

SB

105

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT

MAR 14 2001

SENATE FINANCE
COMMITTEE

DATE: 3/1/01

FURTHER:

DATE TURNED
IN TO OFFICE:

14 March 01

Finance Committee considered SENATE BILL NO. 105

VICTIMS' RIGHTS/ PRISONER'S PFD

and recommends:

- be replaced with CS SB 105 (FIN)
- adopt previous CS CS forthcoming - ()
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
Legislature	3/1/01	63.9		

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
Corrections	2/22/01	47.0		#1
Law	2/21/01		✓	#2
Revenue	2/24/01		✓	#3

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>			X	
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			✓

Possible Amend

MAR 14 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

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

Title: An Act relating to victims' rights; relating to estab-
lishing an office of victims' rights; relating to compensation ...
Sponsor: Senator Halford
Requester: Senator Judiciary
Dept. Affected: Corrections
BRU: 271
Component: Administrative Services
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						
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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 9 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: Candacc Brower
Division: Commissioner's Office
Approved by: Margaret Pugh
Agency: Department of Corrections

Phone 465-4652
Date/Time 2/22/01 9:30 AM
Date 2/22/01

For distribution information, call the Governor's Legislative Office

MAR 14 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: SB 105
(S) Publish Date: 3/1/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title "Act relating to victims' rights; . . . an office of BRU Criminal Division/Civil Division
victims' rights; . . . compensation of victims of violent crimes . . ." Component Human Services
Sponsor Senator Halford 1st-4th Jud Dist, Crim Apps/Spec Lit
Requester Senate Judiciary Committee Component No. 2198-99/2261/79/01/03/06

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	*****	*****	*****	*****	*****

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	*****	*****	*****	*****	*****

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)

SB 105 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 potential fiscal impact from enactment of this law on the Department of Law is dependent on the philosophy and depth of involvement of the victims' advocate. At a minimum, the length of time required for cases in which the victims' advocate participates will increase, simply by virtue of having an additional attorney involved. The potential that the victims' advocate will be at odds with the prosecutor over matters involving trial strategy, tactics, and plea negotiations would add additional time and expense. These costs are speculative, and the department cannot assign a cost without additional experience.

Prepared by: Joan M. Kasson Phone 465-5370
Division Attorney General's Office Date/Time 2/27/01 12:15 PM
Approved by: Kathryn Daughhetee for Bruce M. Botelho, Attorney General Date 2/27/01
Agency Department of Law

For distribution information, call the Governor's Legislative Office

MAR 14 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 9
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
Component: Permanent Fund Dividend
Sponsor: Senator Halford
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 ()						
------------------------	--	--	--	--	--	--

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 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:

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

REPORTED OUT

MAR 14 2001

SENATE FINANCE
COMMITTEE

NO. _____
BILL VERSION: CSSB 105(JUD)
PUBLISH DATE: _____

Revision Date: _____ Department Affected: Legislature
Title: "An Act relating to victims' rights;
relating to establishing an office of victims' rights; BRU: Legislative Council
Sponsor: Senator Halford Component: Council and Subcommittees
Requestor: Senator Halford 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 1050	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.

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	
		<u>425,291</u>	425.3

Travel

<u>Travel for the Executive Director</u>			
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	
		<u>4,500</u>	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	
	<u>30,400</u>	30.4

Supplies

Office Supplies	2,000	
	<u>2,000</u>	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
	<u>44,410</u>

FY 02 Equipment Cost 44.4

SENATE FINANCE
COMMITTEE
Amendment Number: #1
Bill Number: SB 105
Sponsor: Donley Date: 3/15/01
Logged In By: Mindy

adopted
22-LS0219\F.1
Luckhaupt
3/9/01

AMENDMENT

OFFERED IN THE SENATE
TO: CSSB 105(JUD)

BY SENATOR DONLEY

1 Page 1, following line 1:

2 Insert "relating to the authority of litigants and the court to comment on the crime
3 victim's choice to appear or testify in a criminal case;"

4
5 Page 1, line 4:

6 Delete "Rule 16"

7 Insert "Rules 16 and 30"

8
9 Page 2, following line 10:

10 Insert a new bill section to read:

11 "** Sec. 3. AS 12.61 is amended by adding a new section to article 2 to read:

12 Sec. 12.61.200. Comment not permitted. (a) The decision of the crime
13 victim to testify or appear at a criminal case is not a proper subject of comment by
14 judge or counsel.

15 (b) Upon request, a party against whom the jury might draw an adverse
16 inference from the failure of a crime victim to appear or testify is entitled to an
17 instruction that no inference may be drawn therefrom."

18
19 Renumber the following bill sections accordingly.

20
21 Page 15, line 6:

22 Delete "sec. 5"

23 Insert "sec. 6"

24

1 Page 15, following line 10:

2 Insert a new bill section to read:

3 **** Sec. 17.** The uncodified law of the State of Alaska is amended by adding a new section
4 to read:

5 COURT RULE AMENDMENT. AS 12.61.200, added by sec. 3 of this Act, has the
6 effect of amending Rule 30, Alaska Rules of Criminal Procedure, relating to instructions to
7 the jury."

8

9 Renumber the following bill sections accordingly.

10

11 Page 15, line 13:

12 Delete "sec. 5"

13 Insert "sec. 6"

14

15 Page 15, following line 15:

16 Insert a new bill section to read:

17 **** Sec. 19.** The uncodified law of the State of Alaska is amended by adding a new section
18 to read:

19 APPLICABILITY. AS 12.61.200, added by sec. 3 of this Act, is not intended to
20 interfere with any constitutional rights and applies only to the extent permitted by the United
21 States Constitution and the Constitution of the State of Alaska."

22

23 Renumber the following bill sections accordingly.

24

25 Page 15, line 18:

26 Delete "secs. 1 - 8 and 11 - 16"

27 Insert "secs. 1 - 9 and 12 - 19"

28

29 Page 15, line 21:

30 Delete "sec. 5"

31 Insert "sec. 6"

1

2 Page 15, line 23:

3 Delete "Sections 9, 10, and 17"

4 Insert "Sections 10, 11, and 20"

5

6 Page 15, line 25:

7 Delete "Sections 1 - 8 and 11 - 16"

8 Insert "Sections 1 - 9 and 12 - 19"

SENATE FINANCE
COMMITTEE *adopted*
Amendment Number: #2 22-LS0219\F.2
Bill Number: SB 105 Luckhaupt
Sponsor: Donley Date: 3/14/01 3/12/01
Logged In By: J Mindy

AMENDMENT

OFFERED IN THE SENATE
TO: CSSB 105(JUD)

BY SENATOR DONLEY

- 1 Page 2, line 13:
- 2 Delete "\$30,000"
- 3 Insert "\$40,000"
- 4
- 5 Page 2, line 17:
- 6 Delete "\$50,000"
- 7 Insert "\$80,000"
- 8
- 9 Page 2, line 21:
- 10 Delete "\$50,000"
- 11 Insert "\$80,000"

SENATE FINANCE
COMMITTEE #3 *adopted*
Amendment Number: #3 22-LS0219\F.4
Bill Number: 58 105 Luckhaupt
Sponsor: Donley Date: 3/14/01 3/13/01
Logged In By: *Mindy*

AMENDMENT

OFFERED IN THE SENATE
TO: CSSB 105(JUD)

BY SENATOR DONLEY

- 1 Page 13, line 1:
- 2 Delete "or"
- 3
- 4 Page 13, line 2, following "rights":
- 5 Insert "; or
- 6 (5) nonprofit victims' rights organizations for grants for services to
- 7 crime victims"

CS FOR SENATE BILL NO. 105(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATORS HALFORD, Donley, Taylor

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to victims' rights; relating to establishing an office of victims' rights;**
 2 **relating to the authority of litigants and the court to comment on the crime victim's**
 3 **choice to appear or testify in a criminal case; relating to compensation of victims of**
 4 **violent crimes; relating to eligibility for a permanent fund dividend for persons** #1
 5 **convicted of and incarcerated for certain offenses; relating to notice of appropriations**
 6 **concerning victims' rights; amending Rules 16 and 30, Alaska Rules of Criminal**
 7 **Procedure, Rule 9, Alaska Delinquency Rules, and Rule 501, Alaska Rules of Evidence;**
 8 **and providing for an effective date."**

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

10 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
 11 to read:

12 **SHORT TITLE.** This Act may be known as the Crime Victims' Rights and Advocacy

1 Act of 2001.

2 * Sec. 2. AS 12.55.023(b) is amended to read:

3 (b) A victim may submit to the sentencing court a written statement that the
4 victim believes is relevant to the sentencing decision [,] and may give sworn testimony
5 or make an unsworn oral presentation to the court at the sentencing hearing. If there
6 are numerous victims, the court may reasonably limit the number of victims who may
7 give sworn testimony or make an unsworn oral presentation during the hearing.
8 When requested by the victim of a felony or a class A misdemeanor, if the class A
9 misdemeanor is a crime involving domestic violence or a crime against a person
10 under AS 11.41, when the victim does not submit a statement, give testimony, or
11 make an oral presentation, the victims' advocate may submit a written statement
12 or make an unsworn oral presentation at the sentencing hearing on behalf of the
13 victim.

14 * Sec. 3. AS 12.61 is amended by adding a new section to article 2 to read:

15 **Sec. 12.61.200. Comment not permitted.** (a) The decision of the crime
16 victim to testify or appear at a criminal case is not a proper subject of comment by
17 judge or counsel. #1

18 (b) Upon request, a party against whom the jury might draw an adverse
19 inference from the failure of a crime victim to appear or testify is entitled to an
20 instruction that no inference may be drawn therefrom. }

21 * Sec. 4. AS 18.67.130(c) is amended to read:

22 (c) Compensation may not be awarded under this chapter in an amount in
23 excess of \$40,000 [\$25,000] per victim per incident. However, in the case of the death
24 of }

25 (1) a victim who has more than one dependent eligible for #2
26 compensation, the total compensation that may be awarded as a result of that death
27 may not exceed \$80,000; the [\$40,000. THE] board may prorate the total awarded
28 among those dependents according to relative need; or }

29 (2) two or more victims in the same incident who jointly have a
30 dependent eligible for compensation, the total compensation that may be
31 awarded as a result of those deaths may not exceed \$80,000. }

1 * Sec. 5. AS 24.60.990(a)(9) is amended to read:

2 (9) "legislative director" means the director of the legislative finance
3 division, the legislative auditor, the director of the legislative research agency, the
4 ombudsman, the victims' advocate, the executive director of the Legislative Affairs
5 Agency, and the directors of the divisions within the Legislative Affairs Agency;

6 * Sec. 6. AS 24 is amended by adding a new chapter to read:

7 **Chapter 65. Office of Victims' Rights.**

8 **Sec. 24.65.010. Office of victims' rights.** There is created in the legislative
9 branch of the state the office of victims' rights. The victims' advocate is the director of
10 the office of victims' rights.

11 **Sec. 24.65.020. Appointment of the victims' advocate.** (a) A candidate for
12 appointment as the victims' advocate shall be nominated by the victims' advocate
13 selection committee composed of three members of the senate appointed by the
14 president of the senate and three members of the house of representatives appointed by
15 the speaker of the house. One member of a minority party caucus in each house shall
16 be appointed to the selection committee.

17 (b) The victims' advocate selection committee shall examine persons to serve
18 as victims' advocate regarding their qualifications and ability and shall place the name
19 of the person selected in nomination. The appointment is effective if the nomination is
20 approved by a roll call vote of two-thirds of the members of the legislature in joint
21 session. The vote on the appointment shall be entered in the journals of both houses.

22 **Sec. 24.65.030. Qualifications.** A person may not serve as victims' advocate

23 (1) unless the person has been a resident of the state for the three years
24 immediately preceding the person's appointment;

25 (2) unless the person has been engaged in the active practice of law for
26 the three years immediately preceding the person's appointment;

27 (3) unless the person has significant experience in criminal law;

28 (4) unless the person is an attorney licensed to practice law in this
29 state;

30 (5) within one year of the last day on which the person served as a
31 member of the legislature;

1 (6) while the person is a candidate for or holds another national, state,
2 or municipal office; the victims' advocate may not become a candidate for national,
3 state, or municipal office until one year has elapsed from the date the victims'
4 advocate vacates the office of victims' advocate;

5 (7) while the person is engaged in another occupation for which the
6 person receives compensation;

7 (8) unless the person is at least 21 years of age and is a qualified voter.

8 **Sec. 24.65.040. Term of office.** (a) The term of office of the victims'
9 advocate is five years. A victims' advocate may be reappointed but may not serve for
10 more than three terms.

11 (b) If the term of a victims' advocate expires without the appointment of a
12 successor under this chapter, the incumbent victims' advocate may continue in office
13 until a successor is appointed. If the victims' advocate dies, resigns, becomes
14 ineligible to serve, or is removed or suspended from office, the person appointed as
15 acting victims' advocate under AS 24.65.070(a) serves until a new victims' advocate is
16 appointed for a full term.

17 **Sec. 24.65.050. Removal.** The legislature, by a concurrent resolution adopted
18 by a roll call vote of two-thirds of the members of each house entered in the journal,
19 may remove or suspend the victims' advocate from office, but only for neglect of duty,
20 misconduct, or disability.

21 **Sec. 24.65.060. Compensation.** The victims' advocate is entitled to receive
22 an annual salary equal to Step A, Range 26, on the salary schedule set out in
23 AS 39.27.011(a) for Juneau.

24 **Sec. 24.65.070. Staff and delegation.** (a) The victims' advocate shall appoint
25 a person to serve as acting victims' advocate in the absence of the victims' advocate.
26 The victims' advocate shall also appoint assistants and clerical personnel necessary to
27 carry out the provisions of this chapter. Subject to AS 36.30.020, the victims'
28 advocate may enter into personal services and other contracts the victims' advocate
29 finds necessary to carry out the provisions of this chapter. The victims' advocate shall,
30 to the maximum extent practicable, conduct the duties and work of the office by
31 entering into personal services and other contracts the victims' advocate finds

1 necessary to carry out the provisions of this chapter.

2 (b) The victims' advocate may delegate to the assistants any of the victims'
3 advocate's duties except those specified in AS 24.65.150 and 24.65.160; however,
4 during the victims' advocate's absence from the principal business offices, the victims'
5 advocate may delegate the duties specified in AS 24.65.150 and 24.65.160 to the
6 acting victims' advocate for the duration of the absence. The duties specified in
7 AS 24.65.150 and 24.65.160 shall be performed by the acting victims' advocate when
8 serving under AS 24.65.040(b).

9 (c) The victims' advocate and the staff appointed by the victims' advocate are
10 in the exempt service under AS 39.25.110 and are not subject to the employment
11 policies under AS 24.10 or AS 24.20.

12 **Sec. 24.65.080. Office facilities and administration.** (a) Subject to
13 restrictions and limitations imposed by the executive director of the Legislative Affairs
14 Agency, the administrative facilities and services of the Legislative Affairs Agency,
15 including computer, data processing, and teleconference facilities, may be made
16 available to the victims' advocate to be used in the management of the office of
17 victims' rights and to carry out the purposes of this chapter.

18 (b) The salary and benefits of the victims' advocate and the permanent staff of
19 the victims' advocate shall be paid through the same procedures used for payment of
20 the salaries and benefits of other permanent legislative employees.

21 (c) The victims' advocate shall submit a budget for each fiscal year to the
22 Alaska Legislative Council, and the council shall annually submit an estimated budget
23 to the governor for information purposes in the preparation of the executive budget.
24 After reviewing and approving, with or without modifications, the budget submitted
25 by the victims' advocate, the council shall submit the approved budget to the finance
26 committees of the legislature.

27 **Sec. 24.65.090. Procedure.** (a) The victims' advocate shall, by regulations
28 adopted under AS 44.62 (Administrative Procedure Act), establish procedures for
29 advocacy on behalf of crime victims, receiving and processing complaints, conducting
30 investigations, reporting findings, and ensuring that confidential information obtained
31 by the victims' advocate in the course of advocacy on behalf of a crime victim or in

1 the course of an investigation will not be improperly disclosed. The victims' advocate
 2 may establish procedures so that advocacy and investigations on behalf of crime
 3 victims in felony cases take a priority over advocacy and investigations on behalf of
 4 crime victims in misdemeanor cases.

5 (b) The office of victims' rights may not charge fees for the submission or
 6 investigation of complaints.

7 **Sec. 24.65.100. Jurisdiction; duties.** (a) The victims' advocate has
 8 jurisdiction to advocate on behalf of crime victims of felony offenses or class A
 9 misdemeanors, if the class A misdemeanor is a crime involving domestic violence or a
 10 crime against a person under AS 11.41, in the courts of the state and to investigate the
 11 complaints of crime victims of felony offenses or class A misdemeanors, if the class A
 12 misdemeanor is a crime involving domestic violence or a crime against a person under
 13 AS 11.41, that they have been denied their rights under the constitution and the laws
 14 of the state. In this subsection, "crime involving domestic violence" has the meaning
 15 given in AS 18.66.990.

16 (b) The victims' advocate shall exercise reasonable care to

17 (1) ensure that the victims' advocate's exercise of jurisdiction granted
 18 under this section does not interfere with an ongoing criminal investigation or with a
 19 criminal prosecution;

20 (2) prevent employees of the office of victims' rights from making
 21 extrajudicial statements that the victims' advocate is prohibited from making under the
 22 Alaska Rules of Professional Conduct.

23 (c) The victims' advocate may not advise, counsel, or advocate on behalf of a
 24 victim in a way that would

25 (1) prevent or discourage a victim from cooperating in a criminal
 26 investigation;

27 (2) encourage a victim to withhold evidence in a criminal
 28 investigation; or

29 (3) prevent or discourage a victim from testifying in a criminal
 30 proceeding.

31 **Sec. 24.65.110. Advocacy on behalf of crime victims; records.** (a) The

1 victims' advocate shall assist crime victims in obtaining the rights crime victims are
2 guaranteed under the constitution and laws of the state with regard to the contacts
3 crime victims have with the justice agencies of the state.

4 (b) The victims' advocate may make the statement a crime victim is authorized
5 to make under art. I, sec. 24, Constitution of the State of Alaska, and AS 12.55.023, in
6 a court of the state when requested by the crime victim and when the crime victim
7 does not personally make a statement.

8 (c) When advocating on behalf of a crime victim in an ongoing criminal case
9 or juvenile adjudication, the victims' advocate is entitled to all information available to
10 the defendant or juvenile.

11 (d) Records obtained by the victims' advocate shall remain in the exclusive
12 custody of the victims' advocate. The victims' advocate may not disclose confidential
13 information to any person.

14 **Sec. 24.65.120. Investigations.** (a) The victims' advocate may investigate
15 complaints from crime victims that they have been denied the rights they are
16 guaranteed under the constitution and laws of this state.

17 (b) In an investigation, the victims' advocate may

18 (1) make inquiries and obtain information considered necessary;

19 (2) hold private hearings; and

20 (3) notwithstanding other provisions of law, have access at all times to
21 records of justice agencies, including court records of criminal prosecutions and
22 juvenile adjudications, necessary to ensure that the rights of crime victims are not
23 being denied; with regard to court and prosecution records, the victims' advocate is
24 entitled to obtain access to every record that the defendant is entitled to access or
25 receive.

26 (c) The victims' advocate shall maintain confidentiality with respect to all
27 matters and the identities of the complainants or witnesses coming before the victims'
28 advocate except insofar as disclosures may be necessary to enable the victims'
29 advocate to carry out duties and to support recommendations. However, the victims'
30 advocate may not disclose a confidential record obtained from a court or justice
31 agency.

1 **Sec. 24.65.130. Powers.** (a) Subject to the privileges that witnesses have in
2 the courts of this state, the victims' advocate may compel by subpoena, at a specified
3 time and place, the

4 (1) appearance and sworn testimony of a person who the victims'
5 advocate reasonably believes may be able to give information relating to a matter
6 under investigation under AS 24.65.120; and

7 (2) production by a person of a record or object that the victims'
8 advocate reasonably believes may relate to the matter under investigation under
9 AS 24.65.120.

10 (b) If a person refuses to comply with a subpoena issued under (a) of this
11 section, the superior court may, on application of the victims' advocate, compel
12 obedience by proceedings for contempt in the same manner as in the case of
13 disobedience to the requirements of a subpoena issued by the court or refusal to testify
14 in the court.

15 (c) This section does not authorize the victims' advocate to issue a subpoena to

16 (1) a justice, judge, magistrate, or a law clerk acting under the
17 direction of a justice, judge, or magistrate, concerning a judicial action or nonaction
18 taken by, or under the direction of, the justice, judge, or magistrate;

19 (2) a person acting under the direction of a justice, judge, or
20 magistrate, other than a law clerk, concerning a judicial action or nonaction taken by,
21 or under the direction of, a justice, judge, or magistrate except to establish the
22 occurrence or nonoccurrence of the action or nonaction or the person's own actions or
23 nonactions; this paragraph does not authorize the victims' advocate to inquire into the
24 decision-making or thought process of the justice, judge, or magistrate;

25 (3) a member of a jury concerning a matter that was considered by the
26 jury; or

27 (4) the person accused or convicted of committing the crime that is the
28 basis for the complaint, and investigation under AS 24.65.120, concerning a denial of
29 rights.

30 **Sec. 24.65.140. Consultation.** Before giving an opinion or recommendation
31 that is critical of a justice agency or person as a result of an investigation under

1 AS 24.65.120, the victims' advocate shall consult with that agency or person. The
2 victims' advocate may make a preliminary opinion or recommendation available to the
3 agency or person for review, but the preliminary opinion or recommendation is
4 confidential and may not be disclosed to the public by the agency or person.

5 **Sec. 24.65.150. Procedure after investigation.** (a) The victims' advocate
6 shall report the advocate's opinion and recommendations to a justice agency if the
7 victims' advocate finds, after investigation under AS 24.65.120, that the agency has
8 denied a crime victim rights the crime victim is guaranteed under the constitution and
9 laws of this state.

10 (b) The victims' advocate may request the justice agency to notify the victims'
11 advocate, within a specified time, of any action taken on the recommendations.

12 (c) The report provided under (a) of this section is confidential and may not be
13 disclosed to the public by the justice agency. The victims' advocate may disclose the
14 report under AS 24.65.160 only after providing notice that the investigation has been
15 concluded to the agency and after receiving the written approval of the complainant to
16 release the report.

17 **Sec. 24.65.160. Publication of recommendations.** Except as provided in
18 AS 24.65.150(c), within a reasonable amount of time after the victims' advocate
19 reports the advocate's opinion and recommendations to a justice agency, the victims'
20 advocate may present the opinion and recommendations to the governor, the
21 legislature, a grand jury, the public, or any of these. The victims' advocate shall
22 include with the opinion any reply made by the agency.

23 **Sec. 24.65.170. Annual report.** The victims' advocate shall make available to
24 the public an annual report of the victims' advocate's activities under this chapter and
25 notify the legislature that the report is available.

26 **Sec. 24.65.180. Judicial review.** A proceeding or decision of the victims'
27 advocate may be reviewed in superior court only to determine if it is contrary to the
28 provisions of this chapter.

29 **Sec. 24.65.190. Immunity of the victims' advocate.** A civil action may not
30 be brought against the victims' advocate or a member of the victims' advocate's staff
31 for anything done, said, or omitted in performing the victims' advocate's duties or

1 responsibilities under this chapter.

2 **Sec. 24.65.200. Victims' advocate's privilege not to testify or produce**
 3 **documents or other evidence.** The victims' advocate and the staff of the victims'
 4 advocate may not be compelled to testify or produce documents or other evidence in a
 5 court regarding matters coming to their attention in the exercise or purported exercise
 6 of their official duties except as may be necessary to enforce the provisions of this
 7 chapter.

8 **Sec. 24.65.210. Penalty.** A person who knowingly hinders the lawful actions
 9 of the victims' advocate or the staff of the victims' advocate, or who knowingly refuses
 10 to comply with their lawful demands, is guilty of a misdemeanor and upon conviction
 11 may be punished by a fine of not more than \$1,000. In this section, "knowingly" has
 12 the meaning given in AS 11.81.900.

13 **Sec. 24.65.250. Definitions.** In this chapter,

14 (1) "justice agency" means a department, office, institution,
 15 corporation, authority, organization, commission, committee, council, court, or board
 16 in the executive or judicial branches of the state government that is, in any manner,
 17 involved with or responsible for the apprehension, prosecution, incarceration, or
 18 supervision of criminal or juvenile offenders; it also includes an officer, employee, or
 19 member of an agency acting or purporting to act in the exercise of official duties,
 20 including the governor and lieutenant governor, when acting with regard to executive
 21 clemency, judges, and magistrates;

22 (2) "victim" has the meaning given in AS 12.55.185.

23 * **Sec. 7.** AS 39.25.110 is amended by adding a new paragraph to read:

24 (34) the victims' advocate established under AS 24.65.010 and the
 25 advocate's staff.

26 * **Sec. 8.** AS 39.27.022(d) is amended to read:

27 (d) This section applies to employees of the legislature only if the committee
 28 responsible for adopting employment policies concerning the employee adopts a
 29 written policy that this section applies. This section applies to the employees of the
 30 office of the ombudsman only if the ombudsman adopts a policy that the section
 31 applies. This section applies to the employees of the office of victims' rights only

1 if the victims' advocate adopts a policy that the section applies.

2 * Sec. 9. AS 39.35.385(f) is amended to read:

3 (f) Subject to AS 39.35.450, an employee is eligible for a normal retirement
4 benefit at age 60 or an early retirement benefit at age 55 if the employee was first
5 hired as a legislative employee before May 30, 1987, and has at least 60 days of
6 credited service as an employee of the legislature, other than as an employee of the
7 Office of the Ombudsman or the office of victims' rights, during each of five
8 legislative sessions. An employee who was first hired as a legislative employee on or
9 after May 30, 1987, and is otherwise eligible under this subsection must have at least
10 80 days of credited service during each of five legislative sessions to receive benefits
11 under this subsection.

12 * Sec. 10. AS 43.23.005(d) is amended to read:

13 (d) Notwithstanding the provisions of (a) - (c) of this section, an individual is
14 not eligible for a permanent fund dividend for a dividend year when

15 (1) during the qualifying year, the individual was sentenced as a result
16 of conviction in this state of a felony;

17 (2) during all or part of the qualifying year, the individual was
18 incarcerated as a result of the conviction in this state of a

19 (A) felony; or

20 (B) misdemeanor if the individual has been convicted of

21 (i) a prior felony as defined in AS 11.81.900; or

22 (ii) two or more prior misdemeanors [CRIMES] as
23 defined in AS 11.81.900.

24 * Sec. 11. AS 43.23.028 is amended to read:

25 Sec. 43.23.028. Public notice. (a) By October 1 of each year, the
26 commissioner shall give public notice of the value of each permanent fund dividend
27 for that year and notice of the information required to be disclosed under (3) of this
28 subsection. In addition, the stub attached to each individual dividend check and direct
29 deposit advice must

30 (1) disclose the amount of each dividend attributable to income earned
31 by the permanent fund from deposits to that fund required under art. IX, sec. 15,

1 Constitution of the State of Alaska;

2 (2) disclose the amount of each dividend attributable to income earned
3 by the permanent fund from appropriations to that fund and from amounts added to
4 that fund to offset the effects of inflation;

5 (3) disclose the amount by which each dividend has been reduced due
6 to each appropriation from the dividend fund, including amounts to pay the costs of
7 administering the dividend program and the hold harmless provisions of
8 AS 43.23.075;

9 (4) include a statement that an individual is not eligible for a dividend
10 when

11 (A) during the qualifying year, the individual was convicted of
12 a felony;

13 (B) during all or part of the qualifying year, the individual was
14 incarcerated as a result of the conviction of a

15 (i) felony; or

16 (ii) misdemeanor if the individual has been convicted of
17 a prior felony or two or more prior misdemeanors [CRIMES];

18 (5) include a statement that the legislative purpose for making
19 individuals listed under (4) of this subsection ineligible is to

20 (A) obtain reimbursement for some of the costs imposed on the
21 state criminal justice system related to incarceration or probation of those
22 individuals;

23 (B) provide funds for services for and payments to crime
24 victims and for grants for the operation of domestic violence and sexual assault
25 programs;

26 (6) disclose the total amount that would have been paid during the
27 previous fiscal year to individuals who were ineligible to receive dividends under
28 AS 43.23.005(d) if they had been eligible;

29 (7) disclose the total amount appropriated for the current fiscal year
30 under (b) of this section for each of the funds and agencies listed in (b) of this section.

31 (b) To the extent that amounts appropriated for a fiscal year do not exceed the

1 total amount that would have been paid during the previous fiscal year to individuals
 2 who were ineligible to receive dividends under AS 43.23.005(d) if they had been
 3 eligible, the notice requirements of (a)(3) of this section do not apply to appropriations
 4 from the dividend fund to [THE]

5 (1) the crime victim compensation fund established under
 6 AS 18.67.162 for payments to crime victims;

7 (2) the council on domestic violence and sexual assault established
 8 under AS 18.66.010 for grants for the operation of domestic violence and sexual
 9 assault programs; [OR]

10 (3) the Department of Corrections for incarceration and probation
 11 programs;

12 (4) the office of victims' rights: or

13 (5) nonprofit victims' rights organizations for grants for services to
 14 crime victims.

#3

15 * Sec. 12. AS 44.62.040(c) is amended to read:

16 (c) Before submitting the regulations and orders of repeal to the lieutenant
 17 governor under (a) of this section, every state agency that by statute possesses
 18 regulation making authority, except boards and commissions, the office of victims'
 19 rights, and the office of the ombudsman, shall submit to the governor for review a
 20 copy of every regulation or order of repeal adopted by the agency, except regulations
 21 and orders of repeal identified in (a)(1) - (2) of this section. The governor may review
 22 the regulations and orders of repeal received under this subsection. The governor may
 23 return the regulations and orders of repeal to the adopting agency before they are
 24 submitted to the lieutenant governor for filing under (a) of this section [.] (1) if they
 25 are inconsistent with the faithful execution of the laws, or (2) to enable the adopting
 26 agency to respond to specific issues raised by the Administrative Regulation Review
 27 Committee. The governor may not delegate the governor's review authority under this
 28 subsection to a person other than the lieutenant governor.

29 * Sec. 13. AS 44.62.215 is amended to read:

30 **Sec. 44.62.215. Record of public comment.** In the drafting, review, or other
 31 preparation of a proposed regulation, amendment, or order of repeal, an agency, other

1 than a board or commission, the office of victims' rights, and the office of the
2 ombudsman, shall keep a record of its use or rejection of factual or other substantive
3 information that is submitted in writing as public comment and that is relevant to the
4 accuracy, coverage, or other aspect of the proposed regulatory action.

5 * Sec. 14. AS 44.66.050(c) is amended to read:

6 (c) A determination as to whether a board or commission or agency program
7 has demonstrated a public need for its continued existence must take into
8 consideration the following factors:

9 (1) the extent to which the board, commission, or program has
10 operated in the public interest;

11 (2) the extent to which the operation of the board, commission, or
12 agency program has been impeded or enhanced by existing statutes, procedures, and
13 practices that it has adopted, and any other matter, including budgetary, resource, and
14 personnel matters;

15 (3) the extent to which the board, commission, or agency has
16 recommended statutory changes that are generally of benefit to the public interest;

17 (4) the extent to which the board, commission, or agency has
18 encouraged interested persons to report to it concerning the effect of its regulations
19 and decisions on the effectiveness of service, economy of service, and availability of
20 service that it has provided;

21 (5) the extent to which the board, commission, or agency has
22 encouraged public participation in the making of its regulations and decisions;

23 (6) the efficiency with which public inquiries or complaints regarding
24 the activities of the board, commission, or agency filed with it, with the department to
25 which a board or commission is administratively assigned, or with the office of
26 victims' rights or the office of the ombudsman have been processed and resolved;

27 (7) the extent to which a board or commission that regulates entry into
28 an occupation or profession has presented qualified applicants to serve the public;

29 (8) the extent to which state personnel practices, including affirmative
30 action requirements, have been complied with by the board, commission, or agency to
31 its own activities and the area of activity or interest; and

1 (9) the extent to which statutory, regulatory, budgeting, or other
 2 changes are necessary to enable the agency, board, or commission to better serve the
 3 interests of the public and to comply with the factors enumerated in this subsection.

4 * Sec. 15. AS 44.99.240(2) is amended to read:

5 (2) "state agency" means

6 (A) a department, institution, board, commission, division,
 7 authority, public corporation, or other administrative unit of the executive
 8 branch, including the University of Alaska and the Alaska Railroad
 9 Corporation;

10 (B) a committee, division, or administrative unit of the
 11 legislative branch, including the Alaska Legislative Council, the leadership of
 12 each house, the office of victims' rights, and the office of the ombudsman;

13 (C) an administrative unit of the judicial branch, including the
 14 Alaska Judicial Council and the Commission on Judicial Conduct.

15 * Sec. 16. The uncodified law of the State of Alaska is amended by adding a new section to
 16 read:

17 INDIRECT COURT RULE AMENDMENT. AS 12.61.200, added by sec. 3 of this
 18 Act, has the effect of amending Rule 30, Alaska Rules of Criminal Procedure, relating to
 19 instructions to the jury.

20 * Sec. 17. The uncodified law of the State of Alaska is amended by adding a new section to
 21 read:

22 INDIRECT COURT RULE AMENDMENT. AS 24.65.110 and 24.65.120, added by
 23 sec. 6 of this Act, have the effect of amending Rule 16, Alaska Rules of Criminal Procedure,
 24 and Rule 9, Alaska Delinquency Rules, by allowing the victims' advocate a right of access to
 25 information in criminal prosecutions and juvenile adjudications that is equal to that available
 26 to criminal defendants or juveniles when the advocate is engaging in advocacy or that is
 27 unlimited when the advocate is engaging in investigations concerning victims' rights.

28 * Sec. 18. The uncodified law of the State of Alaska is amended by adding a new section to
 29 read:

30 INDIRECT COURT RULE AMENDMENT. AS 24.65.200, added by sec. 6 of this
 31 Act, amends Rule 501, Alaska Rules of Evidence, by creating a new privilege from being

1 compelled to testify in a court.

2 * Sec. 19. The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 APPLICABILITY. AS 12.61.200, added by sec. 3 of this Act, is not intended to
5 interfere with any constitutional rights and applies only to the extent permitted by the United
6 States Constitution and the Constitution of the State of Alaska.

7 * Sec. 20. The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 TRANSITION. Notwithstanding the effective date of secs. 1 - 9 and 12 - 19 of this
10 Act, to the extent that there are appropriations for the purpose, the executive director of the
11 Legislative Affairs Agency may purchase supplies and equipment, obtain office space, and
12 employ clerical staff so that the office of victims' rights, created in sec. 6 of this Act, is able to
13 begin work on July 1, 2002.

14 * Sec. 21. Sections 10, 11, and 20 of this Act take effect immediately under
15 AS 01.10.070(c).

16 * Sec. 22. Sections 1 - 9 and 12 - 19 of this Act take effect July 1, 2002.

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 2/20/01

FURTHER: Finance

Date of 5-Day Notice: 02/22/01
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 2-28-01

Judiciary Committee considered SENATE BILL NO. 105

VICTIMS' RIGHTS/PRISONERS' PFD

and recommends:

- be replaced with _____ CS SB 105 (JUD)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

- Senate Bill:**
 same title
 new title
House Bill:
 same title
 technical title
 new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DOR	02/24/01		✓	3
DOL	02/27/01	✓		2
DAC	02/22/01	✓		1

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
	✓			
	✓			
	✓			
CHAIR:	✓			



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 670190
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 670190
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 \$450,000.

Sectional Analysis

Senate Bill 105 "Office of Victims Rights"

Section 1 of the bill provides a short title.

Section 2 of the bill allows advocate to make statement at time of sentencing when requested by the victim.

Section 3 of the bill increases the compensation available to victims of crime under AS 18.67.

Section 4 of the bill brings the victims' advocate under legislative ethics.

Section 5 of the bill amends AS 24 by creating a new chapter dealing with the Office of the Victims' Rights which is created 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 OVA

AS 24.65.090 requires advocate to adopt regulations

AS 24.65.100 establishes when the victims' advocate can act.

AS 24.65.110 delineates advocacy and access to records

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

AS 24.65.130 provides subpoena power to victims' advocate

AS 24.65.140 requires consultation with a justice agency prior to report

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

AS 24.65.160 permits advocate to publish opinions and recommendations

AS 24.65.170 requires advocate to publish annual report

AS 24.65.180 limits judicial challenge of advocate's actions

AS 24.65.190 provides immunity to advocate

AS 24.65.200 provides evidentiary privilege against being compelled to testify to advocate

AS 24.65.210 sets out criminal penalty for obstruction of advocate's duties

AS 24.65.250 definitions

Section 6 of the bill specifies that the Victims' Advocate and staff are in the exempt category.

Section 7 of the bill provides option of adopting longevity pay provisions to the Victims' Advocate.

Section 8 of the bill excepts OVR employees from using the conditional service retirement benefit for legislative employees.

Section 9 of the bill expands PFD ineligibility to a person who has been convicted of a misdemeanor and has one prior felony conviction.

Section 10 of the bill 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.

Section 11 of the bill exempts regulations promulgated by the OVR from gubernatorial review.

Section 12 of the bill exempts the Victims' Advocate from record keeping requirements.

Section 13 of the bill requires that sunset review of agencies consider interaction with OVR.

Section 14 of the bill names OVR as state agency for purposes of state publications.

Section 15 & 16 of the bill provides court rule change notice.

Section 17 of the bill 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.

Sections 18 and 19 of the bill are the effective date clauses.

COMPARISON: CS SB 105 (JUD) AND CS SB 4 (FIN)

The significant change from the Senate Finance version of SB 4 is that Senate Bill 105 returns the Office of Victims' Rights (OVR) to the Legislative branch. In the original bill, the sponsor drafted OVR to mirror the Ombudsman, however the Senate Finance Committee moved OVR to the Department of Public Safety. Reviewing the purpose of the office and similar offices in other states, the sponsor has determined that the Legislative branch is the correct place to have a Victims' Advocate. The substantive portions of the language regarding qualifications, procedures, jurisdiction and duties, powers, reports, immunity and the privilege not to testify or produce documents are the same.

I have not included a sectional analysis in this document, since one has already been provided. The following summary highlights the differences between the Senate Finance version of SB 4 (last session) and the current bill (SB 105).

The changes necessitated by the departmental move are in blue. Sections that have been deleted from the Senate Finance version are in red.

Section 1 & 2 = same in both bills

Section 3 = same as CS SB 4 (FIN) Section 4

Removed the section tying the cap for compensation to victims to the Consumer Price Index. This was removed from Senate Bill 4 in House Judiciary.

Section 4 (new) - adds the Victims' Advocate to the definition of "legislative director."

Section 5 - Establishes OVR (see sectional for more detail). Same as CS SB 4 (FIN) except:

- Moved from DPS to Legislature (these sections are substantially similar to the statutes establishing the Ombudsman - most are exactly the same)
 - New appointment process (SB 4 - Commissioner of DPS/SB 105 - a committee)
 - Employees are "exempt" (vs. classified in DPS)
 - Added sections specifying the term of office, removal, compensation, staff & delegation, office facilities & administration
- Removed additional "intent" language and grant language added to SB 4 by the Senate Finance Committee, which was removed in House Judiciary. DPS has granting authority for the victims' groups, so it was left in DPS when the office was moved.
- Added language requiring the Victims' Advocate to contract for services. This fosters a complementary working relationship with existing victims' groups and allows the Victims' Advocate to privatize where appropriate.

Section 6 -8: new sections regarding personnel and compensation (mirrors Ombudsman)

Sections 9 & 10 = same as SEN FIN

Section 11 - 14: new sections regarding regulations, boards and commissions and the definition of "state agency" (mirrors Ombudsman)

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

techniques to use with victims, including child and elderly victims, victims who do not speak English, victims from diverse cultures, and victims with disabilities, including those who are blind or deaf or who have cognitive or developmental disabilities. Brochures describing victims' rights and services should be developed in the languages used by crime victims in each community, and all brochures and critical victim information written in English should include a sentence offering the literature in other languages as needed. Special provisions should be made for communicating with victims who are blind or visually impaired using audiotapes, special computer disks, Braille, or other communication technologies. Service providers should be trained to use sign language interpreters and TDD technology to communicate with victims who are deaf or hard of hearing.

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.

One of the greatest barriers to victims participating in justice proceedings is their not having the means to do so. Many victims cannot afford to pay for parking, child care, or time off from work. Others do not have the resources to cover transportation costs to courts, especially if the trial or hearing is held outside their community. In these cases, every effort should be made to facilitate victim participation by providing special services such as child care, or paying for transportation and lodging expenses. For example, in the Alfred P. Murrah Federal Building bombing cases, government and non-profit agencies and the private sector formed a partnership to provide funding for victim travel expenses after the trial was moved from Oklahoma City to Denver, Colorado in 1997. In addition, the court in Denver set up a closed-circuit television communication in Oklahoma City to allow victims there to view the proceedings in Denver. New uses of technology should be considered to provide access to trials and other proceedings for victims who are physically unable to attend them. Furthermore, more consideration must be given to the tremendous diversity among victims in the design and delivery of victim services.

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.

Although more than 27,000 state and federal laws have been enacted to protect and enforce the interests, rights, and services for crime victims, the *consistent* implementation and enforcement of these laws is an area of great concern. Victims report that criminal and juvenile justice officials at times disregard their statutory and constitutional rights, and that they have no legal recourse when their rights are violated. States should enact provisions that give victims measures to enforce their rights when they are disregarded.

While limited legal remedies such as court-ordered injunctions and writs of mandamus are generally available to force criminal justice personnel to comply with the law, states are beginning to pass laws that provide specific statutory remedies and recourse for crime victims. A Maryland statute enables victims of violent crimes to apply for "leave to appeal" any final order that denies victims certain basic rights.²⁰ Arizona law grants victims the right to challenge postconviction release decisions resulting from hearings at which they were denied the opportunity to receive notice, attend, or be heard. Arizona law allows victims to sue for money damages any government entity responsible for the "intentional, knowing or grossly negligent violation" of the victims' rights.²¹

It is critical that effective measures be available to remedy violations of victims' rights, including authority for the government to obtain redress through applications for mandamus and appeal. The need for this reform in federal proceedings is illustrated by the first trial in the bombing of the Alfred P. Murrah Federal Building, in which the trial court ruled that victims would not be allowed to attend the trial if they wished to be heard at the sentencing stage. On review, the Tenth Circuit Court of Appeals held that victims had no standing to assert their right to be present and that the government could not enforce that right by appeal or by seeking a mandatory order.²²

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.

State victims' rights compliance enforcement programs oversee justice officials' and agencies' compliance with crime victims' statutory and constitutional rights and investigate crime victim complaints relevant to those rights being violated.⁹³ A few states have created such programs within an existing agency or have established a new, state-level oversight authority. In initiating such a program, officials should consider the importance of meaningful remedies and sanctions for noncompliance with victims' rights laws; and ensure that victims, victim service providers, advocacy groups, and victim-sensitive justice professionals are involved in the program planning process. In addition, justice agencies should consider increasing crime or court surcharges to support a compliance enforcement functions, and should evaluate overall compliance enforcement system.

Innovative approaches to victims' rights oversight have been implemented in several states:

- The Minnesota Office of the Crime Victims Ombudsman (OCVO) protects the rights of victims by investigating statutory violations of victims' rights laws and mistreatment by criminal justice practitioners. OCVO is authorized to initiate its own investigation of alleged violations, recommend corrective action, and make its findings public to both the legislature and the press.
- The South Carolina Office of the Crime Victims' Ombudsman is empowered to act as a referral entity for victims in need of services, a liaison between victims and the criminal and juvenile justice systems in the course of their interaction, and a resolver of complaints made by victims against elements of those systems and against victim assistance programs. In addressing complaints, the South Carolina Ombudsman program is not limited to inquiries into violations of specific statutory rights, but may review other conduct that is potentially unfair to victims.⁹⁴
- Colorado has recently enacted a state-level coordinating committee that serves an ombudsman function for victims' rights implementation.⁹⁵ The Colorado Victims' Compensation and Assistance Coordinating Committee and its Victims' Rights Act (VRA) subcommittee help victims enforce their rights by overseeing the actions of local government agencies. The subcommittee and full coordinating committee have the power to investigate VRA violations and to recommend action with which an agency must comply to rectify victims' complaints. The two bodies also monitor the implementation of those suggestions and may refer issues of noncompliance to the governor or attorney general.⁹⁶
- Wisconsin has a state-level victims' services office—the Victim Resource Center (VRC)—which provides information and service referrals to victims and acts as a liaison between victims and

criminal justice agencies in resolving complaints concerning unlawful or inappropriate agency action. Though it lacks enforcement authority, the VRC protects victims' rights by investigating complaints and presenting its recommendations for corrective action to state criminal justice officials. The Wisconsin legislature is currently debating a measure that would prescribe remedies for violations of victims' rights laws and provide for the enforcement of Wisconsin's victims' rights constitutional amendment.⁹⁷

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #20

Federal crime victims' rights should apply in military proceedings.

The extensive range of information, notification, and participatory rights that have been enacted on the federal level should be fully implemented for victims' rights within military justice proceedings. Some victims' rights established at the federal level are not implemented in military courts. Restitution for victims is frequently ordered as part of sentences for federal crimes, but there is no authority to do so under the Uniform Code of Military Justice.⁹⁸ Moreover, the military justice system has failed to adopt "truth in sentencing" reforms and continues to parole offenders, a practice that generally has been abolished in federal criminal cases. The Uniform Code of Military Justice should be amended to make restitution mandatory.

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #21

Indian tribes should review their legislation, policies, and court systems to enhance the fundamental rights of Native American victims.

There are 621 federally recognized tribes in the United States; each of these tribes is a separate sovereign with legislative and adjudicatory authority. There are 242 separate tribal court systems, trial and appellate, as well as numerous traditional dispute resolution forums unique to each tribal culture.⁹⁹ While many major crimes that occur in Indian country are prosecuted in federal or state courts, tribes retain concurrent criminal jurisdiction over Native American defendants.¹⁰⁰ Moreover, tribal courts are often the sole forum for prosecuting crimes and juvenile offenses involving child abuse and domestic violence.

Tribes should analyze and amend their laws and policies, as well as observe and change procedures of their courts, law enforcement offices, and human services agencies in order to protect and enhance the fundamental rights of Native American victims. Tribes should

establish joint tribal-state and federal forums to ensure that Native American victims are not lost in the jurisdictional complications of Indian country. They should also train their leaders, justice personnel, and community members on prevention measures and effective responses to crime in Indian country.

Notwithstanding political pressures and lack of economic resources, a number of tribes have successfully implemented crime victims' rights ordinances, mandatory arrest policies for domestic violence, safe houses, community education projects, and an array of culturally appropriate systems for protecting Native American crime victims. Some tribes have included the rights of crime victims in their codes. For example, the Uniform Sentencing Policy of the Courts of the Navajo Nation includes the rights for victims to have input into plea agreements, proposed sentences, and restitution decisions. The Salt River Pima-Maricopa Indian Community Council passed a Children's Bill of Rights, and the Crow Tribal Council developed rights for domestic violence victims that are set forth in its Domestic Abuse Code.

From tribal police intervention to tribal court proceedings, the victims of violent crime in Indian country must have rights available to them. They must be informed of their rights, encouraged to exercise their rights, and be protected from further harm. This is the basic responsibility of a tribal criminal justice system.

Joseph Myers,
Executive Director,
National Indian Justice Center

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #22

Victims of crime should have rights at administrative proceedings, including the right to have a person of their choice accompany them to the proceedings, the right to input regarding the sanction, and the right to notification of the sanction.

Agencies and institutions that seek to hold their employees or students accountable for their alleged criminal or negligent behavior often do so through administrative proceedings, including disciplinary hearings on college campuses in sexual assault cases and other crimes that violate college rules. Governmental and private sector organizations also conduct administrative hearings when an employee is accused of misconduct, which sometimes also constitutes a criminal act. These hearings are held to determine whether an employee or student should be dismissed or sanctioned.

Victims often complain about their lack of rights and protections at these hearings. For example, at disciplinary hearings on college campuses and in schools, as well as administrative proceedings when criminal justice personnel are accused of conduct violations, victims are frequently not allowed such fundamental rights as the right to be accompanied by a person of their choice and the right to submit a victim impact statement before the offender is sanctioned. Agencies and institutions should review their disciplinary codes and ensure that

fundamental victims' rights are incorporated. In addition, all cases involving criminal conduct should be referred to law enforcement for further investigation.

State laws should be strengthened to ensure that these victims receive appropriate rights. For example, California recently amended its Education Code to provide victims of sexual assault and harassment in public schools with the rights to: be accompanied by a parent or other support person during testimony in disciplinary hearings; adequate notice prior to being called to testify; testify at a hearing closed to the public; and have evidence of irrelevant sexual history excluded.¹⁰¹ The law also requires school districts to take further steps to provide a nonthreatening environment for child victims by adopting procedures that have become the standard across the country for children who testify as witnesses in other legal proceedings. Support for the law was initiated by the Santa Monica-UCLA Rape Treatment Center after the rape of a 12-year-old middle school student in a Los Angeles school by a fellow student. She had to face the accused attacker, his parents, and his attorney alone during an expulsion hearing.¹⁰²

The *Student Right to Know Campus Security Act of 1990*,¹⁰³ and *The Campus Sexual Assault Victims' Bill of Rights*¹⁰⁴ passed by Congress should be fully implemented. These laws should be amended to ensure that the same rights to be informed, present, and heard in criminal proceedings apply equally to disciplinary proceedings in school settings.

Other victims whose rights are woefully overlooked are victims of mentally ill offenders whose cases are adjudicated through an involuntary mental commitment process. Where applicable, these victims should receive the same rights as other victims, including the right to receive notice of release.

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.

Criminal and juvenile justice agencies and institutions should develop and implement policies and procedures to ensure that all

crime victims are afforded the opportunity to exercise their rights. Monitoring should be mandatory at all stages of the justice systems. Criminal and juvenile justice agencies should document whether or not crime victims receive notice of and an opportunity to exercise their rights and, if not, why not. Such documentation is a significant step toward holding officials accountable and will enable agencies to monitor their compliance with legal mandates.

Further information is needed about the level of state and federal compliance with victims' rights laws to determine how to improve implementation of these laws. This information should be obtained through independent audits that can evaluate levels of compliance and propose needed reforms to improve the system.

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #24

Introductory and continuing education for all criminal and juvenile justice professionals should address victims' rights, needs, and services, and incorporate involvement from crime victims themselves.

To increase compliance with victims' rights laws, states must make education on the rights of crime victims a priority during orientation and continuing education training programs for criminal and juvenile justice officials. Implementing victims' rights remains the responsibility of these officials. They must be educated about the importance of their victim-related responsibilities and sensitized to the critical needs of crime victims.

Training programs for law enforcement officers, prosecutors, and judges, as well as probation, parole, and corrections officials, have been developed and implemented on a broad scale through training and technical assistance grant projects funded by the Office for Victims of Crime. Some institutions responsible for educating and training these professionals are beginning to incorporate victim-related sensitivity training into their permanent curricula. In some states, such training is mandated by statute, but in others, the incorporation of victims' issues is voluntary.¹⁰⁵

Victim input into such educational programs is critical. Victim impact panels provide a vehicle for victims to tell justice professionals firsthand about the physical, financial, and emotional impact of crime. Developed by Mothers Against Drunk Driving as an educational tool in court-ordered probation programs for DUI offenders, and for youth offenders by the California Youth Authority, they are increasingly being

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March 9, 2001

Senator Rick Halford
State Capitol
Juneau, Alaska 99801-1182

Sear Senator Halford:

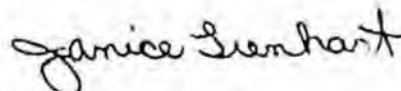
Thank you for reintroducing The Victims' Rights Bill, Senate Bill 105. I have worked with victims of crime for over 15 years receiving 258 hours of training in the field of victim services. To augment my training, I have experienced victimization and therefore have an added dimension to a victim's needs.

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

SITE: ANCHORAGE LIO

COMMITTEE:

Senate Finance

DATE: 3-14-2001

SUBJECT OF MEETING:

SB 99-

SB 117-

SB 105-

UPDATE #: 2



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REPRESENTING

DO YOU WANT

TO TESTIFY?

Y or N

NAME	ADDRESS (MAILING & ZIP)	REPRESENTING	DO YOU WANT TO TESTIFY? Y or N
Chris Beheim		State Crime Lab	Ans ?s SB 99
George Taft		State Crime Lab	Ans ?s SB 99
Robert Buttane		HSS/Juvenile Justice	Ans ?s SB 99
Jennifer Rudinger		AK CLU	Y - SB 99
Robert Buttane		HSS/Juvenile Justice	Y - SB 105
Mark Myers		DNR/ O&G	Ans ?s SB 117

SENATE FINANCE COMMITTEE

SIGN-IN

SB 105-VICTIMS' RIGHTS/ PRISONER'S PFD

NAME: Nanci Jones Subject/Bill No: _____
Co./Dept./Title: Pain Fund Dividend Div Phone: 4785
Address: St 070 Bldg Zip: _____
Do you wish to testify? ___ Yes No Respond To Questions

NAME: DEAN GUANELI Subject/Bill No: SB 105
Co./Dept./Title: LAW Phone: 3600
Address: _____ Zip: _____
Do you wish to testify? Yes ___ No ___ Respond To Questions

NAME: Candace Brower Subject/Bill No: SB 105
Co./Dept./Title: Corrections Phone: 465 4564652
Address: B Zip: _____
Do you wish to testify? Yes ___ No Respond To Questions

NAME: _____ Subject/Bill No: _____
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Address: _____ Zip: _____
Do you wish to testify? ___ Yes ___ No ___ Respond To Questions