for restitution without the recipient's consent.
- (f) Gives the state immunity from civil action for carrying out these duties.
- (g) Gives DOL the authority to contract out to collection agencies and adopt regulations.

Section 32: removes the definition of "victim" from 09.38.065. It is now in 09.38.500, which is the definition section for that chapter.

Sections 33 -36: provide notice of court rule changes.

Section 37: specifies that section 12 is not intended to interfere with any constitutional rights.

Section 38: applicability of the restitution order sections of the bill.

Section 39: allows state agencies to immediately adopt necessary regulations.

Section 40: allows the Director of LAA to purchase supplies and equipment and establish office space for the new OVR in FY 01 to allow for the opening of the office in FY 02.

Section 41: immediate effective date for the PFD collection and transition sections.

Section 42: delayed effective date for the Office of Victims' Rights.

Section 43: delayed effective date for the sections enabling DOL to collect restitution.

**Alaska State Legislature
Public Opinion Messages**

Ms. Walter L Anderson,
1203 W 43rd Ave
Chorage, AK 99503
Phone: 349-9641
E-mail:

Subject/Bill SB 105 Supports

I support SB 105 that would provide legal representation for victims of
crime.

Date Sent: 03/28/2001

Constituency: N
Distribution: 60
Affiliation:
Reg Voter: V

Grief Recovery

Janice Lienhart
2051 Glacier Street
Anchorage, Alaska 99508

Phone: 907 337-0407
Fax: 907-337-5308
Email: miko@gci.net

March 9, 2001

Senator Rick Halford
State Capitol
Juneau, Alaska 99801-1182

Dear Senator Halford:

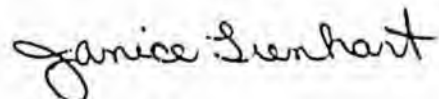
Thank you for reintroducing The Victims' Rights Bill, Senate Bill 105. I have worked with victims of crime for over 15 years receiving 258 hours of training in the field of victim services. To augment my training, I have experienced victimization and therefore have an added dimension to a victim's needs.

SB 105 provides legal assistance to victims of crime. Victims deserve legal representation but it is cost prohibitive. This bill provides legal assistance when their rights are violated and it does not take money from the general budget. Senator Halford, aware of the budget constraints, has creatively come up with funding, by using permanent fund dividends from repeat criminals. This is as it should be!

Legal representation for victims of crime is one of the topics discussed at National Organization of Victim Assistance Conferences (NOVA). About three or four years ago, I discussed the issue of legal representation with Senator Halford and shortly thereafter, he came up with this legislation. It is creative, cost effective and guarantees victim's rights.

I am impressed with the strides Alaska is taking in meeting victims of crime's needs. Department of Corrections, Department of Law, US Attorney's office and I understand the Department of Juvenile Justice is pursuing a victim service coordinator. Alaska is one of the leading states in victim's rights. Of the 35 states that have enacted Constitutional Amendments, only seven have included juveniles in their amendments. If Alaska enacts SB 105, I can see other states using Alaska as a model for their states. We will be the leader for victim's rights.

Sincerely,



Janice Lienhart
Victim Service Advocate
Grief Recovery Specialist

MAY 1998

U.S. Department of Justice
Office of Justice Programs
Office for Victims of Crime



New
Directions
from the
Field:
*Victims' Rights and Services
for the 21st Century*

NCJ 170600

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #7

Orders of full restitution for crime victims should be mandatory. Restitution orders should be automatically entered as civil judgments at the end of the offender's supervisory period if not paid. Alternatively, legislation could be enacted giving judges and paroling authorities jurisdiction for enforcing restitution orders until they are fully paid.

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #12

Victims of crime should receive assistance in exercising their participatory rights. Advocates should be available to explain rights to victims, help them to exercise those rights and, when necessary, serve as their representatives in court and other key justice processes when victims are underage or incapacitated or if representation is otherwise appropriate.

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #18

Victims should have standing to enforce their rights, and sanctions should be applied to criminal and juvenile justice professionals who deny victims their fundamental rights.

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #19

States and the federal government should create compliance enforcement programs, sometimes referred to as victim ombudsman programs, to help facilitate the implementation of victims' rights.

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #23

Criminal and juvenile justice agencies should establish a means of monitoring their own compliance with crime victims' rights laws and require public documentation showing that victims were provided their rights or indicating an appropriate reason why they were not. In addition, independent audits should be conducted of state and federal agency compliance with victims' rights laws.

U.S. Department of Justice
Office of Justice Programs
Office for Victims of Crime



Office for Victims of Crime

OVC

Advocating for the Fair

Treatment of Crime Victims

Report

**VICTIMS' RIGHTS
COMPLIANCE EFFORTS:
*EXPERIENCES IN
THREE STATES***

Minnesota

The OCVO enabling legislation defines appropriate methods of conducting investigations, including acting as a liaison between victim and agency, promoting activities that strengthen criminal justice systems, preventing violations of a victim's right, and establishing procedures for referral to appropriate victims' services agencies.

In response to citizens' complaints, OCVO officials may make recommendations to the agency to rectify the situation. These recommendations range from contacting the agency on behalf of the victim and expressing concern about the issue at hand to voicing concern about the investigation of a case by law enforcement officials or suggesting model policies that the agency can employ to assure victims' rights are honored. If authorities do not accept the recommendations of the ombudsman, however, the OCVO has no enforcement or disciplinary powers. The ombudsman's principal means to secure remedial action is through making public, to both the legislature and the press, the action or inaction of an agency.

Typically, once a complaint is reported, the OCVO staff assesses the needs of the victim, determines whether referrals should be made to other agencies, and informs the complainant of the most appropriate manner for resolving the grievance. The OCVO next gathers information from the agency against which the victim alleges wrongdoing. Based on the information gleaned in the investigation, the investigator must determine whether any statute, policy, or practice was violated, or if mistreatment occurred. The investigator must determine the most appropriate resolution to the problem, plan for any subsequent follow-up with either the agency or the victim, and present the findings to the ombudsman for her review and approval.

With several years of fielding calls from victims and investigating alleged cases of mistreatment and unlawful behavior, OCVO officials have developed a variety of methods in responding to victims' concerns. OCVO officials like to respond to victims' concerns with "assists," or contact with the criminal justice official whose action is in question. Often this contact makes the criminal justice official aware that his action was not well received by the victim. Upon making this realization, most practitioners attempt to rectify their behavior immediately.

Another common method that the OCVO employs to assist victims of crime is to aid in clarifying for victims why the criminal justice system operates the way it does and why criminal justice practitioners make the decisions they do. For example, in a case where a victim's mother learned the prosecutor was not planning to bring charges against her daughter's assailant, the OCVO staff reviewed the case and the prosecutor's reasoning for declining prosecution. As a result of the OCVO investigation, the prosecutor sent a letter to the victim and explained in detail his reasoning for not bringing charges. While still disappointed in the charging decision, the mother better understood the prosecutor's reasoning in not trying the case.

Finally, the office, through its ability to make recommendations on policies and procedures that dictate the actions of criminal justice agencies, can affect systemic change as well. Once, when receiving three separate complaints involving one county's prosecutor and victim/witness program, OCVO investigators conducted a systemic investigation of the county's program. They recommended a needs assessment to determine if the county should restructure its current services, or if it needed more funding and increased staff. The recommendation was forwarded to the DOC, which conducted the assessment. The DOC has completed its analysis and currently is working with the county to help it meet its goals of improved services to crime victims.

- recommending legislative changes to laws affecting victims of crime.¹⁴⁸

The types of cases in which the ombudsman and her staff may intervene and investigate reflect the broad statutory authority of the OCVO. Since 1992, the OCVO has documented and intervened on several cases ranging from perceived mistreatment of victims by criminal justice officials, to those where OCVO officials worked with law enforcement investigators and a victim's wife after the exhumation of the victim's body to determine definitively the cause of his death.

The Minnesota statute allows OCVO staff to intervene on a victim's behalf when he feels that he is not being treated appropriately by the criminal justice system. Many complaints are resolved by "assists," when a victim's concerns may be addressed quickly by an OCVO investigator contacting the criminal justice official whose action is in question. One example of this type of victim complaint came from a homicide victim's mother who felt that she was not receiving timely information regarding the status of the investigation into her daughter's death. The mother did not contact the OCVO with a specific victims' rights violation, but perceived that she was being mistreated by the law enforcement agency because she was unable to obtain information on the status of the case.

OCVO officials resolved the complaint quickly by contacting the lieutenant in charge of the investigation to relay the mother's concerns. The lieutenant was receptive and agreed to contact the victim's family. According to OCVO records, the very next day, the

¹⁴⁸ 1995-1996 BIENNIAL REPORT, *supra* note 100 at p. 5.

victim's mother advised OCVO officials that a representative of the law enforcement agency contacted her, apologized for any mistreatment, and promised to notify her in a timely fashion of the progression of the case. According to the OCVO account, she was satisfied with the action and requested that the OCVO terminate its action on the complaint.¹⁴⁹

OCVO officials note that resolving complaints with assists, as with this example, is fairly common, and that concerns about poor treatment — not only victims' rights violations — are repeatedly brought to the attention of OCVO officials by crime victims in Minnesota.¹⁵⁰

Another common method that the OCVO employs to assist victims of crime is to aid in clarifying for victims why the criminal justice system operates the way it does and why criminal justice practitioners make the decisions they do. One example of this sort came from a sexual assault victim's mother who contacted the OCVO when she learned that the prosecutor assigned to her daughter's case did not intend to bring charges against the assailant.

The OCVO reviewed the case and the prosecutor's reasoning for declining prosecution. As a result of the OCVO investigation, the prosecutor sent a letter to the victim and explained in detail his reasoning for not bringing charges. While still disappointed in the charging decision, the mother better understood the prosecutor's reasoning in not trying the case.¹⁵¹

¹⁴⁹ 1993-1994 BIENNIAL REPORT, *supra* note 106, at p. 12.

¹⁵⁰ 1992-1994 BIENNIAL REPORT, *supra* note 106, at p. 12.

¹⁵¹ 1995-1996 BIENNIAL REPORT, *supra* note 100, at p. 28.

Other complaints received by the OCVO relate to direct violations of Minnesota's Victims' Bill of Rights. In Minnesota, crime victims have the right to request notification from corrections officials when offenders are released from custody. In one situation, an assault victim contacted the OCVO seeking assistance when he could not get a consistent response from officials concerning the release date of his assailant.

When OCVO officials inquired, they found that the offender's history and circumstances were complex: during the period of time the assailant was on probation for assault against the complainant, he was charged with attempted murder in another county. To resolve the assault victim's complaint, OCVO officials worked with the offender's case worker to compile a lengthy case history of the offender, summarize his charges, sentences, and release dates, and forward that information to the complainant.¹⁵²

A more unusual example of the OCVO's powers to intervene emerged in a case where the cause of death of a victim was concluded incorrectly by law enforcement officials. In 1991, police officials found the body of a deceased man in his automobile, which had veered off the highway. Law enforcement officials and the medical examiner determined his cause of death was accidental.¹⁵³ However, after the man was buried, workers at a wreckage yard found in his car a cap pierced by a bullet hole, indicating that the man's death may not have been accidental, but may have been caused by a gunshot wound.¹⁵⁴ His body

¹⁵² 1995-1996 BIENNIAL REPORT, *supra* note 100, at p. 26.

¹⁵³ 1993-1994 BIENNIAL REPORT, *supra* note 106, at p. 11-12.

¹⁵⁴ Maureen M. Smith, *Ombudsman Helps Crime Victims Find Peace*, Minneapolis Star Tribune, Jan. 3, 1994 [hereinafter *Peace*].

was exhumed and a second autopsy revealed that he in fact had been shot.¹⁵⁵

The OCVO intervened using a variety of techniques. The OCVO negotiated with the law enforcement agency on behalf of the victim's wife to resolve the concerns that arose from the case investigation, and provided training on victims' rights and the effects of victimization to employees of the law enforcement agency in question.

Perhaps most importantly, the OCVO met with the victim's wife and representatives of the law enforcement agency, who afforded her the opportunity to express her dissatisfaction with them and receive their apology. This acknowledgment of error was significant for the victim's wife. "It doesn't matter if a case lands on its feet," the ombudsman was quoted as saying after this case was resolved. "The victim suffered a lot during that whole process. She was angry and upset."¹⁵⁶ Meeting with representatives of the law enforcement agency the gave her the satisfaction of knowing that this tragedy would not happen to another family, that officers were trained, and that policies were developed to ensure more accurate investigations, according to the OCVO.¹⁵⁷

Finally, the office, through its ability to make recommendations on policies and procedures that dictate the actions of criminal justice agencies can affect systemic change as well. One example of this type of intervention occurred when the OCVO received three separate complaints involving one county's prosecutor and victim/witness

program. All three victims reported poor service from these criminal justice agencies, and had specific complaints that ranged from excessive trial delays to little or no communication with victims.

Because the complaints were so similar in nature, OCVO investigators conducted a systemic investigation of the county's program. They recommended a needs assessment to determine if the county should restructure its current services, or if it needed more funding and increased staff. The recommendation was forwarded to the DOC, which conducted the assessment. The DOC has completed its analysis, and currently is working with the county to help it meet its goals of improved services to crime victims.¹⁵⁸

The OCVO, in its *Biennial Reports*, has documented "words of praise" from crime victims whom the office has assisted. A sampling of these comments which follow is reflective of the goals of the office to ensure fair and responsive government service to crime victims in a professional manner:¹⁵⁹

- "The investigator showed compassion to my needs and handled my complaint with professionalism. She is an asset to your office."
- "You provide a much needed service."
- "Just having someone skilled to look at our case was comforting."
- "The complaint was investigated quickly and efficiently."

It also publicly commends criminal justice agencies that

provide exceptional service to victims or who have undergone tremendous improvement in their delivery of services to victims. Criteria for selection for a public commendation are: flexibility, creativity, timeliness of response, cooperation, and commitment to share information with victims.¹⁶⁰

THE EVOLUTION OF THE OCVO

The OCVO office has evolved significantly since its inception, both with respect to leadership and mission. According to its *1995-1996 Biennial Report to Minnesota Policymakers*, the office has made several significant strides in the past decade. The scope of the ombudsman's oversight and investigative discretion, for example, grew after the legislature amended the state's Crime Victims' Bill of Rights to provide victims the right to give an impact statement and expanded a victims' right to notification and participation in the criminal justice process.¹⁶¹

As important, however, was the change that took place in 1992, with the appointment of the current ombudsman. Prior to 1992, the OCVO acted similarly to a victims' advocate, even though it was part of the criminal justice system. "Unlike a private [victims'] advocacy agency, this office is part of the [state's] system," according to the prior ombudsman.¹⁶² The OCVO mission and function has evolved since then to focus on neutrality and impartiality, which more clearly

¹⁵⁵ 1993-1994 BIENNIAL REPORT, *supra* note 106, at p. 11-12.

¹⁵⁶ *Peace*, *supra* note 154.

¹⁵⁷ 1993-1994 BIENNIAL REPORT, *supra* note 106, at p. 11-12.

¹⁵⁸ 1995-1996 BIENNIAL REPORT, *supra* note 100, at p. 27.

¹⁵⁹ 1995-1996 BIENNIAL REPORT, *supra* note 100, at p. 33.

¹⁶⁰ 1995-1996 BIENNIAL REPORT, *supra* note 100, at p. 34.

¹⁶¹ 1995-1996 BIENNIAL REPORT, *supra* note 100, at p. 19.

¹⁶² *One of a Kind*, *supra* note 104.