

SB

104

<TARGET><BILL>SB 104</BILL><SUBJECT>SB
104</SUBJECT><COMM>SFIN28</COMM></TARGET>

SENATE FINANCE COMMITTEE REPORT

DATE: 2/14/14

FURTHER:

DATE TURNED
IN TO OFFICE: _____

Finance Committee considered SENATE BILL NO. 104

SB 104-APPROPRIATIONS FROM THE DIVIDEND FUND

"An Act relating to appropriations from the dividend fund; creating the criminal fund; and providing for an effective date."

and recommends:

- be replaced with CS SB 104 (FIN) [] Same Title New Title
- [] adopt previous CS _____ (_____) [] Same Title [] New Title
- [] attached amendment(s)
- [] adopt _____ Letter of Intent
- [] further referral to _____ Committee

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
CRT	MVA
EED	DNR
DEC	DPS
DFG	REV
GOV	DOT
DHS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
SFIN/COR	✓			-

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
ADM			X	2
LAW			X	3
ADM			X	4

[] APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	No REC	AMEND
<i>[Signature]</i>	Dualany	X			
<i>[Signature]</i>	Bishop			X	
<i>[Signature]</i>	Hoffman			✓	
<i>[Signature]</i>	Benson			✓	
CO-CHAIR: <i>[Signature]</i>	Kelly			✓	
CO-CHAIR: <i>[Signature]</i>	Meyer	✓			

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: CSSB 104(STA)
Fiscal Note Number: 6
(S) Publish Date: 2/14/14

Identifier: 0847-DOA-DOF-01-13-14
Title: APPROPRIATIONS FROM THE DIVIDEND FUND
Sponsor: DYSON
Requester: (S) STA

Department: Department of Administration
Appropriation: Centralized Administrative Services
Allocation: Finance
OMB Component Number: 59

Expenditures/Revenues

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

(Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By:	Scot Arehart, Director	Phone:	(907)465-3435
Division:	Division of Finance	Date:	01/10/2014 08:56 AM
Approved By:	Curtis Thayer, Acting Commissioner	Date:	01/13/14
Agency:	Department of Administration		

FISCAL NOTE ANALYSIS #6

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. CSSB 104(STA)

Analysis

Section 4 adds AS 43.23.048 creating the criminal fund as a separate account in the dividend fund. The purpose of the criminal fund is to provide restitution payments, up to \$10,000 per victim; provide payment for child-support arrearages; and payment of state-approved court-ordered rehabilitation. Creating funds within the accounting system is performed in the normal course of business by the Division of Finance.

This bill has no fiscal impact to the Division of Finance.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: CSSB 104(STA)
Fiscal Note Number: 3
(S) Publish Date: 2/14/14

Identifier: SB104CS(STA)-LAW-CIV-02-07-14
Title: APPROPRIATIONS FROM THE DIVIDEND FUND
Sponsor: DYSON
Requester: (S) STATE AFFAIRS

Department: Department of Law
Appropriation: Civil Division
Allocation: Collections and Support
OMB Component Number: 2210

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates				
			FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES							
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

The committee substitute for SB 104 (28-LSO847/Y) removes the Department of Law from the bill. The CS would not require the Department of Law, Collections Unit, to change its processes or database.

Prepared By:	Loretta Withington, Division Operations Manager	Phone:	(907)465-5427
Division:	Administrative Services Division	Date:	02/08/2014 12:33 PM
Approved By:	Michael C. Geraghty, Attorney General	Date:	02/08/14
Agency:	Department of Law		

FISCAL NOTE ANALYSIS #3

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. CSSB 104(STA)

Analysis

The committee substitute for SB104 (28-LS0847/Y) retains the core structure of the prior version of the bill, but changes how victims would be compensated from the PFD Criminal Fund. Under the bill, SB104 creates the PFD Criminal Fund and establishes a priority for payments from the fund. The PFD Criminal Fund would be made up of money that the PFD Division would have paid during the previous fiscal year to felons and misdemeanants who were ineligible to receive the PFD. The bill sets a priority scheme for payments from the Criminal Fund in the following order: services and payments to crime victims; past due child support; court-ordered drug and alcohol programs; and last, costs of incarceration.

The CS changed the wording for the first priority, victims of crimes, and how victims would be compensated. The initial version of the bill provided that the Department of Law, Collections Unit, would submit restitution order balances to the PFD Division, distribute any PFD Criminal Fund payments to the victim, and then collect 50% of the restitution paid from the PFD Criminal Fund from the criminal. The CS provides that the Violent Crimes Compensation Board (VCCB) would give the PFD Division the amount of compensable claims for victims and VCCB would pay the victims.

The CS would not require the Department of Law, Collections Unit, to change its processes or database. The Department of Law anticipates no fiscal impact from CSSB104 (STA).

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: CSSB 104(STA)
Fiscal Note Number: 2
(S) Publish Date: 2/14/14

Identifier: SB104CS(STA)-DOA-VCCB-02-07-14
Title: APPROPRIATIONS FROM THE DIVIDEND FUND
Sponsor: DYSON
Requester: Senate State Affairs

Department: Department of Administration
Appropriation: Violent Crimes Compensation Board
Allocation: Violent Crimes Compensation Board
OMB Component Number: 2694

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Update for Committee Substitute that places Violent Crimes Compensation Board in first priority order for appropriation from the PFD criminal fund.

Prepared By: <u>Kate Hudson</u>	Phone: <u>(907)465-5525</u>
Division: <u>Violent Crimes Compensation Board</u>	Date: <u>02/07/2014 11:00 AM</u>
Approved By: <u>Curtis Thayer, Commissioner</u>	Date: <u>02/07/14</u>
Agency: <u>Department of Administration</u>	

FISCAL NOTE ANALYSIS #2

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. CSSB 104(STA)

Analysis

The bill restores the current source of state funding for the Violent Crimes Compensation Board (appropriation from the PFD fund) and makes the Violent Crimes Compensation Board the first recipient in priority order of an appropriation from the PFD criminal fund.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: SB 104
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB104CS(FIN)-DOC-OC-03-31-14
Title: APPROPRIATIONS FROM THE DIVIDEND FUND
Sponsor: DYSON
Requester: (S) FIN

Department: Department of Corrections
Appropriation: Inmate Health Care
Allocation: Physical Health Care
OMB Component Number: 2952

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2015 Request	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES	FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Personal Services		8,445.9	***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	8,445.9	***	***	***	***	***

Fund Source (Operating Only)

1171 PFD Crim		8,445.9					
Total	0.0	8,445.9	***	***	***	***	***

Positions

Full-time			***	***	***	***	***
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

This revised fiscal note reflects changes made in the Senate Finance CS. The current CS removes priority number three (DOC court-ordered rehab program costs) and therefore funding for the position to track this information is no longer needed in the Office of the Commissioner. PFD Criminal Funds appropriated to DOC in the out years will be dependent upon the total amount of available PFD Criminal Funds and GF replacement funding may or may not be needed. This revised note also changes the allocation from the Office of the Commissioner to Inmate Physical Health Care, where PFD Criminal Funds to DOC are currently appropriated.

Prepared By: Co-Chair Senator Kelly Phone: (907)465-3753
Senate Finance Committee Date: 03/31/2014
Co-Chair Senator Meyer
Senate Finance Committee

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. SB104

Analysis

This legislation creates the criminal fund as a separate account in the dividend fund. It also reprioritizes how PFD Criminal Funds will be spent and recommends percentage distribution guidelines, placing victim restitution first, followed by grants to CDVSA for the operation of domestic violence and sexual assault response teams as well as domestic violence intervention projects. The remaining amount would be available for appropriation to DOC for costs related to incarceration and probation (primarily Inmate Health Care).

As required under statute, DOC covers 100% of the health care costs for those who are incarcerated inside a prison facility. In FY13, institutional nurse sick calls exceeded 28,000. Due to the continuing increases in medical care, coupled with the 2.7% annual growth in the offender population, it is likely that the Department's Inmate Health Care Budget will see an overall increase in the future. In FY14, approximately \$10 million of the nearly \$35 million Inmate Health Care budget was PFD Criminal Funds. If, in the future, the legislature chooses to reduce the current level of PFD Criminal Funds appropriated to the Department of Corrections, a General Fund appropriation equal to the reduction would be requested to maintain inmate health care services.

ALASKA STATE SENATE



SENATOR FRED DYSON
SENATE DISTRICT F

Section Analysis – CS Senate Bill 104(STA)

“An Act relating to appropriations from the dividend fund; creating the criminal fund; relating to appropriations from the criminal fund for payments for crime victims, operating costs of the Violent Crimes Compensation Board, child support arrearages, court-ordered rehabilitation program costs, and incarcerations costs; and providing for an effective date.”

Section 1

AS 43.23.028(a)(5)

Prioritizes by order of importance the legislative purposes for making certain individuals under AS 43.23.005(d) ineligible for a PFD to be: compensation for crime victims, child support arrearages, court-ordered rehabilitation programs, and other incarceration or probation costs.

AS 43.23.028(a)(7)

References a new section of law to be used to determine which agencies can receive money from the Criminal Fund.

AS 43.23.028(b)

Adds language to allow money from the criminal fund to go to the purposes listed in this section, after the appropriation to the criminal fund.

Section 2

AS 43.23.031

A new section in law is created to deal with appropriations from the criminal fund:

1. Section (a) sets the priority order for how the money in the criminal fund should be appropriated and the departments that should receive the money.
2. Sections (b) states that by October 1 of each year the Violent Crimes Compensation Board will send to the Office of Management and Budget the total amount of compensable claims from the previous fiscal year and the operating costs of the VCCB.
3. Section (c) states that by October 1 of each year the child support services agency will report to the Office of Management and Budget the total amount of money owed towards child support arrearages of incarcerated individuals.
4. Section (d) states that the Department of Corrections will report to the Office of Management and Budget the total amount of money owed towards court-ordered drug or alcohol treatment.

During Session (January - May): Alaska State Capitol • Juneau, Alaska 99801 • (800) 342-2199 • (907) 465-2199 • (907) 465-4587 (fax)

During Interim (June-December): 12641 Old Glenn Highway Suite 201 • Eagle River, Alaska 99577 • (907) 694-6683 • (907) 694-1015 (fax)

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5. Section (e) provides that the Office of Management and Budget will use the amounts reported by each department in sections (b)-(d) and the total amount of money in the criminal fund under AS 43.23.028(a)(6) to determine how much money should go to each department.
6. Section (f) states that the Office of Management and Budget will send a report to the Legislature at the same time the Governor submits the Operating Budget listing the size of the appropriation to each agency.

Section 3

AS 43.23.048

A new section is put into law to statutorily create the Criminal Fund as an individual account within the dividend fund consisting of money that would have been paid to felons and certain misdemeanants had they not been made ineligible under AS 43.23.005(d). This section also emphasizes that the money in the Criminal Fund may be appropriated in accordance with AS 43.23.031. Finally, this section states that it does not create a dedicated fund in violation of Article IX Section 7 of the Alaska State Constitution.

Section 4

AS 43.23.055

1. Subsection (6) is amended to allow the Department of Revenue to create new regulations that are necessary to implement the Department's new responsibilities in AS 43.23.031.
2. Subsection (11) is added to give the child support services agency the authority to use the list of ineligible individuals to determine the amount of child support arrearages owed by these individuals.

Section 5

This section provides that this bill will take effect on July 1, 2014.

Staff Contact: Joshua Banks, (907) 465-2199

Summary of Changes to Senate Bill 104

- Title change to specify where the appropriations from the dividend fund should go.
- Changed Primary Recipient of PFD Criminal Fund from Department of Law for victim restitution to the Violent Crimes Compensation Board for victim compensation.
 - From Version P: Deleted sections 1 and 6. In Section 3, deleted subsections (b)-(d). In Section 3, subsection (a)(1) replaced Department of Law with VCCB.
- Added statutory authority for VCCB to use funds from the Criminal Fund for operating costs.
 - In Version I: Added language on Page 2 line 22, Page 3 Line 17-18, Page 4 Lines 5-6 and Line 19.
- Limited amount of money going to pay child support arrearages on Page 4 lines 7-11. Payments from the Criminal Fund will only go to:
 - The child's custodian or legal guardian.
 - Support orders that apply to children under 19 years of age.
 - Pay the equivalent of the amount of the dividend paid in the previous year.
- Gave Department of Corrections ability to receive funds from the Criminal Fund for court-ordered rehabilitation programs.
 - Replaced the Department of Corrections with the Court System on Page 4 Lines 14 and 23.
- Changed agency to report to under AS 43.23.031 from the Department of Revenue to the Office of Management and Budget.
 - Section 2 subsections (b)-(f) on Page 4 reference the OMB instead of the Department of Revenue.
- Moved dedicated fund disclaimer from 43.23.031 to 43.23.048.
 - Last subsection in Section 2 was removed and was added to the end of Section 3 on Page 5 Line 8.

Historic PFD Criminal Fund Appropriations

Under Current Language of AS 43.23.005(d)

Fiscal Year	PFD Amount	Ineligible Individ.	Criminal Fund Amount	DPS Appropriation	% of Total	DOC Appropriation	% of Total	DOA Appropriation	% of Total
FY 03	\$ 1,850.28	5549	\$ 10,266,600	\$ 5,380,500.00	52.4%	\$ 4,886,100.00	47.6%	\$ -	0.0%
FY 04	\$ 1,540.76	7970	\$ 12,279,900	\$ 4,208,800.00	34.3%	\$ 6,895,400.00	56.2%	\$ 1,175,700.00	9.6%
FY 05	\$ 1,107.56	8193	\$ 9,074,600	\$ 3,107,000.00	34.2%	\$ 5,092,400.00	56.1%	\$ 875,200.00	9.6%
FY 06	\$ 919.84	8210	\$ 7,551,700	\$ 2,585,600.00	34.2%	\$ 4,237,800.00	56.1%	\$ 728,300.00	9.6%
FY 07	\$ 845.76	9592	\$ 8,112,300	\$ 2,777,500.00	34.2%	\$ 4,552,400.00	56.1%	\$ 782,400.00	9.6%
FY 08	\$ 1,106.96	9999	\$ 11,068,600	\$ 3,789,600.00	34.2%	\$ 6,211,400.00	56.1%	\$ 1,067,600.00	9.6%
FY 09	\$ 1,654.00	9838	\$ 16,272,000	\$ 5,569,000.00	34.2%	\$ 9,126,000.00	56.1%	\$ 1,577,000.00	9.7%
FY 10	\$ 2,069.00	9231	\$ 19,099,700	\$ 7,258,100.00	38.0%	\$ 10,256,100.00	53.7%	\$ 1,585,500.00	8.3%
FY 11	\$ 1,305.00	14965	\$ 19,529,200	\$ 7,606,700.00	39.0%	\$ 10,037,000.00	51.4%	\$ 1,885,500.00	9.7%
FY 12	\$ 1,281.00	13236	\$ 16,955,200	\$ 6,604,800.00	39.0%	\$ 8,715,000.00	51.4%	\$ 1,635,400.00	9.6%
FY 13	\$ 1,174.00	14215	\$ 16,688,410	\$ -	0.0%	\$ 14,920,300.00	89.4%	\$ 1,768,110.00	10.6%
FY 14	\$ 878.00	12715	\$ 11,163,770	\$ -	0.0%	\$ 9,373,000.00	84.0%	\$ 1,790,770.00	16.0%
FY 15	\$ 900.00	11054	\$ 9,948,600	\$ -	0.0%	\$ 8,445,900.00	84.9%	\$ 1,502,700.00	15.1%

Table Key

Increase

Decrease

No Change

Potential Appropriation Scenarios

Current Fiscal Year, Projected Realized Income, and Zero Increase for DOC

Fiscal Year 2015 Budget with SB 104

Fiscal Year	PFD Amount	Ineligible Individ.	Criminal Fund Amount	DOC Appropriation	% of Total	DOA Appropriation	% of Total	CSSD Appropriation	% of Total	CS Orders
FY 15*	\$ 900.00	11054	\$ 9,948,600.00	\$ 7,950,900.00	77.7%	\$ 1,502,700.00	15.1%	\$ 495,000.00	5.0%	550

Projections of Zero and \$2.9B Realized Income for Permanent Fund

Fiscal Year	PFD Amount	Ineligible Individ.	Criminal Fund Amount	DOC Appropriation	% of Total	DOA Appropriation	% of Total	CSSD Appropriation	% of Total	CS Orders
FY 16^	\$ 1,300.00	10367	\$ 13,476,689.01	\$ 10,726,708.97	79.6%	\$ 2,034,980.04	15.1%	\$ 715,000.00	5.3%	550
FY 16**	\$ 1,800.00	10367	\$ 18,660,600.00	\$ 14,852,849.40	79.6%	\$ 2,817,750.60	15.1%	\$ 990,000.00	5.3%	550

Table Key

Increase	* SB 104 Effect on FY15
Decrease	^ PFD with zero realized income
No Change	** PFD w/\$2.9B realized income

ALASKA STATE SENATE



SENATOR FRED DYSON

SENATE DISTRICT F

Sponsor Statement for CS Senate Bill 104(STA)

“An Act relating to appropriations from the dividend fund; creating the criminal fund; relating to appropriations from the criminal fund for payments for crime victims, operating costs of the Violent Crimes Compensation Board, child support arrearages, court-ordered rehabilitation program costs, and incarceration costs; and providing for an effective date.”

The current effort of obtaining restitution for victims is in a dismal state with the Violent Crimes Compensation Board receiving only 1.5% of the court-ordered restitution awarded to them in FY 2012. In 1988 the Legislature passed into law legislation that would make felons and certain misdemeanants ineligible to receive a Permanent Fund Dividend and stated intent language that the money that would have gone to felons would go to fund victim compensation. Since the creation of this law, there have been other statutes created regarding how this money should be spent but they have not clearly put a priority list for the “PFD criminal fund” leaving the victims of these offenders without all of the funds they need.

Senate Bill 104 will clear up the ambiguity of State law concerning these funds by creating in statute a priority list as to where the money in the “criminal fund” should go. The bill will create a new section in AS 43.23 outlining the process that determines how the criminal fund should be appropriated. SB 104 will establish a reliable funding source for the Violent Crimes Compensation Board. SB 104 establishes the following order of priority: 1. Victim compensation, 2. Child support arrearages, 3. Rehabilitation program payments, and 4. Any other costs associated with incarceration.

SB 104 adds a new section in AS 43.23 officially naming the criminal fund in statute; this name currently exists only for accounting purposes within the State Operating Budget.

SB 104 supports the original legislative intent to ensure that victims today and in the future will be able to receive the compensation they deserve.

Staff Contact: Joshua Banks, (907) 465-2199

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During Interim (June-December): 12641 Old Glenn Highway Suite 201 • Eagle River, Alaska 99577 • (907) 694-6683 • (907) 694-1015 (fax)

senator.fred.dyson@akleg.gov • www.akrepublicans.org



LEGISLATIVE RESEARCH SERVICES

Alaska State Legislature
Division of Legal and Research Services
State Capitol, Juneau, AK 99801

(907) 465-3991 phone
(907) 465-3908 fax
research@legis.state.ak.us

Research Brief

TO: Senator Fred Dyson
FROM: Susan Haymes, Legislative Analyst
DATE: July 19, 2013
RE: Status of Victim Restitution Laws in Alaska
LRS Report 13.404

You asked about the status of victim restitution laws in Alaska. Specifically, you were interested in the effectiveness of current law. Additionally, you wished to know the priority under current law of collecting restitution compared to other fines.

In Alaska, a crime victim has a constitutional right to restitution from the offender. Accordingly, the Legislature and the Alaska Supreme Court have established rules to collect restitution from offenders and distribute payment to crime victims and organizations that provide counseling and other services to victims and their dependents. In addition to restitution, the offender is often required to pay other court-ordered fines and surcharges such as correctional facility surcharges, costs for court-appointed counsel, and costs for incarceration. Under current law, child support and victim restitution are typically the top two priorities when distributing an offender's assets to meet obligations for restitution and court-ordered fines.

The Department of Law's (DOL) Collection Unit is the agency primarily responsible for collecting court-ordered restitution, fines, and surcharges. Among other things, the Collections Unit may garnish an offender's permanent fund dividend (PFD) and wages, authorize bank account sweeps, and take money from an inmate's bank account for restitution. The primary tool used by the Collections Unit, however, is the garnishment of PFDs.¹

According to the individuals we spoke with for this report, while victim restitution is an established priority under the constitution and the law, problems exist in the collection and distribution of restitution. This situation is due in part to the challenges inherent in collecting payment from offenders who have limited or no financial resources because they may be incarcerated or have limited employment opportunities. Nevertheless, all agree that offenders should be expected to pay what they can and the state should pursue collection whenever possible. A number of individuals cited the lack of communication and coordination among agencies that deal with victim restitution as the main problem in the process.

There has been some recent improvement, as the DOL's Collection Unit has taken active steps to increase collection of victim restitution, which has resulted in increased restitution payments and disbursement to victims. The Unit collected about \$2.3 million in restitution payments owed to crime victims in FY 2012, up 29 percent from FY 2011. The DOL has recently prioritized the distribution of money to victims, including improvements to internal processes and technology enhancements to more efficiently send checks to victims.

¹ An amount of money approximately equal to the PFDs that would be owed to ineligible offenders is transferred to the PFD Criminal Fund each year. In recent years, the amount has been appropriated primarily to the Department of Corrections for inmate health.

Victim Restitution

In 1994, Alaska voters adopted a constitutional amendment to provide crime victims in Alaska with guaranteed rights, including the right to restitution from an offender.² The procedures for ordering and collecting victim restitution are governed primarily by Alaska Statutes 12.55.045 and 12.55.051, and Alaska Court Rules of Criminal Procedure, Rule 32.6.³ Restitution for victims is second only to an obligation for child support when distributing an offender's assets to meet court-ordered fines and restitution.

Unless the crime victim expressly declines restitution, the court when presented with credible evidence, is required to order the defendant to make restitution, including restitution to the crime victim or other injured person, to an organization that provides counseling, medical or shelter services, or as otherwise authorized by law (AS 12.55.045[a]). For example, the defendant may be ordered to make restitution to the Violent Crimes Compensation Board (VCCB) for payments the VCCB has made on behalf of the victim. The restitution order identifies each victim and the amount of restitution owed to each, the date the payment is due or a schedule of installment payments, and whether the payment must be made through the clerk of court or the Department of Law's (DOL) Collections Unit (AS 12.55.045).⁴ The criminal restitution order can only be for actual monetary expenses or losses, not for pain and suffering.⁵

If the judge orders restitution, there are multiple ways it can be enforced. The court automatically sends a copy of the restitution judgment to the DOL's Collections Unit. The DOL will notify crime victims of their right to have the State collect the debt or to collect the debt without State assistance. A crime victim may choose to have a private collection agency and/or private attorney attempt to collect payment, or may choose to collect the debt without assistance. Unless the crime victim notifies DOL that he or she does not want the Collection Unit's help, the unit will begin action on behalf of the victim (12.55.051).

The DOL can use a variety of means to collect restitution such as collecting voluntarily payments from the defendant, seizing the defendant's PFD, garnishing wages, filing a property lien, and/or authorizing a bank sweep. Garnishing a defendant's PFD is probably the most common method of collecting restitution. PFD garnishment is limited, however, because individuals sentenced or incarcerated during the qualifying year may not be eligible for a PFD for that year (AS 43.23.065). When the offender's PFD is garnished, no obligation is higher in priority than court-ordered restitution except child support.⁶

According to Stacy Steinberg, Chief Assistant Attorney General, Collections and Support Section, the Collections Unit collected about \$2.3 million in restitution payments owed to crime victims in FY 2012, an increase of 29 percent from FY 2011.⁷ About half, or \$1.1 million, came from PFD garnishments. The other half came from voluntary payments made by offenders.

² Alaska Const., Art I, sec. 24.

³ We include AS 12.55.045, AS 12.55.051 and Alaska Criminal Court Rule 32.6 as Attachment A.

⁴ In 2001, the legislature passed the Crimes Victims' Rights and Advocacy Act which, among other things, authorized the Department of Law (DOL) to collect court-ordered restitution on behalf of crime victims (AS 12.55.051[g]), and created the Office of Victims' Rights (AS 24.65) to assist crime victims in obtaining their guaranteed rights (ch 92 SLA 2001).

⁵ A restitution order does not affect the ability of a victim to pursue a civil lawsuit (AS 12.045[b]).

⁶ In 2002, the Alaska Supreme Court added a new Criminal Rule of Procedure 32.6 which establishes the procedure for ordering and collecting restitution including the priority of payments received from or on behalf of a defendant. Under Rule 32.6(g) payments received from execution of the PFD are allocated according to the following priority: child support obligations, court-ordered restitution for crime victims, defaulted student loans, court-ordered fines, and writs of execution under AS 09.35.

⁷ Stacy Steinberg can be reached at 907.269.5100 or by email at stacy.steinberg@alaska.gov.

In addition to garnishing PFDs, the wages and other monetary assets of an incarcerated offender may also be seized to pay victim restitution. Ms. Steinberg notes, however, that most offenders who are incarcerated have no money or make only meager prison wages so they cannot initially pay the court-ordered restitution. The Department of Correction's policy (304.02) for disbursing prisoner funds includes the following list of priorities:

1. Child-support;
2. Court-ordered restitution or fines;
3. Civil judgments resulting from that person's criminal conduct;
4. State reimbursement for violent crime compensation; and
5. Other judgments entered against a prisoner in litigation against the state (AS 09.19.100).

Kevin Worley, Director, Division of Administrative Services, DOC, explained that after the initial sweep of an inmate's account, 40 percent of his or her wages can go to ongoing child support payments.⁸ Other attachments such as victim restitution are deducted monthly and can come from the remaining wages and monetary gifts in the inmate's account.⁹ These attachments are taken in order of priority, which means victim restitution and other court-ordered fines are the second priority after child support. Mr. Worley indicated that some inmates refuse to work because they don't want to pay child support or other obligations.

One of the conditions of probation and parole is to pay court-ordered restitution (AS 12.55.100). A defendant convicted of a felony crime who has been released on probation must report to a probation officer who monitors the individual's compliance with probation including the requirement to pay restitution. Likewise, a parole officer supervises parolees to ensure they are following the conditions of parole. An offender must submit a completed sworn financial statement to the assigned probation officer. If the individual fails to pay restitution as required, the prosecutor or probation officer (in felony cases) or the prosecutor (in misdemeanor cases) may file a petition to revoke the offender's probation (AS 12.55.051[a]). A criminal restitution order becomes a civil judgment that accrues interest and remains enforceable even after the offender's probation ends (AS 12.55.045[!]).

An exception to the usual allocation of assets exists for those prisoners who qualify for prerelease or short duration furlough to begin reintegration into society in a halfway house or group home. The earnings from such prisoners are transmitted to the DOC and are distributed to 1) pay for the room, board and personal expenses of the prisoner, 2) pay any court-ordered restitution or fine; 3) reimburse the state for an award made for violent crimes compensation, 4) pay a civil judgment, and 5) pay child support (AS 33.30.131).

Other Judgments or Fees

Persons convicted of a crime may also be subject to other judgments and fines, which are collected by the DOL's Collection Unit. Under AS 12.55.035, a defendant may be sentenced to pay a fine of from not more than \$500 for a violation, \$10,000 for a class A misdemeanor, \$100,000 for a class B felony, and \$500,000 for murder in the first or second degree. In addition to a fine, a defendant who pleads guilty or no contest, forfeits bail, or is convicted of felony, misdemeanor, or violation is

⁸ Mr. Worley can be reached at 907.465.4641. He notes that the DOC is in the process of reviewing policy 304.02 to ensure the new accounting system and the policies are functioning in tandem. Working inmates who have less than eight years to serve may also maintain a savings account.

⁹ According to Mr. Worley, when the child support lien is first applied, the DOC can sweep the inmate's account and take everything but \$50. For ongoing support payments, money can only be taken from the inmate's wages.

assessed a surcharge ranging from \$10 for a violation to \$100 for a felony. The surcharge must be paid within 10 days of imposition. If a defendant cannot pay the surcharge the court may allow the defendant to perform community work (AS 12.55.039).

The State also imposes a correctional facility surcharge if in connection with a crime, an individual is arrested and taken to a correctional facility, regardless of whether he or she is released or admitted to the facility or sentenced to serve a term of imprisonment (AS 12.55.041). For individuals who are convicted, the surcharge is \$100 for a felony judgment and \$50 otherwise. The State may seek reimbursement from the defendant's PFD for the surcharge. In FY 2012, the DOL collected a little over \$400,000 in correctional facility surcharges and nearly \$1 million in incarceration costs on behalf of the Department of Corrections (DOC).¹⁰

Upon conviction an offender who qualifies for a public defender may be required to pay the costs of appointed counsel (AS 18.85.120). The schedule of fees is defined in Alaska Criminal Court Rule 39(d) and range from \$250 to \$5,000 for a trial and murder conviction in the first or second degree.¹¹ Upon a showing of financial hardship, the court may allow the individual to make payments under a repayment schedule and he or she may petition the court to reduce or defer the unpaid portion of the judgment. The judgment has the same force and effect as a civil judgment. Under Rule 39, payment may not be made a condition of the offender's probation. In FY 2012, the DOL collected nearly \$1 million on behalf of the Alaska Public Defender's Agency.

Those offenders who are incarcerated may also be required to pay fees and surcharges for such services as electric utilities (AS 33.30.017), medical co-payments (AS 33.30.028), photocopying, postage, and commissary. In addition, inmates who commit infractions such as destroying property may be required to pay restitution to the State (20 AAC 05.470).

Issues Identified in the Collection and Distribution of Victim Restitution

All of the individuals we spoke with agreed there was limited money available for restitution because of the lack of resources available from many offenders. At the same time, they emphasized there is more the State can be doing to collect and distribute restitution to crime victims.

Department of Corrections – Victim Services Unit

Gail Brimner, Victim Services Unit, Department of Corrections (DOC) concurs that in Alaska there are problems with the collection and distribution of court-ordered restitution.¹² Ms. Brimner notes that victim restitution often “falls through the cracks” and that problems exist with both collection and distribution. Part of the problem is that probation officers are not adamant enough about ensuring that offenders pay restitution. Many offenders may not be able to pay much in the way of restitution each month; however, it is the responsibility of the probation officer to review the offender's finances, such as pay stubs and bills, to determine an amount of restitution that can be paid. Even if the amount is only \$10, the payment process encourages the offender to fulfill his or her responsibility to the crime victim. Ms. Brimner suggested probation officers receive training that emphasizes the payment of restitution as a condition of probation and ways to monitor that payments are being made.

¹⁰ The Department of Law's 2012 Annual Report can be accessed at <http://law.alaska.gov/pdf/admin/AnnualReport12.pdf>.

¹¹ For a defendant who is ineligible for court-appointed counsel, the court may enter a judgment for the actual costs of appointed counsel, including actual expenses (AS 18.85.150 and Criminal Court Rule 39[e]).

¹² Gail Brimner, Criminal Justice Specialist, can be reached at 907.269.7384.

Ms. Brimner also said she has investigated several complaints where voluntary restitution had been made by the offender but the money had not been sent to the victim. She noted that some victims may not keep their addresses current with DOL, but thought perhaps the State could do more outreach to crime victims.

Violent Crimes Compensation Board (AS 18.67)

A crime victim, dependent of a crime victim killed, or certain other persons by virtue of their relationship to the crime victim may apply for separate financial assistance to the Violent Crimes Compensation Board (VCCB). Recognizing the difficulty in collecting court-ordered restitution, the VCCB was established in 1972 to help ease the financial hardships experienced by victims of violent crimes. The VCCB may compensate victims for medical expenses, counseling costs, lost income, lost support, funeral expenses, or any other reasonable expenses and losses. The VCCB is a “payer of last resort,” which means compensation is awarded only for expenses not covered through other sources such as medical and auto insurance, a civil lawsuit or other assistance program. The Board also provides for the payment of financial losses experienced by dependents of deceased victims and to victims who are permanently disabled.

The VCCB is awarded restitution by the courts, but the recovery of that restitution has been modest. In FY 2012, for example, the VCCB was awarded \$637,154 in court-ordered restitution, but received only \$47,652, with 80 percent of this amount coming from court judgments from earlier years.¹³ Because the VCCB does not have the staff to pursue collection independently, it relies on the Department of Law’s Collections Unit. According to Kate Hudson, Executive Director, VCCB, the DOL’s Collections Unit is not actively collecting restitution beyond garnishing permanent fund dividends, and the situation in Alaska is “crying out for something better.”¹⁴ The VCCB has proposed the hiring of a dedicated collections agent in the VCCB to pursue restitution payments. In addition, Ms. Hudson suggests that the Department of Law, Office of Victim Rights, and the Department of Corrections (Probation Office) better coordinate the exchange of information.

Office of Victims’ Rights (AS 24.65)

In 2001, the Alaska Legislature created the Office of Victims’ Rights (OVR), an independent agency within the legislative branch of state government, to help crime victims obtain their constitutional and statutory rights with regard to their interactions with criminal justice agencies in the State. While the OVR does not collect restitution for victims, the agency can advise crime victims of their right to restitution and give them instruction and assistance in obtaining restitution. Taylor Winston, Director, OVR, notes that one of the problems in getting restitution money to victims is the lack of interfacing between departments. The current system is inefficient and frustrating for many victims.¹⁵ While victims have a responsibility to keep the DOL updated of their current address, this does not always happen. She suggested that matching the names of victims who are owed restitution to PFD data for current addresses could help victims.

Like Ms. Brimner, Ms. Winston emphasized the lack of follow-through by some probation officers to ensure offenders are paying some amount of victim restitution. She stressed that it is important for offenders to make restitution, even if the payment is as low as \$10 each month.

¹³ “Violent Crimes Compensation Board – Restitution White Paper” is included as Attachment B.

¹⁴ Ms. Hudson can be reached at 907.465.5525.

¹⁵ Ms. Winston can be reached at 907.272.2620.

Department of Law – Collections Unit

The DOL's collection services include sending demand letters, processing voluntary payments, and seizing the defendant's permanent fund dividends if the defendant is eligible for the dividend and the dividend is not claimed by child support.¹⁶ The DOL will record a property lien for restitution judgments over \$10,000. Collections may also request a wage garnishment or bank sweep if they learn the defendant has regular and consistent wages. The DOL described measures they have recently taken as follows:

- In 2012, we hired a restitution coordinator, who has greatly assisted in overseeing the restitution process and managing staff and projects.
- We streamlined our internal processes and enhanced our collections database. This has improved the timeliness of our case opening. In fact, our policy is to require new cases to be opened within 30 days, and the recent average has been between one and two weeks. This ensures that the collection process can begin as quickly as possible. And, once the case is opened, it also allows us to garnish the debtors permanent fund dividend (PFD).
- We continued to increase our restitution collections. In FY10, we collected roughly \$1.1 million followed by \$1.8 million in FY11 and \$2.3 million in FY12. Both voluntary payments and PFD garnishments have increased. Voluntary payments increased over 8% from 3,320 in FY11 to 3,595 payments in FY12. PFD garnishments increased over 50% from 905 in FY11 to 1,405 in FY12.
- As payments and garnishments increased, we have had corresponding increases in disbursements to victims. Disbursement requests increased from 1,719 in FY11 to 3,121 in FY12. We also expect the FY13 numbers to be similar to, or exceed those from FY12.
- We improved our internal processes and technology, and are more efficient at distributing money to victims. We changed internal processes so checks are mailed to victims faster. Technology enhancements include a new receipting program implemented in March of this year so that we can provide for a quicker and more efficient disbursement request process.
- Recently, we prioritized disbursements making that part of the process more efficient. Since April, we have focused on distributing the largest disbursements first, working our way down to disbursements of less than \$100. Within just the past few months, the Collections and Support Unit has made great progress, and less than 5% of the disbursements that remain are for amounts larger than \$1,000. Our goal is to have all disbursements for more than \$500 distributed by January 2014.
- Disbursements less than \$100 make up two-thirds of all payments that are waiting for disbursement, and approximately half of that amount (or one-third of the total) is made up of payments that are less than \$5.
- When dealing with payments of less than \$5, the cost of disbursement is more than the payment amount, which is why it is our policy to wait until more payments for that victim

¹⁶ The Collections and Support Section includes the collections unit and child support unit. The collections unit collects unsecured debts owed to the State including criminal judgments (fines, cost of appointed counsel, and cost of incarcerations) and various civil judgments, such as attorney fees. The Unit also collects restitution owed in criminal court cases and sends the funds to the restitution recipient. More information on the Section can be accessed at <http://law.alaska.gov/department/criminal/restitution.html>.

come in before disbursing them. These minimal payments (which can in some instances be less than a dollar) are often the result of money transferred from a prisoner's account by the Department of Corrections. These prisoners do not have a lot of money, so the amounts transferred are small and in some cases, the amounts are divided among multiple victims, resulting in even smaller payments.

- The department is currently in the process of hiring a temporary accountant to assist with disbursements. We expect the temporary accountant to help us get current on disbursements, at least those greater than a de minimis amount.¹⁷

Permanent Fund Dividend Criminal Fund

In 1988, Alaska lawmakers passed legislation which makes any person who is convicted of a felony and incarcerated during any period of a qualifying PFD year as a result of the conviction ineligible for a PFD (AS 43.23.005[d]).¹⁸ The Legislature further intended that an amount "approximately equal to the money" that would otherwise be paid as dividends to individuals ineligible under this law, be appropriated annually from the dividend fund to the Crime Victim Compensation Fund.¹⁹

In early September of each year, the Department of Corrections reports to the Department of Revenue (DOR) the total number of persons incarcerated in the system as of that date. The DOR then estimates the number of inmates who could have applied for a PFD and would have been found eligible had they not been incarcerated, and multiplies that number by the estimated amount of the dividend for that year. This amount represents the PFD Criminal Fund. In FY 2013, DOR calculated the PFD Criminal Fund at nearly \$16.7 million.²⁰

Until recently, the Violent Crimes Compensation Board, the Council on Domestic Violence and Sexual Assault (CDVSA), the Office of Victim Rights, and the Department of Corrections received appropriations from the PFD Criminal Fund. The table below shows the appropriations from the PFD Criminal Fund for FY 2008-2013. As you can see, the Department of Corrections received almost 90 percent of the PFD Criminal Fund for inmate healthcare in FY 2012 and 89 percent in FY 2013. The VCCB received about \$1.8 million in FY 2012 and in FY 2013 to capitalize the Crime Victim Compensation Fund, which was then allocated to the VCCB.²¹ From FY 2008-2013, the Department of Corrections received over 64 percent of the total appropriations, the CDVSA about 24 percent, the VCCB 9 percent, and the OVR a little over 2 percent.

¹⁷ Cori Mills, Assistant Attorney General, Department of Law, can be reached at 907.465.2132.

¹⁸ The Alaska Supreme Court upheld the constitutionality of AS 43.23.005(d) in *State v. Anthony*, 816 P.2d 1377 (Alaska 1991), finding the measure does not violate the equal protection clause of the Alaska or U.S. constitutions. Subsequently, the Legislature has amended the statute to expand the number of persons ineligible for a PFD to include those persons who are incarcerated as a result of a misdemeanor if they had been convicted of two prior crimes as well as those persons who are incarcerated for a misdemeanor if they had a prior conviction for a felony or two prior misdemeanor convictions.

¹⁹ The Crime Victim Compensation Fund, established at the same time as the Violent Crimes Compensation Board, was intended to provide a source of funding for the VCCB.

²⁰ Jerry Burnett, Deputy Commissioner, Department of Revenue, can be reached at 907.465.3669.

²¹ Kelly Cunningham, Fiscal Analyst, Legislative Finance Division. Ms. Cunningham can be reached at 907.465.3821.

Permanent Fund Dividend Criminal Fund Appropriations FY 2008 - FY 2013
(\$ in thousands)

Department	Program	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13
Administration	Violent Crimes Compensation Board	\$ 1,068	\$ 1,569	\$ 1,586	\$ 1,884	\$ 1,800	\$ 1,798
Corrections	Inmate Health Care	\$ 6,211	\$ 9,126	\$ 10,897	\$ 10,037	\$ 15,920	\$ 14,890
Legislature	Office of Victim Rights	\$ 401	\$ 589	\$ 767	\$ 707	\$ -	\$ -
Public Safety	Council on Domestic Violence and Sexual Assault	\$ 3,790	\$ 5,568	\$ 8,258	\$ 7,607	\$ -	\$ -
TOTAL APPROPRIATION		\$ 11,470	\$ 16,851	\$ 21,507	\$ 20,234	\$ 17,720	\$ 16,688

Notes: The amount of money in the PFD Criminal Fund each year is based on the number of incarcerated inmates who would have applied for a PFD and otherwise been found eligible that year. Prior to FY2012, the Violent Crimes Compensation Board (VCCB) received an appropriation directly from the PFD Criminal Fund. In FY2012 and FY2013, \$1.8 million was appropriated from the PFD Criminal Fund to capitalize the Crime Victim Compensation Fund, which was then allocated to the VCCB.

Sources: Legislative Finance Division, Operating Budgets, Fiscal Years 2008-2013; Kelly Cunningham, Fiscal Analyst, Legislative Finance Division, 907.465.3821.

We hope this is helpful. If you have questions or need additional information, please let us know.

SOURCE: CSHB245(JUD)

Action Date: May 25, 1988

Year: 88

Effective Date: May 26, 1988

AN ACT

An Act relating to permanent fund dividends for individuals incarcerated after conviction for a felony; and providing for an effective date.

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

* Section 1. AS 43.23.005 is amended by adding a new subsection to read:

(d) Notwithstanding the provisions of (a) - (c) of this section, an individual who has been convicted of a felony is not eligible for a permanent fund dividend for a year when, during all or part of the fiscal year ending June 30 of the current year, as a result of the conviction the individual is incarcerated. This subsection applies whether or not the individual has applied for the dividend.

* Sec. 2. AS 43.23.025 is amended by adding a new subsection to read:

(b) For the purpose of calculating the amount of a permanent fund dividend under (a) of this section, an individual who is ineligible to receive a dividend under AS 43.23.005(d) is counted as an eligible individual whether or not the individual has applied for the dividend.

* Sec. 3. AS 43.23.055 is amended to read:

Sec. 43.23.055. DUTIES OF THE DEPARTMENT. The department shall

- (1) annually pay permanent fund dividends from the dividend fund;
- (2) adopt regulations under the Administrative Procedure Act (AS 44.62) that establish procedures and time limits for claiming a permanent fund dividend; the department shall set the time limit for applications for permanent fund dividends so that the number of eligible applicants is determined by October 1 of the year for which the dividend is declared and permanent fund dividends for a year are paid before April 30 of the year following that year;
- (3) adopt regulations under the Administrative Procedure Act (AS 44.62) that establish procedures and time limits for an individual upon emancipation or upon reaching majority to

apply for permanent fund dividends not received during minority because the parent, guardian, or other authorized representative did not apply on behalf of the individual;]AND!

(4) assist residents of the state, particularly in rural areas, who because of language, disability, or inaccessibility to public transportation need assistance to establish eligibility and to apply for permanent fund dividends;

(5) annually determine, in cooperation with the Department of Corrections, the number and identity of individuals ineligible for a permanent fund dividend under AS 43.23.005(d); and

(6) adopt regulations that are necessary to implement AS 43.23.005(d).

* Sec. 4. This Act applies only to eligibility for permanent fund dividends for years after 1988.

* Sec. 5. It is the intent of the legislature that an amount approximately equal to the money that would otherwise be paid as permanent fund dividends to individuals determined to be ineligible under AS 43.23.005(d), as enacted by sec. 1 of this Act, be appropriated annually from the dividend fund to the crime victim compensation fund (AS 18.67.162) to carry out the purposes of AS 18.67.

* Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

28-LS0847E
Martin
3/28/14

Adopted 3/31/14
CS FOR SENATE BILL NO. 104(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS DYSON, Fairclough, Gardner, Ellis

A BILL

FOR AN ACT ENTITLED

"An Act relating to appropriations from the dividend fund; creating the criminal fund; relating to appropriations from the criminal fund for payments for crime victims, operating costs of the Violent Crimes Compensation Board, grants for the operation of sexual assault response teams and domestic violence intervention projects, and incarceration costs; and providing for an effective date."

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

* Section 1. AS 43.23.028 is amended to read:

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

(1) disclose the amount of each dividend attributable to income earned

1 by the permanent fund from deposits to that fund required under art. IX, sec. 15,
2 Constitution of the State of Alaska;

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

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

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

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

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

16 (i) felony; or

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

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

21 (A) provide funds for services for and payments to crime
22 victims and operating costs of the Violent Crimes Compensation Board
23 [OBTAIN REIMBURSEMENT FOR SOME OF THE COSTS IMPOSED ON
24 THE STATE CRIMINAL JUSTICE SYSTEM RELATED TO
25 INCARCERATION OR PROBATION OF THOSE INDIVIDUALS];

26 (B) make grants for the operation of sexual assault
27 response teams and domestic violence intervention projects; and

28 (C) obtain reimbursement for some of the costs of
29 incarceration or probation of the individuals [PROVIDE FUNDS FOR
30 SERVICES FOR AND PAYMENTS TO CRIME VICTIMS AND FOR
31 GRANTS FOR THE OPERATION OF DOMESTIC VIOLENCE AND

1 SEXUAL ASSAULT PROGRAMS];

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

5 (7) disclose the total amount appropriated for the current fiscal year
6 under AS 43.23.031 and (b) of this section for each of the funds and agencies listed in
7 AS 43.23.031 and (b) of this section.

8 (b) To the extent that amounts appropriated for a fiscal year do not exceed the
9 total amount that would have been paid during the previous fiscal year to individuals
10 who were ineligible to receive dividends under AS 43.23.005(d) or under
11 AS 43.23.021(b) if they had been eligible, the notice requirements of (a)(3) of this
12 section do not apply to appropriations from the dividend fund to the criminal fund
13 (AS 43.23.048) or, after the appropriation to the criminal fund, to

14 (1) the crime victim compensation fund established under
15 AS 18.67.162 for payments to crime victims and for the operating costs of the
16 Violent Crimes Compensation Board;

17 (2) the Council on Domestic Violence and Sexual Assault established
18 under AS 18.66.010 for grants for the operation of [DOMESTIC VIOLENCE AND]
19 sexual assault response teams and domestic violence intervention projects
20 [PROGRAMS];

21 (3) the Department of Corrections for incarceration and probation
22 programs;

23 (4) the office of victims' rights;

24 (5) nonprofit victims' rights organizations for grants for services to
25 crime victims; or

26 (6) the Department of Revenue for grants to minor children of
27 incarcerated individuals under a grant program established by regulations of the
28 Department of Revenue under AS 44.62 (Administrative Procedure Act).

29 * **Sec. 2.** AS 43.23 is amended by adding a new section to read:

30 **Sec. 43.23.031. Appropriations from the criminal fund.** (a) The legislature
31 may appropriate amounts from the criminal fund (AS 43.23.048) to the following

1 recipients in the priority order and in the amounts listed:

2 (1) up to 20 percent of the amount available for appropriation from the
3 fund to the crime victim compensation fund established under AS 18.67.162 for
4 payments to crime victims and for operating costs of the Violent Crimes
5 Compensation Board;

6 (2) up to 15 percent of the amount available for appropriation from the
7 fund to the Council on Domestic Violence and Sexual Assault established under
8 AS 18.66.010 for grants for the operation of sexual assault response teams and
9 domestic violence intervention projects that input data into the Alaska Public Safety
10 Information Network;

11 (3) the remaining amount available for appropriation from the fund to
12 the Department of Corrections for costs related to incarceration or probation.

13 (b) By October 1 of each year, the Violent Crimes Compensation Board shall
14 send to the office of management and budget the total amount of the compensable
15 claims from the previous fiscal year, the amount necessary to pay those compensable
16 claims, and the amount needed for the operating costs of the board.

17 (c) The office of management and budget shall use the amounts provided in
18 AS 43.23.028(a)(6) in combination with the amount provided under (b) of this section
19 to determine the amount each state agency should receive from the criminal fund
20 (AS 43.23.048) in accordance with the priority order and amounts listed in (a) of this
21 section.

22 (d) The office of management and budget shall submit to the legislature a
23 report listing the amounts determined under (c) of this section. The report shall be
24 submitted at the same time as the governor's budget under AS 37.07.020.

25 (e) Nothing in this section creates a dedicated fund.

26 * **Sec. 3.** AS 43.23 is amended by adding a new section to read:

27 **Sec. 43.23.048. Criminal fund.** The criminal fund is created as a separate
28 account in the dividend fund. The legislature shall appropriate from the dividend fund
29 each fiscal year an amount equal to the amount that would have been paid during the
30 previous fiscal year to individuals who were ineligible to receive dividends under
31 AS 43.23.005(d) if they had been eligible. Money in the fund may be appropriated in

1 accordance with AS 43.23.031. Nothing in this section creates a dedicated fund.

2 * **Sec. 4.** AS 43.23.055 is amended to read:

3 **Sec. 43.23.055. Duties of the department.** The department shall

4 (1) annually pay permanent fund dividends from the dividend fund;

5 (2) subject to AS 43.23.011 and [PARAGRAPH] (8) of this section,
6 adopt regulations under AS 44.62 (Administrative Procedure Act) that establish
7 procedures and time limits for claiming a permanent fund dividend; the department
8 shall determine the number of eligible applicants by October 1 of the year for which
9 the dividend is declared and pay the dividends by December 31 of that year;

10 (3) adopt regulations under AS 44.62 (Administrative Procedure Act)
11 that establish procedures and time limits for an individual upon emancipation or upon
12 reaching majority to apply for permanent fund dividends not received during minority
13 because the parent, guardian, or other authorized representative did not apply on
14 behalf of the individual;

15 (4) assist residents of the state, particularly in rural areas, who, because
16 of language, disability, or inaccessibility to public transportation, need assistance to
17 establish eligibility and to apply for permanent fund dividends;

18 (5) use a list of individuals ineligible for a dividend under
19 AS 43.23.005(d) provided annually by the Department of Corrections and the
20 Department of Public Safety to determine the number and identity of those
21 individuals;

22 (6) adopt regulations that are necessary to implement AS 43.23.005(d)
23 **and 43.23.031:**

24 (7) adopt regulations that establish procedures for the parent, guardian,
25 or other authorized representative of a disabled individual to apply for prior year
26 permanent fund dividends not received by the disabled individual because no
27 application was submitted on behalf of the individual;

28 (8) adopt regulations that establish procedures for an individual to
29 apply to have a dividend disbursement under AS 37.25.050(a)(2) reissued if it is not
30 collected within two years after the date of its issuance; however, the department may
31 not establish a time limit within which an application to have a disbursement reissued

1 must be filed;

2 (9) provide any information, upon request, contained in permanent
3 fund dividend records to the child support services agency created in AS 25.27.010, or
4 the child support enforcement agency of another state, for child support purposes
5 authorized under law; if the information is contained in an electronic data base, the
6 department shall provide the requesting agency with either

7 (A) access to the data base; or

8 (B) a copy of the information in the data base and a statement
9 certifying its contents;

10 (10) establish a fraud investigation unit for the purpose of assisting the

11 (A) Department of Law in the prosecution of individuals who
12 apply for or obtain a permanent fund dividend in violation of a provision in
13 AS 11, by detecting and investigating those crimes; and

14 (B) commissioner to detect and investigate the claiming or
15 paying of permanent fund dividends that should not have been claimed by or
16 paid to an individual and to impose the penalties and enforcement provisions
17 under AS 43.23.035.

18 * Sec. 5. This Act takes effect July 1, 2014.