

**HB**

**357**

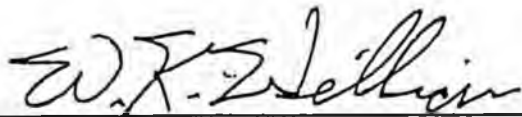
**HFIN**

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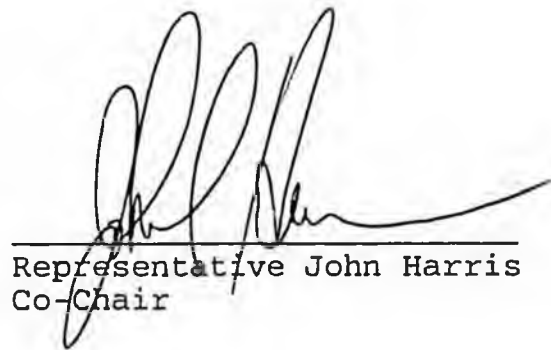
House Finance Committee  
Letter of Intent  
HCS CSSB 357 (FIN)

It is the intent of the Legislature that the Division of Insurance should take action to reform and modernize Alaska's system for insurance regulation. In order to preserve state regulation of insurance, state regulation must respond to the changing nature of the business of insurance.

Specifically, the Division of Insurance should study alternative methods for regulating rates and forms and should develop proposals for changing Alaska's existing regulatory system in order to achieve the goals of consumer protection and the fostering of a highly competitive insurance market in Alaska.



Representative Bill Williams  
Co-Chair



Representative John Harris  
Co-Chair



# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHB 357(JUD)  
 (H) Publish Date: 2/12/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title An Act relating to restitution BRU Legal and Advocacy Services  
 Component Public Defender Agency  
 Sponsor Representative Samuels  
 Requester (H) Judiciary Component No. 1631

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	*	*	*	*	*	*
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	*	*	*	*	*	*

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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)						
<b>TOTAL</b>	*	*	*	*	*	*

Estimate of any current year (FY2004) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
 This bill will likely have a fiscal impact on the operations of the Agency, but it is impossible to determine with any accuracy what that impact will be. Requiring restitution in every case with a victim will result in more restitution hearings. Determinations on the amount of mandatory restitution will have to be made at these hearings. More hearings require more work of Agency attorneys, but it is not possible to predict how many cases this new legislation will affect. In addition the requirement that restitution be ordered in a case without consideration of the defendant's inability to pay will result in more petitions to revoke probation being filed and litigated for the failure to pay the ordered restitution, which will also affect the operations of the Agency, since it will increase its assigned caseload of probation revocations. An indeterminate fiscal note is submitted.

Prepared by: Linda K. Wilson, Deputy Director Phone (907)-334-4416  
 Division Public Defender Agency Date/Time 1/23/04 10:40 a.m.  
 Approved by: Mike Miller, Commissioner Date \_\_\_\_\_  
 Agency Administration

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2  
Bill Version: CSHB 357(JUD)  
(H) Publish Date: 2/12/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: LAW  
Title: "An Act relating to restitution...." RDU: Civil  
Component: Collections and Support  
Sponsor: Representatives Samuels, Stolze, McGuire, Dahlstrom  
Requester: House Judiciary Component No. \_\_\_\_\_

**Expenditures/Revenues (Thousands of Dollars)**

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>****</b>	<b>****</b>	<b>****</b>	<b>****</b>	<b>****</b>	<b>****</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

FUND SOURCE	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>****</b>	<b>****</b>	<b>****</b>	<b>****</b>	<b>****</b>	<b>****</b>

Estimate of any current year (FY2004) cost: 0.0  
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
This bill amends AS 12.55 by replacing the word "may" with "shall" in the ordering of a defendant to make restitution.  
  
At this time we are unable to determine whether passage of this legislation will result in significant new restitution orders transferred to the Department of Law. Our fiscal note at this time is indeterminate pending further information from the Court System.

Prepared by: Kathryn A. Daughhete, Director Phone 465-3673  
Division: Administrative Services Date/Time 1/23/04 4:33 PM  
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 1/23/2004  
Agency: Department of Law



Representative Nancy Dahlstrom  
Representative Lesil McGuire

Representative Ralph Samuels  
Representative Bill Stoltze

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## CS HB 357

### Sponsor Statement

#### **“An Act relating to restitution; and providing for an effective date”**

HB 357, if passed, would require judges to order restitution from criminals in *all* cases where a victim has suffered a financial loss.

When financial losses of victims are ignored, or given less priority than the rights of criminals, we cause them to be victimized again. HB 357 would require judges to order restitution in *every* case where a victim has suffered a financial loss. Under present law, a judge may, but is not required, to do so. This change will also ensure that offenders are ordered to make realistic restitution payments to help make the victim whole within a reasonable time. The act of ordering restitution serves as an acknowledgment by the criminal justice system that the victim sustained harm. Prompt and full payment of restitution can help rectify that harm.



Representative Nancy Dahlstrom  
Representative Lesil McGuire

Representative Ralph Samuels  
Representative Bill Stoltze

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## HB 357

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HB 357 also clarifies that a minor who has been ordered to pay restitution be required to do so beyond his or her 19<sup>th</sup> birthday. For example, if a 16 year old has been ordered to pay restitution, the order survives past the legal age and the defendant shall be responsible for the fine until is paid in full.

# LEGAL SERVICES

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LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

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FAX (907) 465-2029  
Mail Stop 3101


State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

February 2, 2004

**SUBJECT:** CSHB 357(JUD) (Work Order No. 23-LS1384\I)

**TO:** Representative Lesil McGuire  
Attn: Vanessa Tondini

**FROM:** Gerald P. Luckhaupt   
Legislative Counsel

Enclosed is the CS(JUD) you requested. I have two comments.

1. Sec. 1, page 1, lines 4 and 10. The committee added the words "when presented with evidence" in two places. Apparently, the committee is limiting a criminal court from ordering restitution except when evidence is presented. I do not understand the reason for the amendment, as a criminal court (or even a civil court for that matter) cannot deprive a person of property arbitrarily or without evidence to support the judgment.<sup>1</sup> It seems beyond question to me that a court cannot enter a restitution order without evidence to support the order and I therefore do not see the need for the amendment. Beyond this concern, the amendment is troubling because the legislature requires a court to order restitution in AS 12.55.045(e) and allows the awarding of restitution under AS12.55.045(d). In each of these provisions there is no mention of "when presented with evidence." Because of the differences in these restitution statutes, the courts may choose to interpret these provisions differently. It is possible that a court could interpret AS 12.55.045(a) to require a restitution order to be supported by a different level, quantity, or type of evidence than restitution orders under AS 12.55.045(d) or (e).

2. Sec. 6, pages 3, line 31 through page 4, line 2. This amendment provides that a delinquency court may consider a minor's earning capacity beyond the period of time when the juvenile court normally loses jurisdiction of the minor.<sup>2</sup> Apparently, there is a concern that some juvenile courts are not awarding restitution because the court believes the juvenile will not be able to repay the award by the time the minor turns 19; hence the

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<sup>1</sup> I guess if a person voluntarily agrees to the entry of judgment against them the court could act. Even in a default judgment context a plaintiff still has to provide proof to support their entitlement to the relief they are requesting.

<sup>2</sup> This usually occurs when the minor turns 19, if not before. AS 47.12.120. But see AS 47.12.120(a)(3)(B).

Representative Lesil McGuire  
February 2, 2004  
Page 2

amendment. While I find no support in the statutes for a court to take that position<sup>3</sup>, my concern is that a court will use this new provision to limit an award of restitution because the court believes that a minor will have limited earning capacity in the future. While the intention may be to expand or otherwise allow awards of restitution, it appears to me that this language can actually be used to limit awards.

GPL:mdr  
04-028.mdr

Enclosure

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<sup>3</sup> Nowhere does AS 47.12.120 limit, or even imply that, restitution to amounts that can be repaid by the time the minor turns 19.

**THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES**

ANCHORAGE SCHOOL DISTRICT  
ANCHORAGE, ALASKA

MEMORANDUM

January 25, 2004

TO: REPRESENTATIVE RALPH SAMUELS  
REPRESENTATIVE LESIL MC GUIRE

(VIA FAX (907) 465-3810

(VIA FAX (907) 465-6592

FROM: CAROL COMEAU *Carol Comeau*  
SUPERINTENDENT

SUBJECT: SUPPORT FOR HB 357

I want to express strong support for the amendments to House Bill 357, related to restitution for vandalism and other crimes where the victim has suffered financial harm. These are critical amendments, and your strong language is much appreciated.

It is essential to the Anchorage School District, the community, and our employees that juveniles who commit crimes be held fully responsible and accountable for all of the damage they incur, rather than only for what they can pay for before they turn age 19. We feel strongly this is the juvenile and/or criminal's responsibility, not his parent's or legal guardian's financial responsibility. We liken this financial responsibility to that of a juvenile who signs a commitment to repay a student loan well past age 19; we see that it is just as important for a criminal to repay his/her full restitution.

Please do not hesitate to contact us if you would like us to testify and/or present additional information. We appreciate your leadership in this important priority issue.

cc School Board members  
Dick Traini, Assembly Chair  
Mayor Mark Begich  
Lt. Gardner Cobb, APD, School Resource Officer Program  
Audie Hollaway, Deputy Chief of Police  
Mike Klawitter, Director, Risk Management  
Mark Mew, Director, Security and Emergency Preparedness  
Larry Petersen, Director, Maintenance  
George Vakalis, Asst. Supt. For Support Services  
Larry Wiget, Executive Director, Public Affairs

STATE OFFICE  
**ALASKA PEACE OFFICERS ASSOCIATION**

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February 9, 2004

Representative Ralph Samuels  
House of Representatives  
State Capitol  
Juneau AK 99801-1182

Dear Representative Samuels,

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for co-introducing HB 357, an act relating to restitution; and providing for an effective date.

This proposed bill will require mandatory restitution to the victim or other person injured by the offense. Restitution would also be required for public, private, or private nonprofit organization that has provided or is or will be providing counseling, medical, or shelter services to the victim. This change will be of benefit for the citizens of the State of Alaska. We thank you for addressing this issue.

Please contact the APOA office in Anchorage at 277-0515 if there is anything our organization can do to assist in the passage of this bill.

Sincerely,

Leo J. Brandlen  
State President