

HB

357

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
APR 06 2004
SENATE FINANCE
COMMITTEE

DATE: 3/22/04

FURTHER:

DATE TURNED IN TO OFFICE: 6 April 2004

Finance Committee considered CS FOR HOUSE BILL NO. 357(JUD)

HB 357 RESTITUTION

"An Act relating to restitution; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous S CSCS# B 357 (JUD)
- 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 Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero.	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
Admin	1/21/04		*		#1
Law	1/23/04		*		#2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>Frank Ryan</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>B. B. [Signature]</i>	✓			
<i>Ben Steeles</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			

FISCAL NOTE

REPORTED OUT

APR 06 2004

SENATE FINANCE
COMMITTEE

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 Sarvels
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						
TOTAL OPERATING	*	*	*	*	*	*

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

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--Do not abbreviate)						
TOTAL	*	*	*	*	*	*

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

APR 06 2004

SENATE FINANCE
COMMITTEE

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						
TOTAL OPERATING	****	****	****	****	****	****

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

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--Do not abbreviate)						
TOTAL	****	****	****	****	****	****

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 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

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.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

SPECIAL MILLENNIUM EDITION

The
Constitutions
of the
State of Alaska
and the United States



Lt. Governor Fran Ulmer • January 2001

Provided by Rep. Samuels

from the offender, and the nation. [Amendment approved November 8, 1994 - Effective December 30, 1994]

pus. The privilege of the press shall not be suspended, restricted, or abridged in cases of rebellion or actual or imminent public safety requires

§ 17. **Search and Seizures.** The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be infringed. No warrants shall issue, except upon probable cause, supported by oath or affirmation, and particularly described, and the persons or places to be searched, and the persons or things to be seized.

§ 18. **Ex Post Facto and Bill of Attainder.** No bill of attainder or ex post facto law shall be passed. No law shall impair the obligation of contracts, and no law shall grant any irrevocable grant of any special privilege, immunity, or franchise. No law shall work corruption or bribery, or shall affect the course of justice, or shall impair the right of estate.

§ 19. **Trial by Jury.** In civil cases where the controversy exceeds two hundred dollars, the right of trial by a jury shall be preserved to the same extent as in the common law. The legislature may provide for a trial by a lesser number of the jury and, in criminal cases, may provide for a trial by a jury of more than twelve.

§ 20. **Debt.** There shall be no imprisonment for debt. This section shall not apply to the arrest of absconding

§ 18. **Eminent Domain.** Private property shall not be taken or damaged for public use without just compensation.

§ 19. **Right to Keep and Bear Arms.** A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed. The individual right to keep and bear arms shall not be denied or infringed by the State or a political subdivision of the State. [Amendment approved November 8, 1994 - Effective December 30, 1994]

§ 20. **Quartering Soldiers.** No member of the armed forces shall in time of peace be quartered in any house without the consent of the owner or occupant, or in time of war except as prescribed by law. The military shall be in strict subordination to the civil power.

§ 21. **Construction.** The enumeration of rights in this constitution shall not impair or deny others retained by the people.

§ 22. **Right of Privacy.** The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section. [Amendment approved August 22, 1972 - Effective October 14, 1972]

§ 23. **Resident Preference.** This constitution does not prohibit the State from granting preferences, on the basis of Alaska residence, to residents of the State over non-residents to the extent permitted by the Constitution of the United States. [Amendment approved November 8, 1988 - Effective January 4, 1989]

§ 24. **Rights of Crime Victims.** 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. [Amendment approved November 8, 1994 - Effective December 30, 1994]

§ 25. **Marriage.** To be valid or recognized in this State, a marriage may exist only between one man and one woman. [Amendment approved November 3, 1998 - Effective January 3, 1999.]

Editor's Note. Article I, Section 25 consists of the first sentence of 1998 Legislative Resolve 71 (20th Legislature's HCS CSSJR 42 (RLS)). The second sentence of 1998 Legislative Resolve 71 did not appear on the ballot pursuant to an order of the Supreme Court of the State of Alaska in *Bess v. Ulmer*, 985 P.2d 979 (Alaska 1999) (Preliminary opinion and order dated September 22, 1998.)

SENATE FINANCE COMMITTEE

SIGN-IN

HB 357-RESTITUTION

NAME: Susan Parkes Subject/Bill No: HB357
Co./Dept./Title: Department of Law - Deputy Atty Phone: 269-6379
Address: 310 K Street Anchorage Zip: 99501
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

SENATE COMMITTEE REPORT

DATE: 3/2/04

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 3/22/04

Judiciary Committee considered CS FOR HOUSE BILL NO. 357(JUD)

HB 357 RESTITUTION

"An Act relating to restitution; and providing for an effective date."

and recommends:

- be replaced with Sen CS CSHB 357 (JUD)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	Indet.	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	Indet.	FN#
ADM	1/23			✓	1
LAW	1/23			✓	2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
French <i>[Signature]</i>	X			
Therriault <i>[Signature]</i>	X			
Ogden <i>[Signature]</i>				
CHAIR: <i>[Signature]</i>	✓			

French
Therriault
Ogden

Speckins