

HB

501

ALASKA STATE LEGISLATURE

HOUSE JUDICIARY COMMITTEE

Representative Norman Rokeberg, Chairman
Representative Scott Ogan, Vice-Chairman
Representative John Coghill
Representative Jeannette James
Representative Kevin Meyer
Representative Ethan Berkowitz
Representative Albert Kookesh



State Capitol
Juneau, AK 99801-1182
Telephone: (907) 465-4990
Fax: (907) 465-2040

Heather M. Nobrega
Counsel to Committee

Sponsor Statement for HB 501

This legislation would amend Alaska's Unclaimed Property Code, AS 34.45, to give the Department of Revenue the authority to pay to the state or an individual or business as restitution, or to satisfy a judgment, any unclaimed property owed to a criminal. The department already has the authority to take unclaimed property owed to criminals and to use the assets to pay toward the individual's child support, but the department cannot use the assets to pay other claims without additional court action.

The need for this legislation became apparent last year when the Department of Revenue received several claims for property from prisoners serving sentences in state correctional facilities. The staff at the Unclaimed Property Section inquired if any of the property owners owed restitution or court-appointed attorney fees associated with their criminal cases. The staff learned that in two cases there were unpaid court judgments against the property owners.

In both cases, the Unclaimed Property Section had little choice under existing statute but to release the funds to the inmates with a letter reminding them of their outstanding judgments. As one might imagine, both inmates promptly deposited the checks into their own accounts. Each unclaimed property payment was in excess of \$500.

Under existing statute, the Department of Law, an individual or a business must file a Writ of Execution with the court to obtain approval to seize any unclaimed property and to apply the money toward unpaid judgments. The resources used to research, process and file another court document when an existing judgment to pay restitution or attorney fees is already on file seem redundant.

Enacting this legislation would allow the Department of Law to submit proof of court-ordered restitution orders or judgments in criminal and delinquency cases to the Department of Revenue, which would then honor the orders and forward to the appropriate party any unclaimed property owned by incarcerated criminals. This legislation would not apply to judgments in civil cases.

Although this legislation would not affect many cases each year, it would ensure that criminals do not receive unclaimed property until they have first satisfied all of the court judgments against them. This legislation would not diminish the priority of child support cases, which would retain first position for any unclaimed property owned by criminals.

The committee urges your support of this bill.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 501
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title "An Act relating to the use of unclaimed BRU Civil Division
property to pay court-ordered restitution; . . ." Component Collections and Support
 Sponsor House Judiciary Committee
 Requester House Judiciary Committee Component No. 2210

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
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--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill allows the use of unclaimed property to satisfy restitution and related interest, collection costs, and attorneys fees that are ordered by the court and owed by the owner of the property. Under the bill, if the owner of unclaimed property owes restitution as a result of a criminal or delinquent act, the Department of Revenue would be able to pay the victim the fair market value of the unclaimed property to satisfy the judgment.

Passage of this legislation is not anticipated to have a fiscal impact on the Department of Law.

Prepared by: Joan M. Kasson Phone (907) 465-5370
 Division Attorney General's Office Date/Time 3/8/02 8:37 AM
 Approved by: Kathryn Daughhete for Bruce M. Botelho, Attorney General Date 3/8/2002
 Agency Department of Law

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FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 501
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title: Unclaimed Property & Restitution ERU: Revenue Operations
Sponsor: House Judiciary Committee Component: Treasury Division
Requester: House Judiciary Committee Component No: 121

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
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						
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1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would not require an increased appropriation for the division.

This legislation would allow the Department of Revenue's Unclaimed Property Section to pay -- as restitution or to satisfy a judgment -- any unclaimed property owed to a convicted criminal.

Prepared by: Larry Persily, Deputy Commissioner Phone: 465-5469
Division: Department of Revenue Date/Time: 3/13/02 4:59 PM
Approved by: Larry Persily, Deputy Commissioner Date: 3/13/2002
Agency: Department of Revenue

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF REVENUE

TREASURY DIVISION

333 WILLOUGHBY AVENUE, 11TH FLOOR
P.O. BOX 110405
JUNEAU, ALASKA 99811-0405
PHONE: (907) 465-2350
FAX: (907) 465-2394

March 7, 2002

The Honorable Norman Rokeberg
Chair, House Judiciary Committee
State Capitol, Room 118
Juneau, Alaska 99801-1182

Dear Representative Rokeberg:

The Department of Revenue Treasury Division manages the Unclaimed Property Program of the State of Alaska. We would like to offer our support for HB501, which amends AS 34.35 and gives us the authority to pay unclaimed property owed to a criminal as restitution or to satisfy a judgment against that criminal.

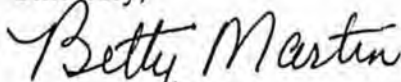
In the past, we have paid claims to criminals even though we knew they owed restitution or had outstanding attorney fees. Under the existing law we had no way to use the criminal's unclaimed property to help satisfy those obligations. The best we have been able to do is send them a letter with their payment, reminding them of their obligation. Of course, none have chosen to use the money to reduce the restitution or judgments due.

Truthfully, passage of this bill will not result in a large increase in the amount of money available to pay restitution claims. However, it will take the burden away from the victims, as they will no longer have to file a Writ of Execution to collect the criminal's unclaimed property. Filing another court document (the writ) when a judgment already exists is onerous and simply works to the benefit of the criminal not the persons owed the restitution.

Finally, we already have the authority to use criminal's unclaimed property to pay child support. Child support payments would continue to have priority over restitution and judgments.

Thank you and the House Judiciary Committee for sponsoring this legislation.

Sincerely,



Betty Martin

State Comptroller and Unclaimed Property Manager

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

TONY KNOWLES, GOVERNOR

1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-5903
PHONE: (907)269-5100
FAX: (907)278-3458

March 8, 2002

Representative Norman Rokeberg
Chair, House Judiciary Committee
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182

Re: *House Bill 501- Unclaimed Property*

Dear Chairman Rokeberg:

This letter concerns House Bill 501, relating to the use of unclaimed property to pay court-ordered restitution. Last year, the Alaska Legislature enacted legislation which authorized the Department of Law to collect restitution on behalf of crime victims. The legislation recognized that victims often do not receive the restitution ordered by the court because the victims do not have the resources to hire an attorney or the sophistication to pursue collection on their own. Under the new laws, the Department of Law's collections unit, which is also responsible for collecting criminal and civil judgments owed to the state, may collect court-ordered restitution from criminal defendants and disburse that money directly to victims.

Because the unit collects this restitution at state expense, it is important that the collections occur in the most efficient and cost-effective manner possible. House Bill 501 would further this goal by creating a simple procedure allowing the Department of Law to attach unclaimed property belonging to criminal defendants. Under the bill, the Department of Law would submit proof of court-ordered restitution directly to the Department of Revenue. This would avoid the necessity of first obtaining a writ of execution through the court system. Thus, the process would be streamlined, requiring less paperwork and other resources to complete. It would also assure that unclaimed property is used to pay restitution owed by criminal defendants, rather than being returned to the defendants.

Rep. Norman Rokeberg
Chair, House Judiciary Committee

March 8, 2002
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Thank you for your consideration. Of course, if you have any questions, please do not hesitate to contact me.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: *Diane L. Wendlandt*
Diane L. Wendlandt
Assistant Attorney General

cc: Michael K. Abbott
Larry Persily
Deborah Behr
Chrystal Smith

DLW\dg