

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

4700 HJUD HB 293

228

the voter as soon as practicable. Upon receipt of the application and an absentee ballot through a personal representative, the voter shall proceed to complete and sign the application and to mark the ballot in secret, to place the ballot in the small envelope, to place the small envelope in the larger envelope, and to sign the voter's certificate on the envelope in the presence of the personal representative who shall witness and date the signature of the voter. The voter must mark the ballot and sign the voter's certificate and application not later than election day. The voter shall then return the application and the absentee ballot to the personal representative who shall deliver the ballot to the election official who provided the ballot. The absentee ballot must be returned to the election official not later than 8:00 p.m. on election day.

Adopted

F-5762Bb
Bradley

A M E N D M E N T #1

Offered in the HOUSE

By Gruenberg

TO: CSHB 293(State Affairs)

Page 1, line 6, after "elections":

Insert "; and providing for an effective date"

Page 7, after line 3:

Insert a new bill section to read:

"* Sec. 14. This Act takes effect immediately under AS 01.10.070(c)."

Adopted

A M E N D M E N T #2

Offered in the HOUSE

By Gruenberg and Donley

TO: CSHB 203 (State Affairs)

Page 1, after line 13:

Insert a new bill section to read:

"* Sec. 2. AS 15.10.020 is amended by adding a new subsection to read:

(b) Whenever possible, the director shall send written notice of any change in a precinct boundary or polling place to each ^{affected} registered voter in the precinct ^{Not less than 7 nor more than 30} [between 7 and 30] days before the next state election."

Adopted

A M E N D M E N T # 3

Offered in the HOUSE

By Gruenberg

TO: CSHB 293(State Affairs)

Page 3, after line 21:

Insert a new bill section to read:

"* Sec. 6. AS 15.20.071(d) is amended to read:

(d) Each election official shall keep a record of the name and signature of each personal representative requesting an absentee ballot and the name of the person on whose behalf the ballot is requested. The election official shall record the date [AND TIME] the absentee ballot is provided and the date [TIME] the ballot is returned to the election official."

Renumber remaining bill sections.

Adopted

A M E N D M E N T #4

Offered in the HOUSE

By Gruenberg

TO: CSHB 293 (State Affairs)

Page 3, after line 21:

Insert a new bill section to read:

"* Sec. 6. AS 15.20.081(b) is amended to read:

(b) An application for an absentee ballot by mail must be re-
ceived by the division of elections [POSTMARKED] not less than four
[TEN] days before the election for which the absentee ballot is
sought. The absentee ballot application shall permit the person to
register to vote under AS 15.07.070 and to request an absentee ballot
for each state election held within that calendar year for which the
voter is eligible to vote."

Renumber remaining bill sections.

A M E N D M E N T #5

Adopted
AS
Amended

Offered in the HOUSE

TO: CSHB 293 (State Affairs)

By Pourchot

Page 3, after line 21:

Insert a new bill section to read:

"* Sec. 6. AS 15.20.220(b) is amended to read:

(b) The state review board shall review and count absentee and questioned ballots that have been forwarded to the director and that have not been reviewed or counted by a district counting board. [ABSENTEE AND QUESTIONED BALLOTS NOT RECEIVED IN THE OFFICE OF THE DIRECTOR BY 4:00 P.M. ON THE 15TH DAY FOLLOWING THE ELECTION MAY NOT BE COUNTED IN THE REVIEW.]"

Renumber remaining bill sections accordingly.

Add reference to AS 15.20.081(e) + (h)

Alaska State Legislature

REPRESENTATIVE
PAT POURCHOT

HOUSE FINANCE COMMITTEE,
VICE CHAIR

HOUSE ETHICS COMMITTEE, CHAIR

LEGISLATIVE BUDGET & AUDIT
COMMITTEE



House of Representatives

MEMORANDUM

ANCHORAGE
P.O. BOX 104836
ANCHORAGE, AK 99510
(W) (907) 276-6818
(H) (907) 338-2425

JUNEAU
P.O. BOX V
STATE CAPITOL
JUNEAU, AK 99811
(907) 465-3712

DATE: February 1, 1988

TO: Representative John Sund, Chair
House Judiciary Committee

FROM: Representative Pat Pourchot *Pat*

SUBJECT: HB 293 - Relating to Elections

Last session I introduced HB 293, relating to elections. As you know the bill passed the House State Affairs Committee and is awaiting a hearing before the Judiciary Committee.

The bill makes several technical changes to the statutes in an attempt to clean-up existing ambiguities and simplify certain procedures. Passage of HB 293 will aid the Division in effectively and efficiently performing its mandated responsibilities.

I recently spoke with the Division of Elections and they have reaffirmed their strong support for this legislation and desire to see it passed this session.

I would greatly appreciate your scheduling HB 293 before the Judiciary Committee at your earliest convenience.

Alaska State Legislature

REPRESENTATIVE
PAT POURCHOT

HOUSE FINANCE COMMITTEE,
VICE CHAIR

HOUSE ETHICS COMMITTEE, CHAIR

LEGISLATIVE BUDGET & AUDIT
COMMITTEE



House of Representatives

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JUNEAU
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STATE CAPITOL
JUNEAU, AK 99811
(907) 465-3712

MEMORANDUM

DATE: May 6, 1987

TO: Members of the House State Affairs Committee
Rep. Fran Ulmer, Chairman
Rep. Lyman Hoffman, Vice-Chairman
Rep. "Red" Boucher
Rep. Cliff Davidson
Rep. Dave Donley
Rep. Terry Martin
Rep. Curt Menard

FROM: Rep. Pat Pourchot *Pat*

SUBJECT: House Bill 293 - Relating to Elections

The bill addresses the issue of voters who change their name due to marriage or divorce; eliminates a statutory requirement that judicial retention candidates be placed on a separate ballot; simplifies the process by which a disabled or otherwise confined person can vote; changed the deadline for withdrawal of a candidate's name from the ballot from 40 days to 54 days before the election; deletes references to the language "designated by a plus sign" when describing ballots.

Finally, this bill would eliminate the provision that allows ballots to be counted in a recount that are received after the statutory deadlines thus reducing the potential for fraud.

A brief summary of House Bill 293 is attached for your information. Thank you for your consideration of this bill.

Rep. Pat Pourchot
May 5, 1987

SUMMARY OF HOUSE BILL 293
"An Act relating to elections"

Section 1. Current statute states that a voter who has changed their name may vote under their previous name, but if the voter desires to vote under their new name they must change their registration 30 days prior to the election.

Questions concerning this section of the statute were raised in the recent Fischer/Uehling recount. The Supreme Court ordered the ballots counted of those voters who voted under their new name but had not updated their registration records as required by statute. In order to clarify this statute, this proposed amendment simply allows the voter to vote under their previous name or vote a questioned ballot if they wish to vote using their new name.

Section 2, 8-11. These sections address the requirement that judicial retention candidates be printed on a separate nonpartisan judicial ballot. Often there is adequate space on the first ballot card to include the judges. The Division of Elections believes they could reduce costs by eliminating the statutory requirement of printing an additional, separate ballot card for retention of judges. Each ballot card costs approximately 16 cents.

Historically it was necessary to print the judicial retention on separate nonpartisan ballot cards when territorial elections involved closed partisan races. The Alaska Court System indicates that the Judicial Branch has no problem with the elimination of this statutory reference.

Section 3. This proposed change allows for a simplified process by which a qualified voter who is physically disabled, imprisoned or confined to an institution may vote by absentee ballot through a personal representative. Currently the process is cumbersome, impractical and leads to discouraging people from voting.

Section 4. Current law allows absentee ballots to be counted during a recount regardless of when the ballots were received. The statute change in this section would disallow the counting of absentee ballots received via the mail after their respective deadlines. In a recount, domestically mailed ballots would be included only when received through the 10th day after the election. Military or Internationally mailed ballots received through the 15th day after the election would be included in a recount.

This change would help limit the possibility of "ballot-stuffing" of unvoted absentees after the day of elections. Alaska currently has the longest time periods in which to receive absentee ballots after election day.

Section 5. This suggested change is "housekeeping" in nature. This section proposes the deletion of the references to the language "designated by a plus sign" when describing the square box in which the voter punches the ballot. The plus sign serves no purpose. Statutory citations regarding handmarked ballots contain no such descriptive language and no other sections of the election law contains any reference to this "plus sign".

Sections 6 and 7. Current statute set the deadline for withdrawal of a candidate's name from the ballot, or replacement of a name on the ballot at 40 days prior to the election. A change in the deadline from 40 to 54 days would significantly improve the Division of Elections ability to meet the other statutory deadlines which are dependent on completion of ballot printing.

HOUSE COMMITTEE REPORT

(7)

Date referred: 4/24/87

FURTHER REFERRALS: Judiciary
Finance

DATE: 5-6-87

The State Affairs Committee has considered HB 293

"An Act relating to elections."

RECOMMENDS:

- replace with CS HB 293(SA) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING TO PASS:

[Signature]

[Signature]

SIGNING OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

Chairman's signature

FISCAL IMPACT
PROPOSED AMENDMENT
HB 293

February 23, 1988

The Division of Elections anticipates that the amendment requiring the mailing of official notice of precinct boundary or polling place change to each impacted voter would add to the overall costs of elections. However, in view of the fact that the existing bill generates an overall savings in the costs of ballot printing, it is not expected that the costs related to the amendment will cause the fiscal note to require an increase in funding. However, the savings in ballot printing would be generally offset by the increased costs relative to implementation to the amendment. It should be remembered that the actual savings/costs ratio would fluctuate from year to year.

Costs anticipated should the amendment pass would include printing of computer self-mailers and 1st class postage.

Based on the prior bid awards the printing of similar forms, printing would come to \$0.069 per unit. Postage is figured at \$0.22.

In 1986, 65 polling places were changed, impacting 44,070 voters.

At 28.9 cents per item, the cost of mailing these notices would have been \$12,736.

RECEIVED

JAN 26 1988

STATE OF ALASKA
1988 LEGISLATIVE SESSION

DIRECTOR OF ELECTIONS

BILL VERSION: HB 293

PUBLISH DATE: _____

REQUEST:

FISCAL NOTE

Revision Date: _____
Title: An Act relating to elections

Agency Affected: Office of the Governor
BRU: Elections

Sponsor: Pourchot & Ulmer
Requestor: House Judiciary Committee

Components: II - Primary & General
Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	0	(*)	0	(*)	0	(*)
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	(*)	0	(*)	0	(*)

CAPITAL						
---------	--	--	--	--	--	--

REVENUE	0	(*)	0	(*)	0	(*)
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	(*)	0	(*)	0	(*)
FEDERAL FUNDS						
OTHER						
TOTAL	0	(*)	0	(*)	0	(*)

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Linda Edgeworth
Division: Division of Elections

Phone: 465-4611
Date: 1/22/88

Approved by Commissioner: [Signature]
Agency: Office of the Governor

Date: 1/26/88

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Maw

1/26/88

CONTINUATION FISCAL NOTE
HB 293

Division of Elections
January 22, 1988

RECEIVED
JAN 26 1988
DIRECTOR OF ELECTIONS

This bill will result in an additional cost to the Division of Elections in only one of its provisions. That provision relates to the increase in the number of sites which will have to have materials for personal representative voting on election day. There will be 238 additional precincts in which materials for this type of voting will be necessary. The estimated cost for these materials will be about \$1,000 for envelopes, accountability reports and applications.

The rest of this bill will result in a savings to the Division of Elections in fiscal years during which their primary and general elections. However, the savings to be realized will fluctuate from year to year.

Most of the cost savings relate to the provision which eliminates the requirement that judicial retention candidates be printed on a separate ballot card, and elimination of language requiring a plus sign in the voting squares on punch card ballots. Often there is adequate space on the other cards to be printed to accommodate the judicial candidates. However, the number of house districts in which this is the case depends on the number of candidates and offices appearing on the ballot, as well as the number of judges up for retention, and the number of total ballots needed to cover the number of voters in the given districts.

The average cost saving related to the elimination of the extra judicial card is about \$115.00 per thousand. Elimination of the plus sign would save approximately \$2,000 per election. With that in mind, a review of the cost savings for the 1984 and 1986, statewide elections, had this bill been in effect would have been as follows:

1984 (14.8)

1986 (18.1)

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version : HB 293

Publish Date : _____

Revision Date: _____

Title: An Act relating to elections

Agency Affected: Office of the Governor

BRU: Elections

Sponsor: Pourchot and Ulmer

Requestor: House State Affairs

Components: II Primary and General

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	0	0	(*)	0	(*)	0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	(*)	0	(*)	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE	0	0	(*)	0	(*)	0
---------	---	---	-----	---	-----	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	(*)	0	(*)	0
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	(*)	0	(*)	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

* See Attached Sheet

Prepared by: Linda Edgeworth

Phone: 465-4611

Division: Division of Elections

Date: 5-1-87

Approved by Commissioner: *Sandra J. Stout Director*

Date: 5/4/87

Agency: Office of the Governor

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

CONTINUATION FISCAL NOTE
HB 293

Division of Elections
May 1, 1987

This bill will result in an additional cost to the Division of Elections in only one of its provisions. That provision relates to the increase in the number of sites which will have to have materials for personal representative voting on election day. There will be 238 additional precincts in which materials for this type of voting will be necessary. The estimated cost for these materials will be about \$1,000 for envelopes, accountability reports and applications.

The rest of this bill will result in a savings to the Division of Elections in fiscal years during which their primary and general elections. However, the savings to be realized will fluctuate from year to year.

Most of the cost savings relate to the provision which eliminates the requirement that judicial retention candidates be printed on a separate ballot card, and elimination of language requiring a plus sign in the voting squares on punch card ballots. Often there is adequate space on the other cards to be printed to accommodate the judicial candidates. However, the number of house districts in which this is the case depends on the number of candidates and offices appearing on the ballot, as well as the number of judges up for retention, and the number of total ballots needed to cover the number of voters in the given districts.

The average cost saving related to the elimination of the extra judicial card is about \$115.00 per thousand. Elimination of the plus sign would save approximately \$2,000 per election. With that in mind, a review of the cost savings for the 1984 and 1986, statewide elections, had this bill been in effect would have been as follows:

1984 (14.8)

1986 (18.1)

COMMENTS IN SUPPORT OF
HOUSE BILL 293
"An Act relating to elections"

Prepared by
The Division of Elections
April 30, 1987

The Division of Elections has reviewed HB 293 and supports its provisions in their entirety.

Section 1 eliminates the current requirement that voters who change their names may vote under the previous name, but must update their registration record 30 days prior to the election in which they seek to vote, in order to vote under their new names. In the Supreme Court action regarding the Fischer/Uehling recount, the Division was directed to count the ballots of voters who voted under their new names but had not updated their registration as required by statute. While we have not received the formal opinion on which the court based its decision, we believe that the amendment proposed by the sponsor is in keeping with the intent of the court. We believe that this amendment is a step forward in assuring that no otherwise qualified voter is disenfranchised on the basis of an administrative technicality.

Sections 2 and 8 through 11 relate to a requirement that judicial retention candidates be placed on a separate ballot. Often there is adequate space on other ballot cards to include the judicial candidates for a specific district. While several districts consistently require printing of a third card during a general election, we anticipate that in any given election year, 1/3 to 1/2 of the districts in the state could be accommodated with just 2 ballot cards if the requirement for a separate card for judicial candidates were eliminated. Based on a review of the number of districts which would have fallen into this category in the 1986 general election, 14 districts would have required the printing of only 2 ballot cards if the judicial candidates had been printed on the same card as other candidates. This would have resulted in a savings of nearly \$15,000 in ballot printing costs.

Section 5 of this bill calls for a "housekeeping" amendment which would also result in simplification of ballot printing requirements and additional savings in printing costs. No reference is made to the box in which the voter marks his or her vote having "a plus sign", in sections of the statute setting out guidelines for form of the ballot. However, citing the rules by which the director is directed to count or not count the votes on punch card ballots based on the positioning of the punch mark within the square, the

statute includes language "in the square designated by the plus sign". This is the only reference to a plus sign but because of the inference, the Division has been printing two versions of the same ballot in all instances where there is punch card voting and handmark voting in the same district. The plus sign serves no viable purpose, but does complicate the printing, collating, packaging and distribution of ballot preparation. While simplification of the logistics involved outweighs other advantages of this amendment, the state could expect to save an additional \$2,000 dollars in its ballot printing costs.

Section 3 of the bill relates to personal representative voting. The provisions of this section simplify the process by which a disabled or confined individual votes through the assistance of another party. Under the existing statutes, an individual attempting to help a disabled voter vote must make two round trips between the voter and the Division of Elections to complete the process.

1. The personal representative must visit the Division of Elections to pick up an application for the voter. Once the voter has completed the application, the personal representative returns it to the Division.
2. The personal representative then picks up the ballots, goes back to the voter who votes the ballots, and then the personal representative must return the voted ballots back to the Division.

Under this amendment, the personal representative would apply to be a personal representative on behalf of the disabled voter, pick up the application to be completed by the voter, and the voter's ballots all at the same time. The voter's completed application and ballots would be returned in a single trip.

This proposed amendment duplicates language in Senate Bill 252 which successfully passed the Senate and all committees in the House during the 14th Legislature. At that time, it was a companion bill to House Bill 284 which was passed into law. However, SB 252 died in House Rules in the final hours of the session. It is our belief that there was a misunderstanding at the time, that the provisions of SB 252 had already been incorporated into the HB 284 which was passed out.

We support this provision which has been introduced again, because we believe that the existing statutes put an undue burden on personal representatives, and discourage voting by disabled and institutionalized voters.

Section 4 of the bill eliminates the provision in current statutes which allows ballots that are received after the statutory deadlines from being opened and counted in recounts. Concern has been expressed that the allowance for counting ballots received after the statutory deadline enhances the opportunity for inappropriate use of the system. In a review of 1,800 by mail ballots from the 1984 general election it was determined that approximately 1/3 of mailed ballots had no readable postmark. Recounts are usually called for in very close races. More and more voters are voting by mail, and individuals have greater access to absentee voter lists than ever before. Concern has been expressed that these circumstances combined with inconsistent use of postmarks could result in individuals working the absentee lists to solicit voters who did not return their ballots to cast them after election day, potentially impacting the outcome of the recount.

Sections 6 and 7 suggest conforming amendments to the deadline for withdrawal of a candidate's name from the ballot, or replacement of a name on the ballot prior to the election. The amendments change the deadline from 40 days to 54 days prior to the election. The Division strongly supports this change. The 40 day deadline severely constricts the actual time frame in which ballots must be typeset, proofread, printed and distributed. For example, for general elections, the existing deadline allows only 10 days for preparing camera ready samples of each finalized ballot for inclusion in the Official Election Pamphlet which, by statute, must be printed and in the mail to voters 30 days before the election.

In addition, by mail absentee voters should be mailed their ballots at least three full weeks before election day, and absentee in person voting starts 15 days before each election. That means that even in primary elections, allowing adequate shipping time for rural absentee sites, and adequate preparation for mass mailing of by mail ballots, the Division has at best, three weeks in which to finalize, typeset, proofread, print, receive and sort, and finally distribute ballots across the State. This tight three week period can be further dwindled in situations where lawsuits are filed contesting a candidate's eligibility, such as occurred in the 1986 gubernatorial race which affected the printing of every candidate card statewide.

May 1, 1987
Date

Sandra Stout
Sandra Stout
Director

Alaska State Legislature

REPRESENTATIVE
PAT POURCHOT

HOUSE FINANCE COMMITTEE,
VICE CHAIR

HOUSE ETHICS COMMITTEE, CHAIR

LEGISLATIVE BUDGET & AUDIT
COMMITTEE



House of Representatives MEMORANDUM

ANCHORAGE

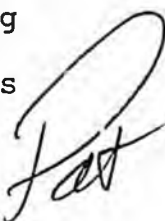
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JUNEAU

P.O. BOX V
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JUNEAU, AK 99811
(907) 465-3712

DATE: February 15, 1988

TO: House Judiciary Committee
Representative John Sund, Chair
Representative Fran Ulmer, Vice Chair
Representative Sam Cotten
Representative Max Gruenberg
Representative Mike Navarre
Representative Ramona Barnes
Representative Robin Taylor

FROM: Representative Pat Pourchot 

SUBJECT: CS HB 293 (State Affairs) - Relating to Elections

Last session I introduced HB 293, relating to elections. The bill makes several technical changes to the statutes in an attempt to clean-up existing ambiguities and simplify certain procedures. Passage of HB 293 will aid the Division in effectively and efficiently performing it's mandated responsibilities.

- 1) Section 1 amends existing statutes to allow a person who has changed his/her name but has not reregistered under the new name to vote a questioned ballot.
- 2) Section 2 would delete a requirement that judicial retention candidates be printed on a separate judicial ballot. The Alaska Court System has indicated that the Judicial Branch has no problem with the elimination of this statutory reference. Sections 10 through 13 contain conforming amendments.
- 3) Sections 3, 4 and 5 would simplify the process by which a qualified voter who is physically disabled, imprisoned or confined to an institution may vote by absentee ballot through a personal representative.
- 4) Section 6 would disallow the counting of absentee ballots not received by the end of the 10th day after the election when mailed within the U.S. and those not received by the end of the 15th day after the election when mailed from outside the U.S. or from a military APO or FPO address.

- 5) Section 7 clarifies existing statutes by removing existing reference to a "plus sign" which has necessitated the printing of two versions of the same ballot where there is both punch card voting and handmark voting in the same district.
- 6) Section 8 changes the deadline for removal of a name from the primary ballot from 40 to 54 days prior to the primary election. The earlier notice is for the better management of the primary election and the preparation of the ballots.
- 7) Section 9 amends the statutes relating to filling vacancies by party petition to conform to the requirements in section 8.

SUMMARY OF HOUSE BILL CS HB 293 (STATE AFFAIRS)
"An Act Relating to Elections"

Section 1. Current statute states that a voter who has changed his/her name may vote under their previous name. However, if the voter desires to vote under his/her new name, the voter must re-register 30 days prior to the election.

Questions concerning this section of the statute were raised in the 1986 Fischer/Uehling recount. The Supreme Court ordered the ballots counted of those voters who voted under their new name but had not updated their registration records as required by statute.

In order to clarify this statute, the proposed amendment allows a voter to vote under their previous name OR to vote a questioned ballot if the voter wishes to use his/her new name.

Sections 2, 10 - 13. These sections address the requirement that judicial retention candidates be printed on a separate nonpartisan judicial ballot.

Historically it was necessary to print the judicial retention candidates on separate nonpartisan ballot cards when territorial elections involved closed partisan races. The Alaska Court System indicates that the Judicial Branch has no problem with the elimination of this statutory reference.

Often there is adequate space on the first ballot card to include the judges. The Division of Elections believes they could reduce costs if the statutory requirement for printing an additional, separate ballot card for retention of judges was eliminated. Each ballot card costs approximately 16¢.

Sections 3, 4, 5. The changes proposed in these sections allow for a simplified process by which a qualified voter who is physically disabled, imprisoned or confined to an institution may vote by absentee ballot through a personal representative. Currently, the process is cumbersome, impractical and leads to discouraging people from voting. Under these amendments a personal representative would be able to accomplish in one trip to the elections office what it now takes at least two and sometimes three trips to accomplish.

Section 3 provides for a personal representative to apply for an absentee ballot on behalf of a voter who is physically disabled, imprisoned or confined to an institution and broadens the group of officers from whom the absentee ballots may be requested.

Section 4 adds an identification requirement to conform to existing law and eliminates the requirement that a letter from a licensed physician or a signed statement by two qualified voters attesting to the inability of the applicant to go to a polling place be provided to the election official.

Section 5 adds conforming language.

Section 6. Current law allows absentee ballots to be counted during a recount regardless of when the ballots were received.

The statute change in this section would disallow the counting of absentee ballots received via the mail after their respective deadlines. In a recount, domestically mailed ballots would be included only when received through the 10th day after the election. Military or internationally mailed ballots received through the 15th day after the election would be included in a recount. Alaska currently has the longest time periods in which to receive absentee ballots after election day.

Section 7. This amendment is "housekeeping" in nature. The section proposes the deletion of references to language "designated by a plus sign" when describing the square box in which the voter punches the ballot. The plus sign serves no purpose. Statutory citations regarding handmarked ballots contain no such descriptive language and no other sections of the election law contain any reference to this "plus sign."

Removal of existing references to a "plus sign" will eliminate the necessity for printing two versions of the same ballot where there is both punch card voting and handmark voting in the same district.

Sections 8 and 9. Current statutes set the deadline for withdrawal of a candidate's name from the ballot, or the replacement of a name on the ballot 40 days prior to the election. A change in the deadline from 40 to 54 days would significantly improve the Division of Elections' ability to meet the other statutory deadlines which are dependent on completion of ballot printing.


STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 1, 1988

SUBJECT: Elections (CSHB 293 (State Affairs))
TO: Representative Pat Pourchot
FROM: Richard A. Bradley
Legislative Counsel 

You have requested a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 of the bill amends AS 15.07.090(a) to alter the procedure under which a voter whose name is changed (by court order or by marriage) may vote. Existing law requires that the voter notify the division of election 30 days before the election or vote under the old name. Under the amendment, the voter may vote a questioned ballot.

Section 2 of the bill amends AS 15.15.030(10). The goal of the amendment was to eliminate the requirement that judicial retention election ballots be printed on a separate ballot. In that connection, note that art. IV, sec. 6 requires that the retention ballot be "nonpartisan"; presumably this means that judges may not appear on the ballot used for the election of the political officers of the state.

Note: in this connection the conforming amendments later in the bill are secs. 10 - 13 of the bill.

Section 3 of the bill amends AS 15.20.071(a). It authorizes a personal representative to assist voters to vote by absentee ballot when the voter is imprisoned or confined to

an institution. Under the Alaska Constitution, only those convicted of a felony involving moral turpitude lose the right to vote. With regard to those confined to an institution, only those "who have been judicially determined to be of unsound mind" have lost the right to vote. Art. V, sec. 2.

The same section also permits the application for the absentee voter to apply to a member of the election board; existing language says the application goes to the chairman or his designee. My records do not indicate why the changes were made at page 2, lines 20 - 22; the elimination of the limitation seems to broaden the group of officers from whom absentee ballots may be requested.

Section 4 amends AS 15.20.071(b). The addition of the requirement of identification conforms to the requirements of existing law. Compare AS 15.07.060. The remainder of the changes seem conforming.

Section 5 amends AS 15.20.071(c). The changes are intended to conform the law to the reality of the existing process.

Section 6 amends AS 15.20.480. The section is, I believe, a section that was omitted from an earlier revision of the election recount procedure dates. With the amendment of this section, the general law on the counting of absentee ballots received after an election is now controlled by AS 15.20.081(e) and (h). I note, however, that the last sentence of AS 15.20.220(b) is still not conforming; it should either be deleted from the law or tied in with AS 15.20.081(e) and (h).

Section 7 amends AS 15.20.730(b). The elimination of the references to "plus signs" is designed to remedy a confusion: The existing law talks about "punches" and "plus signs" and the question has been which controlled.

Section 8 amends AS 15.25.055. It requires a candidate in the primary election to give notice earlier. The earlier notice is for the better management of the primary election and the preparation of the ballots.

Section 9 of the bill amends AS 15.25.110. It permits a party to name a candidate to fill a vacancy caused by a withdrawal, disqualification, etc., of a candidate nominated at a primary election.

Representative Pat Pourchot
Page 3
February 1, 1988

Section 10 amends AS 15.35.050. It eliminates the requirement that the retention election for supreme court justices be on a judicial ballot; as suggested earlier, there is still a requirement that the ballot be nonpartisan.

Section 11 amends AS 15.35.059. It eliminates the requirement that the retention election for court of appeals judges be on a judicial ballot; as suggested earlier, there is still a requirement that the ballot be nonpartisan.

Section 12 amends AS 15.35.090. It eliminates the requirement that the retention election for superior court judges be on a judicial ballot; as suggested earlier, there is still a requirement that the ballot be nonpartisan.

Section 11 amends AS 15.35.130. It eliminates the requirement that the retention election for district court judges be on a judicial ballot; as suggested earlier, there is still a requirement that the ballot be nonpartisan.

If I may be of further assistance, please advise.

RAB:bb
wkb2/026

RECEIVED

JAN 26 1988

STATE OF ALASKA
1988 LEGISLATIVE SESSION

DIRECTOR OF ELECTIONS

BILL VERSION: HB 293

PUBLISH DATE:

REQUEST:

FISCAL NOTE

Revision Date: _____
Title: An Act relating to elections

Agency Affected: Office of the Governor
BRU: Elections

Sponsor: Pourchot & Ulmer
Requestor: House Judiciary Committee

Components: II - Primary & General
Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	0	(*)	0	(*)	0	(*)
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	(*)	0	(*)	0	(*)

CAPITAL						
---------	--	--	--	--	--	--

REVENUE	0	(*)	0	(*)	0	(*)
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	(*)	0	(*)	0	(*)
FEDERAL FUNDS						
OTHER						
TOTAL	0	(*)	0	(*)	0	(*)

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Linda Edgeworth
Division: Division of Elections

Phone: 465-4611

Date: 1/22/88

Approved by Commissioner: [Signature]
Agency: Office of the Governor

Date: 1/26/88

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

RECEIVED
JAN 26 1988
DIRECTOR OF ELECTIONS

CONTINUATION FISCAL NOTE
HB 293

Division of Elections
January 22, 1988

This bill will result in an additional cost to the Division of Elections in only one of its provisions. That provision relates to the increase in the number of sites which will have to have materials for personal representative voting on election day. There will be 238 additional precincts in which materials for this type of voting will be necessary. The estimated cost for these materials will be about \$1,000 for envelopes, accountability reports and applications.

The rest of this bill will result in a savings to the Division of Elections in fiscal years during which their primary and general elections. However, the savings to be realized will fluctuate from year to year.

Most of the cost savings relate to the provision which eliminates the requirement that judicial retention candidates be printed on a separate ballot card, and elimination of language requiring a plus sign in the voting squares on punch card ballots. Often there is adequate space on the other cards to be printed to accommodate the judicial candidates. However, the number of house districts in which this is the case depends on the number of candidates and offices appearing on the ballot, as well as the number of judges up for retention, and the number of total ballots needed to cover the number of voters in the given districts.

The average cost saving related to the elimination of the extra judicial card is about \$115.00 per thousand. Elimination of the plus sign would save approximately \$2,000 per election. With that in mind, a review of the cost savings for the 1984 and 1986, statewide elections, had this bill been in effect would have been as follows:

1984 (14.8)

1986 (18.1)

COMMENTS IN SUPPORT OF
HOUSE BILL 293
"An Act relating to elections"

Prepared by
The Division of Elections
April 30, 1987

The Division of Elections has reviewed HB 293 and supports its provisions in their entirety.

Section 1 eliminates the current requirement that voters who change their names may vote under the previous name, but must update their registration record 30 days prior to the election in which they seek to vote, in order to vote under their new names. In the Supreme Court action regarding the Fischer/Uehling recount, the Division was directed to count the ballots of voters who voted under their new names but had not updated their registration as required by statute. While we have not received the formal opinion on which the court based its decision, we believe that the amendment proposed by the sponsor is in keeping with the intent of the court. We believe that this amendment is a step forward in assuring that no otherwise qualified voter is disenfranchised on the basis of an administrative technicality.

Sections 2 and 8 through 11 relate to a requirement that judicial retention candidates be placed on a separate ballot. Often there is adequate space on other ballot cards to include the judicial candidates for a specific district. While several districts consistently require printing of a third card during a general election, we anticipate that in any given election year, 1/3 to 1/2 of the districts in the state could be accommodated with just 2 ballot cards if the requirement for a separate card for judicial candidates were eliminated. Based on a review of the number of districts which would have fallen into this category in the 1986 general election, 14 districts would have required the printing of only 2 ballot cards if the judicial candidates had been printed on the same card as other candidates. This would have resulted in a savings of nearly \$15,000 in ballot printing costs.

Section 5 of this bill calls for a "housekeeping" amendment which would also result in simplification of ballot printing requirements and additional savings in printing costs. No reference is made to the box in which the voter marks his or her vote having "a plus sign", in sections of the statute setting out guidelines for form of the ballot. However, citing the rules by which the director is directed to count or not count the votes on punch card ballots based on the positioning of the punch mark within the square, the

statute includes language "in the square designated by the plus sign". This is the only reference to a plus sign but because of the inference, the Division has been printing two versions of the same ballot in all instances where there is punch card voting and handmark voting in the same district. The plus sign serves no viable purpose, but does complicate the printing, collating, packaging and distribution of ballot preparation. While simplification of the logistics involved outweighs other advantages of this amendment, the state could expect to save an additional \$2,000 dollars in its ballot printing costs.

Section 3 of the bill relates to personal representative voting. The provisions of this section simplify the process by which a disabled or confined individual votes through the assistance of another party. Under the existing statutes, an individual attempting to help a disabled voter vote must make two round trips between the voter and the Division of Elections to complete the process.

1. The personal representative must visit the Division of Elections to pick up an application for the voter. Once the voter has completed the application, the personal representative returns it to the Division.
2. The personal representative then picks up the ballots, goes back to the voter who votes the ballots, and then the personal representative must return the voted ballots back to the Division.

Under this amendment, the personal representative would apply to be a personal representative on behalf of the disabled voter, pick up the application to be completed by the voter, and the voter's ballots all at the same time. The voter's completed application and ballots would be returned in a single trip.

This proposed amendment duplicates language in Senate Bill 252 which successfully passed the Senate and all committees in the House during the 14th Legislature. At that time, it was a companion bill to House Bill 284 which was passed into law. However, SB 252 died in House Rules in the final hours of the session. It is our belief that there was a misunderstanding at the time, that the provisions of SB 252 had already been incorporated into the HB 284 which was passed out.

We support this provision which has been introduced again, because we believe that the existing statutes put an undue burden on personal representatives, and discourage voting by disabled and institutionalized voters.

Section 4 of the bill eliminates the provision in current statutes which allows ballots that are received after the statutory deadlines from being opened and counted in recounts. Concern has been expressed that the allowance for counting ballots received after the statutory deadline enhances the opportunity for inappropriate use of the system. In a review of 1,800 by mail ballots from the 1984 general election it was determined that approximately 1/3 of mailed ballots had no readable postmark. Recounts are usually called for in very close races. More and more voters are voting by mail, and individuals have greater access to absentee voter lists than ever before. Concern has been expressed that these circumstances combined with inconsistent use of postmarks could result in individuals working the absentee lists to solicit voters who did not return their ballots to cast them after election day, potentially impacting the outcome of the recount.

Sections 6 and 7 suggest conforming amendments to the deadline for withdrawal of a candidate's name from the ballot, or replacement of a name on the ballot prior to the election. The amendments change the deadline from 40 days to 54 days prior to the election. The Division strongly supports this change. The 40 day deadline severely constricts the actual time frame in which ballots must be typeset, proofread, printed and distributed. For example, for general elections, the existing deadline allows only 10 days for preparing camera ready samples of each finalized ballot for inclusion in the Official Election Pamphlet which, by statute, must be printed and in the mail to voters 30 days before the election.

In addition, by mail absentee voters should be mailed their ballots at least three full weeks before election day, and absentee in person voting starts 15 days before each election. That means that even in primary elections, allowing adequate shipping time for rural absentee sites, and adequate preparation for mass mailing of by mail ballots, the Division has at best, three weeks in which to finalize, typeset, proofread, print, receive and sort, and finally distribute ballots across the State. This tight three week period can be further dwindled in situations where lawsuits are filed contesting a candidate's eligibility, such as occurred in the 1986 gubernatorial race which affected the printing of every candidate card statewide.

May 1, 1987
Date

Sandra Stout
Sandra Stout
Director

HB

296

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H. JUD.

3-15-88

1:30 p.m.

5-0242Z
Chenoweth
4/15/88

Original sponsors: Donley, Collins,
Martin, et al.

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 296 ()
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act relating to victims of crime, claims by
7 victims of crime arising from criminal conduct, and
8 service of process on prisoners; and amending Rules
9 32(d)(1) and 35 of the Alaska Rules of Criminal
10 Procedure."

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

12 * Section 1. AS 12.61 is amended by adding a new section to read:

13 Sec. 12.61.100. SHORT TITLE. This chapter may be cited as the
14 "Alaska Crime Victim's Rights Act."

15 * Sec. 2. AS 09.05 is amended by adding a new section to read:

16 Sec. 09.05.050. SERVICE OF PROCESS ON PRISONERS. (a) In a
17 civil action against a person committed to the custody of the commis-
18 sioner of corrections under state law, the summons may be served on
19 the commissioner of corrections. Service of the summons is made by
20 registered mail or delivery of a copy of it to the commissioner of
21 corrections. The commissioner shall keep a record of each process
22 served under this section and the day and hour of service. This
23 service is sufficient service on the prisoner.

24 (b) The commissioner of corrections shall deliver a notice of
25 the service and a copy of the summons to the prisoner within 10 days
26 after the date of service.

27 (c) The commissioner of corrections shall make an affidavit
28 showing that service of the summons on the defendant has been made as
29 provided in (b) of this section. The affiant shall attach to the

1 affidavit a copy of the summons and shall file the affidavit and
2 attached papers with the court having jurisdiction of the cause.

3 (d) The court in which the action is pending may order an exten-
4 sion of time necessary to give the defendant reasonable opportunity to
5 defend the action.

6 (e) The state may not be held liable in damages for the commis-
7 sioner's failure to comply with the requirements of this section.

8 * Sec. 3. AS 09.38.065(a) is amended to read:

9 (a) Notwithstanding other provisions of this chapter,

10 (1) a creditor may make a levy against exempt property of
11 any kind to enforce a claim for

12 (A) child support;

13 (B) unpaid earnings of up to one month's compensation
14 or the full-time equivalent of one month's compensation for
15 personal services of an employee; or

16 (C) state or local taxes; [AND]

17 (2) a creditor may make a levy against exempt property to
18 enforce a claim for

19 (A) the purchase price of the property or a loan made
20 for the express purpose of enabling an individual to purchase the
21 property and used for that purpose;

22 (B) labor or materials furnished to make, repair,
23 improve, preserve, store, or transport the property; and

24 (C) a special assessment imposed to defray costs of a
25 public improvement benefiting the property; and

26 (3) a creditor may make a levy against exempt property of
27 any kind to enforce a claim arising from criminal conduct of the
28 debtor resulting in a felony conviction except that the debtor is
29 entitled to an exemption in property

1 (A) not to exceed an aggregate value of \$1,500 chosen
2 by the individual from the following categories of property:

3 (i) household goods and wearing apparel rea-
4 sonably necessary for one household;

5 (ii) books and musical instruments, if reasonably
6 held for the personal use of the debtor or a dependent of
7 the debtor; and

8 (iii) family portraits and heirlooms of particular
9 sentimental value to the debtor; and

10 (B) not to exceed an aggregate value of \$1,400 of the
11 debtor's implements, professional books, and tools of the trade.

12 * Sec. 4. AS 12.47 is amended by adding a new section to read:

13 Sec. 12.47.095. NOTICE TO VICTIMS. (a) If an offender has been
14 committed to the custody of the commissioner of health and social
15 services under AS 12.47.090, the victim of the offense is entitled to
16 notice of a pending change in the status of the offender. The commis-
17 sioner of health and social services shall give notice as required by
18 this section if

19 (1) the offender has been continued in commitment following
20 expiration of the maximum term of imprisonment under AS 12.47.090(f)
21 and the commissioner petitions for release of the offender;

22 (2) the court is to consider modification of an order of
23 conditional release for the offender under AS 12.47.092(e);

24 (3) a court is to consider conditional release of the
25 offender under AS 12.47.090(k) and 12.47.092(a); or

26 (4) the offender petitions for discharge under AS 12.47.-
27 092(f).

28 (b) If the victim has died, is a minor, or is incapacitated, the
29 commissioner of health and social services shall give notice, when

1 required by (a) of this section, to the victim's spouse, parent,
2 child, brother, sister, aunt, uncle, parent-in-law, brother-in-law,
3 sister-in-law, or legal guardian.

4 (c) The commissioner of health and social services is required
5 to give notice of a change in the status of an offender under this
6 section only if the victim or a person entitled to notice under (b) of
7 this section has requested notice of the change.

8 (d) A victim, or a person who is entitled to notice under (b) of
9 this section, shall maintain a current, valid mailing address on file
10 with the commissioner of health and social services. The address of
11 record is the address for all communication of notice required by this
12 section. Mail that is transmitted by the commissioner to the address
13 of record satisfies the legal requirements with respect to notice
14 under this section.

15 * Sec. 5. AS 12.55.022 is amended by adding new subsections to read:

16 (b) The victim has the right to submit or make a written or oral
17 statement to the probation officer for use by that officer in prepar-
18 ing a presentence investigation report concerning the defendant. The
19 probation officer shall inform the victim of that right.

20 (c) If the victim requests, the victim's written statement must
21 be included in the presentence investigation report.

22 * Sec. 6. AS 12.55.088 is amended by adding new subsections to read:

23 (d) When an individual convicted of a crime against a person
24 files a motion to modify a sentence, the court shall, if feasible
25 given the time constraints and circumstances of the motion, send a
26 copy of the motion to the Department of Corrections sufficiently in
27 advance of any scheduled hearing so as to enable the department to
28 notify the victim of the crime of the right to comment in writing as
29 set out in (e) of this section. When an individual convicted of a

1 crime against a person files a motion to reduce a sentence, the court
2 shall send a copy of the motion to the Department of Corrections
3 sufficiently in advance of any scheduled hearing so as to enable the
4 department to notify the victim of the crime of the right to comment
5 in writing as set out in (e) of this section.

6 (e) Upon request of the victim, in the case of an individual
7 convicted of a crime against a person, the Department of Corrections
8 shall send to the victim a copy of a motion to modify or reduce a
9 sentence upon receipt from the court. The Department of Corrections
10 shall also notify the victim of the right to comment in writing to the
11 court on the motion to modify or reduce a sentence.

12 (f) The court shall provide copies of the victim's comments to
13 the person filing the motion to reduce or modify a sentence, or to the
14 person's attorney.

15 (g) The court shall consider the victim's comments when rele-
16 vant, and any response offered by the person filing the motion, in
17 deciding whether to reduce or modify a sentence.

18 (h) It is the responsibility of the victim to keep the Depart-
19 ment of Corrections apprised of the victim's current mailing address.
20 The address of the victim may not be disclosed to the person filing
21 the motion under (d) of this section or the person's attorney.

22 * Sec. 7. AS 12.55.185(11) is amended to read:

23 (11) "victim" means a natural person against whom the of-
24 fense has been perpetrated; [THE VICTIM OF THE OFFENSE OR,] if the
25 person [VICTIM] has died, is a minor, or is incapacitated, the term
26 includes the person's [A] spouse, parent, child, brother, sister,
27 aunt, uncle, parent-in-law, brother-in-law, sister-in-law, or legal
28 guardian [OF THE VICTIM].

29 * Sec. 8. AS 12.55.185 is amended by adding a new paragraph to read:

1 (12) "crime against a person" has the meaning given in
2 AS 33.30.901.

3 * Sec. 9. AS 12.61.010(a) is amended to read:

4 (a) Victims of crimes have the following rights:

5 (1) the right to be informed by the appropriate law en-
6 forcement agency or the prosecuting attorney of the dates of all
7 criminal proceedings involving the defendant relating to the case in
8 which the victim is involved;

9 (2) the right to be notified that a sentencing hearing or a
10 court proceeding to which the victim has been subpoenaed will not
11 occur as scheduled;

12 (3) the right to receive protection from harm and threats
13 of harm arising out of cooperation with law enforcement and prosecu-
14 tion efforts, and to be provided with information as to the protection
15 available;

16 (4) the right to be informed of the procedure to be fol-
17 lowed to apply for and receive any victim compensation under AS 18.67;

18 (5) at the request of the prosecution or a law enforcement
19 agency, the right to cooperate with the criminal justice process
20 without loss of pay and other employee benefits and without interfer-
21 ence in any form by the employer of the victim of crime; [AND]

22 (6) the right to obtain access to immediate medical assis-
23 tance and not to be detained for an unreasonable length of time by a
24 law enforcement agency before having medical assistance administered;
25 however, an employee of the law enforcement agency may, if necessary,
26 accompany the person to a medical facility to question the person
27 about the criminal incident if the questioning does not hinder the
28 administration of medical assistance;

29 (7) the right to make a written or oral statement for use

1 in preparation of the defendant's presentence report, and to appear
2 personally at the defendant's sentencing hearing to present a written
3 or oral statement; and

4 (8) the right to obtain from the prosecuting attorney at
5 any time after the defendant's conviction a copy of the record of all
6 the defendant's convictions.

7 * Sec. 10. AS 12.61 is amended by adding new sections to read:

8 Sec. 12.61.015. DUTIES OF PROSECUTING ATTORNEY. (a) Upon the
9 request of the victim of a crime, the prosecuting attorney shall

10 (1) confer with the victim about the victim's testimony
11 before the selection of the jury and the trial of the defendant;

12 (2) in a manner reasonably calculated to give prompt actual
13 notice, notify the victim

14 (A) of the defendant's conviction and the crimes for
15 which the defendant was convicted;

16 (B) of the victim's right to make a written or oral
17 statement for use in preparation of the defendant's presentence
18 report, and to appear personally at the defendant's sentencing
19 hearing to present a written or oral statement;

20 (C) of the address and telephone number of the office
21 that will prepare the presentence report; and

22 (D) of the time and place of the sentencing proceed-
23 ing;

24 (3) notify the victim in writing of the final disposition
25 of the case within 30 days after final disposition of the case.

26 (b) The notice given under (a)(2) of this section shall inform
27 the victim that the victim's statement may contain any relevant infor-
28 mation including

29 (1) an explanation of the nature and extent of physical,

1 psychological, or emotional harm or trauma suffered by the victim;

2 (2) an explanation of the extent of economic loss or prop-
3 erty damage suffered by the victim;

4 (3) an opinion of the need for and extent of restitution
5 and whether the victim has applied for or received compensation for
6 loss or damage; and

7 (4) the victim's recommendation for an appropriate sen-
8 tence.

9 Sec. 12.61.017. INTERFERENCE BY VICTIM'S EMPLOYER. (a) An
10 employer may not discipline or threaten to discipline the victim of a
11 crime because the victim is subpoenaed or requested by the prosecuting
12 attorney to attend a court proceeding for the purpose of giving testi-
13 mony.

14 (b) In (a) of this section, "discipline" means action affecting
15 the employment status of and wages and benefits payable to the victim,
16 including

17 (1) the victim's demotion or suspension;

18 (2) the victim's dismissal from employment; or

19 (3) the victim's loss of pay or benefits, except pay and
20 benefits that are directly attributable to the victim's absence from
21 employment to attend the court proceeding.

22 (c) A person who violates (a) of this section is guilty of a
23 class B misdemeanor.

24 * Sec. 11. AS 33.16.120(c) is amended to read:

25 (c) The victim has a right to comment, in writing or in person,
26 on the proposed action of the parole board. Copies of any written
27 [THE] comments shall be provided to the prisoner and the prisoner's
28 attorney before action by the board. Notwithstanding AS 33.16.-
29 900(10), if the victim has died, is a minor, or is incapacitated, the

1 victim's spouse, parent, child, brother, sister, aunt, uncle, parent-
2 in-law, brother-in-law, sister-in-law, or legal guardian may not
3 exercise the right provided under this subsection.

4 * Sec. 12. AS 33.16.120(e) is amended to read:

5 (e) Upon request of the victim, [IF THE BOARD DECIDES TO RELEASE
6 ON PAROLE A PRISONER WHO IS CONVICTED OF A CRIME AGAINST A PERSON,]
7 the board shall make every reasonable effort to notify the victim of
8 its decision to grant or deny discretionary parole as soon as prac-
9 ticable [BEFORE THE PRISONER'S RELEASE DATE]. Notification under this
10 subsection must include the expected date of the prisoner's release,
11 the geographic area in which the prisoner is required to reside, and
12 other pertinent information concerning the prisoner's conditions of
13 parole that may affect the victim.

14 * Sec. 13. AS 33.16.180 is amended by adding new subsections to read:

15 (b) The commissioner shall provide to the victim of a crime the
16 address of a prisoner who has been released on discretionary or manda-
17 tory parole if

18 (1) the crime victim requests the residence address in
19 writing; and

20 (2) the commissioner is satisfied that the crime victim has
21 filed a civil action and that having the residence address is neces-
22 sary in order for the victim to serve process in that civil action on
23 the parolee.

24 (c) When required by (b) of this section, the commissioner shall
25 furnish the address at which the parolee is directed to reside under
26 AS 33.16.150(a)(6) or, if that place of residence has changed, the
27 change in the place of the parolee's residence.

28 * Sec. 14. AS 33.20.080 is amended to read:

29 Sec. 33.20.080. BOARD OF PAROLE TO INVESTIGATE APPLICATIONS FOR

1 EXECUTIVE CLEMENCY. The governor may refer applications for executive
2 clemency to the board of parole. The board shall investigate each
3 case and submit to the governor a report of the investigation, to-
4 gether with all other information the board has regarding the appli-
5 cant, including comments submitted under (b) of this section.

6 * Sec. 15. AS 33.20.080 is amended by adding new subsections to read:

7 (b) Upon request of the victim, in the case of an individual
8 convicted of a crime against a person, the board shall send notice of
9 an application for executive clemency from the individual to the
10 victim. The victim may comment in writing to the board on the appli-
11 cation for executive clemency.

12 (c) It is the responsibility of the victim to keep the board
13 apprised of the victim's current mailing address.

14 (d) In this section, "crime against a person" has the meaning
15 given in AS 33.30.901.

16 * Sec. 16. AS 33.30 is amended by adding a new section to read:

17 Sec. 33.30.013. COMMISSIONER TO NOTIFY VICTIMS. (a) The com-
18 missioner shall notify the victim of an offense if the offender

- 19 (1) escapes from custody;
20 (2) is released to the community on a furlough;
21 (3) is released to a correctional restitution center; or
22 (4) is released on an early release program.

23 (b) If the victim has died, is a minor, or is incapacitated, the
24 commissioner shall give notice, when required by (a) of this section,
25 to the victim's spouse, parent, child, brother, sister, aunt, uncle,
26 parent-in-law, brother-in-law, sister-in-law, or legal guardian.

27 (c) The commissioner is required to give notice of a change in
28 the status of an offender under this section only if the victim or a
29 person entitled to notice under (b) of this section has requested

1 notice of the change.

2 (d) A victim, or a person who is entitled to notice under (b) of
3 this section, shall maintain a current, valid mailing address on file
4 with the commissioner. The address of record is the address for all
5 communication of notice from the department required by this section.
6 Mail that is transmitted by the commissioner to the address of record
7 satisfies the legal requirements with respect to notice under this
8 section.

9 * Sec. 17. AS 44.41.020 is amended by adding a new subsection to read:

10 (c) To ensure that victims of crimes receive information about
11 the entitlements and services that are provided to victims of crimes
12 by law, the Department of Public Safety shall establish and maintain a
13 victim assistance program. The victim assistance program shall con-
14 sist of a victim assistance supervisor, who is an employee of the
15 department, and volunteers. The victim assistance supervisor shall

16 (1) manage the victim assistance program;

17 (2) recruit volunteers and train them to provide informa-
18 tion and assistance to victims of crime; and

19 (3) provide direction to and make periodic evaluations of
20 the volunteers.

21 * Sec. 18. AS 47.10 is amended by adding a new section to read:

22 Sec. 47.10.072. VICTIM'S ACCESS TO HEARING. The victim of a
23 crime committed by a minor who is scheduled for a hearing under
24 AS 47.10.070 may request the court to attend the hearing. If the
25 victim requests, the Department of Health and Social Services shall
26 assist the victim in preparing a written submission to the court
27 requesting access to the hearing. The Department of Health and Social
28 Services shall make reasonable efforts to inform victims of the avail-
29 ability of this assistance. In this section, "victim" has the meaning

1 given in AS 12.55.185(11).

2 * Sec. 19. Rule 32(d)(1), Alaska Rules of Criminal Procedure, is amend-
3 ed to read:

4 (1) WHEN MADE. The probation service shall make presentence
5 investigation and report before the court imposes sentence or grants
6 probation. The presentence investigation and report shall be complet-
7 ed and made available to the court and the attorneys for the parties
8 before the time of the aggravator and mitigator hearing and sentenc-
9 ing. The report shall not be submitted to the court or its contents
10 disclosed to any one except counsel unless the defendant has tendered
11 a plea of guilty or nolo contendere or has been found guilty. The
12 court may utilize the report in determining if a bargained sentence
13 recommendation will be followed pursuant to Rule 11. In the event the
14 attorneys for the parties request the preparation of a presentence
15 report to aid them in plea bargaining the court may order such report
16 to be made prior to the time stated in this rule.

17 * Sec. 20. Rule 35, Alaska Rules of Criminal Procedure, is amended by
18 adding new subsections to read:

19 (c) When an individual convicted of a crime against a person
20 files a motion to modify a sentence under this rule, the court shall,
21 if feasible given the time constraints and circumstances of the mo-
22 tion, send a copy of the motion to the Department of Corrections
23 sufficiently in advance of any scheduled hearing so as to enable the
24 department to notify the victim of the crime of the right to comment
25 in writing, as required by AS 12.55.088(e) and set out in (d) of this
26 rule. When an individual convicted of a crime against a person files
27 a motion to reduce a sentence under this rule, the court shall send a
28 copy of the motion to the Department of Corrections sufficiently in
29 advance of any scheduled hearing so as to enable the department to

1 notify the victim of the crime of the right to comment in writing, as
2 required by AS 12.55.080(e) and set out in (d) of this rule.

3 (d) Upon request of the victim, in the case of an individual
4 convicted of a crime against a person, the Department of Corrections
5 shall send to the victim a copy of a motion to modify or reduce a
6 sentence upon receipt from the court. The Department of Corrections
7 shall also notify the victim of the right to comment in writing to the
8 court on the motion to modify or reduce a sentence.

9 (e) The court shall provide copies of the victim's comments to
10 the person filing the motion to reduce or modify a sentence, or to the
11 person's attorney.

12 (f) The court shall consider the victim's comments when rele-
13 vant, and any response offered by the person filing the motion, in
14 deciding whether to reduce or modify a sentence.

15 (g) It is the responsibility of the victim to keep the Depart-
16 ment of Corrections apprised of the victim's current mailing address.
17 The address of the victim may not be disclosed to the person filing
18 the motion or the person's attorney.

19 (h) In this rule, "crime against a person" means

20 (1) a crime as set out in AS 11.41, except custodial inter-
21 ference under AS 11.41.320 and 11.41.330; or

22 (2) a crime against a person in this or another jurisdic-
23 tion having elements substantially identical to those of a crime as
24 set out in AS 11.41, except custodial interference under AS 11.41.320
25 and 11.41.330.

26 * Sec. 21. APPLICABILITY. The provisions of this Act prescribing the
27 rights of victims of crimes in the course of criminal, civil, and adminis-
28 trative proceedings apply to proceedings against defendants initiated on or
29 after the effective date of this Act.

5-0242N
Chenoweth
3/18/88

BY DONLEY, COLLINS, MARTIN,
GRUENBERG, KOPONEN, DAVIDSON,
ULMER, SUND, MENARD, ZAWACKI,
PHILLIPS, BOUCHER AND HUDSON

1 IN THE HOUSE

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 296

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to victims of crime, claims by
7 victims of crime arising from criminal conduct, and
8 service of process on prisoners; and amending Rule
9 32(d)(1) of the Alaska Rules of Criminal Procedure
10 relating to presentence reports."

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

12 * Section 1. AS 12.61 is amended by adding a new section to read:

13 Sec. 12.61.100. SHORT TITLE. This chapter may be cited as the
14 "Alaska Crime Victim's Rights Act."

15 * Sec. 2. AS 09.05 is amended by adding a new section to read:

16 Sec. 09.05.050. SERVICE OF PROCESS ON PRISONERS. (a) In a
17 civil action against a person committed to the custody of the commis-
18 sioner of corrections under state law, the summons may be served on
19 the commissioner of corrections. Service of the summons is made by
20 registered mail or delivery of a copy of it to the commissioner of
21 corrections. The commissioner shall keep a record of each process
22 served under this section and the day and hour of service. This
23 service is sufficient service on the prisoner.

24 (b) The commissioner of corrections shall deliver a notice of
25 the service and a copy of the summons to the prisoner within 10 days
26 after the date of service.

27 (c) The commissioner of corrections shall make an affidavit
28 showing that service of the summons on the defendant has been made as
29 provided in (b) of this section. The affiant shall attach to the

1 affidavit a copy of the summons and shall file the affidavit and
2 attached papers with the court having jurisdiction of the cause.

3 (d) The court in which the action is pending may order an exten-
4 sion of time necessary to give the defendant reasonable opportunity to
5 defend the action.

6 * Sec. 3. AS 09.38.065(a) is amended to read:

7 (a) Notwithstanding other provisions of this chapter,

8 (1) a creditor may make a levy against exempt property of
9 any kind to enforce a claim for

10 (A) child support;

11 (B) unpaid earnings of up to one month's compensation
12 or the full-time equivalent of one month's compensation for
13 personal services of an employee; or

14 (C) state or local taxes; [AND]

15 (2) a creditor may make a levy against exempt property to
16 enforce a claim for

17 (A) the purchase price of the property or a loan made
18 for the express purpose of enabling an individual to purchase the
19 property and used for that purpose;

20 (B) labor or materials furnished to make, repair,
21 improve, preserve, store, or transport the property; and

22 (C) a special assessment imposed to defray costs of a
23 public improvement benefiting the property; and

24 (3) a creditor may make a levy against exempt property of
25 any kind to enforce a claim arising from criminal conduct of the
26 debtor resulting in a felony conviction except that the debtor is
27 entitled to an exemption in property

28 (A) not to exceed an aggregate value of \$1,500 chosen
29 by the individual from the following categories of property:

1 (i) household goods and wearing apparel
2 reasonably necessary for one household;

3 (ii) books and musical instruments, if reasonably
4 held for the personal use of the debtor or a dependent of
5 the debtor; and

6 (iii) family portraits and heirlooms of particular
7 sentimental value to the debtor; and

8 (B) not to exceed an aggregate value of \$1,400 of the
9 debtor's implements, professional books, and tools of the trade.

10 * Sec. 4. AS 12.47 is amended by adding a new section to read:

11 Sec. 12.47.095. NOTICE TO VICTIMS. (a) If an offender has been
12 committed to the custody of the commissioner of health and social
13 services under AS 12.47.090, the victim of the offense is entitled to
14 notice of a pending change in the status of the offender. The commis-
15 sioner of health and social services shall give notice as required by
16 this section if

17 (1) the offender has been continued in commitment following
18 expiration of the maximum term of imprisonment under AS 12.47.090(f)
19 and the commissioner petitions for release of the offender;

20 (2) the court is to consider modification of an order of
21 conditional release for the offender under AS 12.47.092(e);

22 (3) a court is to consider conditional release of the
23 offender under AS 12.47.090(k) and 12.47.092(a); or

24 (4) the offender petitions for discharge under AS 12.47.-
25 092(f).

26 (b) If the victim has died, is a minor, or is incapacitated, the
27 commissioner of health and social services shall give notice, when
28 required by (a) of this section, to the victim's spouse, parent,
29 child, brother, sister, aunt, uncle, parent-in-law, brother-in-law,

1 sister-in-law, or legal guardian.

2 (c) The commissioner of health and social services is required
3 to give notice of a change in the status of an offender under this
4 section only if the victim or a person entitled to notice under (b) of
5 this section has requested notice of the change.

6 (d) A victim, or a person who is entitled to notice under (b) of
7 this section, shall maintain a current, valid mailing address on file
8 with the commissioner of health and social services. The address of
9 record is the address for all communication of notice required by this
10 section. Mail that is transmitted by the commissioner to the address
11 of record satisfies the legal requirements with respect to notice
12 under this section.

13 * Sec. 5. AS 12.55.022 is amended by adding new subsections to read:

14 (b) The victim has the right to submit or make a written or oral
15 statement to the probation officer for use by that officer in prepar-
16 ing a presentence investigation report concerning the defendant. The
17 probation officer shall inform the victim of that right.

18 (c) If the victim requests, the victim's written statement must
19 be included in the presentence investigation report.

20 * Sec. 6. AS 12.55.185(11) is amended to read:

21 (11) "victim" means a natural person against whom the of-
22 fense has been perpetrated; [THE VICTIM OF THE OFFENSE OR,] if the
23 person [VICTIM] has died, is a minor, or is incapacitated, the term
24 includes the person's [A] spouse, parent, child, brother, sister,
25 aunt, uncle, parent-in-law, brother-in-law, sister-in-law, or legal
26 guardian [OF THE VICTIM].

27 * Sec. 7. AS 12.61.010(a) is amended to read:

28 (a) Victims of crimes have the following rights:

29 (1) the right to be informed by the appropriate law

1 enforcement agency or the prosecuting attorney of the dates of all
2 criminal proceedings involving the defendant relating to the case in
3 which the victim is involved;

4 (2) the right to be notified that a sentencing hearing or a
5 court proceeding to which the victim has been subpoenaed will not
6 occur as scheduled;

7 (3) the right to receive protection from harm and threats
8 of harm arising out of cooperation with law enforcement and prosecu-
9 tion efforts, and to be provided with information as to the protection
10 available;

11 (4) the right to be informed of the procedure to be fol-
12 lowed to apply for and receive any victim compensation under AS 18.67;

13 (5) at the request of the prosecution or a law enforcement
14 agency, the right to cooperate with the criminal justice process
15 without loss of pay and other employee benefits and without interfer-
16 ence in any form by the employer of the victim of crime; [AND]

17 (6) the right to obtain access to immediate medical assis-
18 tance and not to be detained for an unreasonable length of time by a
19 law enforcement agency before having medical assistance administered;
20 however, an employee of the law enforcement agency may, if necessary,
21 accompany the person to a medical facility to question the person
22 about the criminal incident if the questioning does not hinder the
23 administration of medical assistance;

24 (7) the right to make a written or oral statement for use
25 in preparation of the defendant's presentence report, and to appear
26 personally at the defendant's sentencing hearing to present a written
27 or oral statement;

28 (8) the right to appear personally to make a written or
29 oral statement to a court for consideration by the court if the

1 offender files a motion for a modification or reduction of sentence;

2 (9) the right to make a written statement to the governor
3 for consideration by the governor if

4 (A) the governor considers a pardon, commutation of
5 sentence, reprieve, or suspension or remission of a fine or
6 forfeiture for the offender under AS 33.20.070; or

7 (B) the offender applies to the governor for clemency
8 under AS 33.20.080; and

9 (10) the right to obtain from the prosecuting attorney at
10 any time after the defendant's conviction a copy of the record of all
11 the defendant's convictions.

12 * Sec. 8. AS 12.61 is amended by adding new sections to read:

13 Sec. 12.61.015. DUTIES OF PROSECUTING ATTORNEY. (a) Upon the
14 request of the victim of a crime, the prosecuting attorney shall

15 (1) confer with the victim about the victim's testimony
16 before the selection of the jury and the trial of the defendant;

17 (2) in a manner reasonably calculated to give prompt actual
18 notice, notify the victim

19 (A) of the defendant's conviction and the crimes for
20 which the defendant was convicted;

21 (B) of the victim's right to make a written or oral
22 statement for use in preparation of the defendant's presentence
23 report, and to appear personally at the defendant's sentencing
24 hearing to present a written or oral statement;

25 (C) of the address and telephone number of the office
26 that will prepare the presentence report; and

27 (D) of the time and place of the sentencing proceed-
28 ing;

29 (3) notify the victim in writing of the final disposition

1 of the case within 30 days after final disposition of the case.

2 (b) The notice given under (a)(2) of this section shall inform
3 the victim that the victim's statement may contain any relevant infor-
4 mation including

5 (1) an explanation of the nature and extent of physical,
6 psychological, or emotional harm or trauma suffered by the victim;

7 (2) an explanation of the extent of economic loss or prop-
8 erty damage suffered by the victim;

9 (3) an opinion of the need for and extent of restitution
10 and whether the victim has applied for or received compensation for
11 loss or damage; and

12 (4) the victim's recommendation for an appropriate sen-
13 tence.

14 Sec. 12.61.017. INTERFERENCE BY VICTIM'S EMPLOYER. (a) An
15 employer may not discipline or threaten to discipline the victim of a
16 crime because the victim is subpoenaed or requested by the prosecuting
17 attorney to attend a court proceeding for the purpose of giving testi-
18 mony.

19 (b) In (a) of this section, "discipline" means action affecting
20 the employment status of and wages and benefits payable to the victim,
21 including

22 (1) the victim's demotion or suspension;

23 (2) the victim's dismissal from employment; or

24 (3) the victim's loss of pay or benefits, except pay and
25 benefits that are directly attributable to the victim's absence from
26 employment to attend the court proceeding.

27 (c) A person who violates (a) of this section is guilty of a
28 class B misdemeanor.

29 * Sec. 9. AS 33.16.120(c) is amended to read:

1 (c) The victim has a right to attend meetings of the parole
2 board and to comment, in writing or in person, on the proposed action
3 of the board. Copies of any written [THE] comments shall be provided
4 to the prisoner and the prisoner's attorney before action by the
5 board. Notwithstanding AS 33.16.900(10), if the victim has died, is a
6 minor, or is incapacitated, the victim's spouse, parent, child,
7 brother, sister, aunt, uncle, parent-in-law, brother-in-law, sister-
8 in-law, or legal guardian may not exercise the right provided under
9 this subsection.

10 * Sec. 10. AS 33.16.120(e) is amended to read:

11 (e) Upon request of the victim, [IF THE BOARD DECIDES TO RELEASE
12 ON PAROLE A PRISONER WHO IS CONVICTED OF A CRIME AGAINST A PERSON,]
13 the board shall make every reasonable effort to notify the victim of
14 its decision to grant or deny discretionary parole as soon as prac-
15 ticable [BEFORE THE PRISONER'S RELEASE DATE]. Notification under this
16 subsection must include the expected date of the prisoner's release,
17 the geographic area in which the prisoner is required to reside, and
18 other pertinent information concerning the prisoner's conditions of
19 parole that may affect the victim.

20 * Sec. 11. AS 33.16.180 is amended by adding a new subsection to read:

21 (b) When a victim of a crime requests in writing the residence
22 address of a prisoner who has been released on discretionary or manda-
23 tory parole and certifies to the commissioner that having the resi-
24 dence address is necessary in order for the victim to serve process on
25 the parolee, the commissioner shall provide the parolee's residence
26 address to the victim. The commissioner shall furnish the address at
27 which the parolee is directed to reside under AS 33.16.150(a)(6) or,
28 if that place of residence has changed, the change in the place of the
29 parolee's residence.

1 * Sec. 12. AS 33.30 is amended by adding a new section to read:

2 Sec. 33.30.013. COMMISSIONER TO NOTIFY VICTIMS. (a) The com-
3 missioner shall notify the victim of an offense if the offender

4 (1) escapes from custody;

5 (2) is released to the community on a furlough;

6 (3) is released to a correctional restitution center; or

7 (4) is released on an early release program.

8 (b) If the victim has died, is a minor, or is incapacitated, the
9 commissioner shall give notice, when required by (a) of this section,
10 to the victim's spouse, parent, child, brother, sister, aunt, uncle,
11 parent-in-law, brother-in-law, sister-in-law, or legal guardian.

12 (c) The commissioner is required to give notice of a change in
13 the status of an offender under this section only if the victim or a
14 person entitled to notice under (b) of this section has requested
15 notice of the change.

16 (d) A victim, or a person who is entitled to notice under (b) of
17 this section, shall maintain a current, valid mailing address on file
18 with the commissioner. The address of record is the address for all
19 communication of notice from the department required by this section.
20 Mail that is transmitted by the commissioner to the address of record
21 satisfies the legal requirements with respect to notice under this
22 section.

23 * Sec. 13. AS 44.41.020 is amended by adding a new subsection to read:

24 (c) To ensure that victims of crimes receive information about
25 the entitlements and services that are provided to victims of crimes
26 by law, the Department of Public Safety shall establish and maintain a
27 victim assistance program. The victim assistance program shall con-
28 sist of a victim assistance supervisor, who is an employee of the
29 department, and volunteers. The victim assistance supervisor shall

- 1 (1) manage the victim assistance program;
- 2 (2) recruit volunteers and train them to provide informa-
- 3 tion and assistance to victims of crime; and
- 4 (3) provide direction to and make periodic evaluations of
- 5 the volunteers.

6 * Sec. 14. AS 47.10 is amended by adding a new section to read:

7 Sec. 47.10.072. VICTIM'S ACCESS TO HEARING. The victim of a

8 crime committed by a minor who is scheduled for a hearing under

9 AS 47.10.070 may request the court to attend the hearing. If the

10 victim requests, the Department of Health and Social Services shall

11 assist the victim in preparing a written submission to the court

12 requesting access to the hearing. The Department of Health and Social

13 Services shall make reasonable efforts to inform victims of the avail-

14 ability of this assistance. In this section, "victim" has the meaning

15 given in AS 12.55.185(11).

16 * Sec. 15. Rule 32(d)(1), Alaska Rules of Criminal Procedure, is amend-

17 ed to read:

18 (1) WHEN MADE. The probation service shall make presentence

19 investigation and report before the court imposes sentence or grants

20 probation. The presentence investigation and report shall be complet-

21 ed and made available to the court and the attorneys for the parties

22 at the time of the aggravator and mitigator hearing and prior to

23 sentencing. The report shall not be submitted to the court or its

24 contents disclosed to any one except counsel unless the defendant has

25 tendered a plea of guilty or nolo contendere or has been found guilty.

26 The court may utilize the report in determining if a bargained sen-


27 tence recommendation will be followed pursuant to Rule 11. In the

28 event the attorneys for the parties request the preparation of a

29 presentence report to aid them in plea bargaining the court may order

1 such report to be made prior to the time stated in this rule.

2 * Sec. 16. APPLICABILITY. The provisions of this Act prescribing the
3 rights of victims of crimes in the course of criminal, civil, and adminis-
4 trative proceedings apply to proceedings against defendants initiated on or
5 after the effective date of this Act.
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5-0242X
Chenoweth
2/24/88

Original sponsors: Donley, Collins,
Martin, et al.

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 296 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to victims of crime, claims by
7 victims of crime arising from criminal conduct, and
8 service of process on prisoners; and amending Rule
9 32(d)(1) and 32(d)(2) of the Alaska Rules of Criminal
10 Procedure."

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

12 * Section 1. AS 12.61 is amended by adding a new section to read:

13 Sec. 12.61.100. SHORT TITLE. This chapter may be cited as the
14 "Alaska Crime Victim's Rights Act."

15 * Sec. 2. AS 09.05 is amended by adding a new section to read:

16 Sec. 09.05.050. SERVICE OF PROCESS ON PRISONERS. (a) In a
17 civil action against a person committed to the custody of the commis-
18 sioner of corrections under state law, the summons may be served on
19 the commissioner of corrections. Service of the summons is made by
20 registered mail or delivery of a copy of it to the commissioner of
21 corrections. The commissioner shall keep a record of each process
22 served under this section and the day and hour of service. This
23 service is sufficient service on the prisoner.

24 (b) The commissioner of corrections shall deliver a notice of
25 the service and a copy of the summons to the prisoner within 10 days
26 after the date of service.

27 (c) The commissioner of corrections shall make an affidavit
28 showing that service of the summons on the defendant has been made as
29 provided in (b) of this section. The affiant shall attach to the

1 affidavit a copy of the summons and shall file the affidavit and
2 attached papers with the court having jurisdiction of the cause.

3 (d) The court in which the action is pending may order an exten-
4 sion of time necessary to give the defendant reasonable opportunity to
5 defend the action.

6 * Sec. 3. AS 09.38.065(a) is amended to read:

7 (a) Notwithstanding other provisions of this chapter,

8 (1) a creditor may make a levy against exempt property of
9 any kind to enforce a claim for

10 (A) child support;

11 (B) unpaid earnings of up to one month's compensation
12 or the full-time equivalent of one month's compensation for
13 personal services of an employee; or

14 (C) state or local taxes; [AND]

15 (2) a creditor may make a levy against exempt property to
16 enforce a claim for

17 (A) the purchase price of the property or a loan made
18 for the express purpose of enabling an individual to purchase the
19 property and used for that purpose;

20 (B) labor or materials furnished to make, repair,
21 improve, preserve, store, or transport the property; and

22 (C) a special assessment imposed to defray costs of a
23 public improvement benefiting the property; and

24 (3) a creditor may make a levy against exempt property of
25 any kind to enforce a claim arising from criminal conduct of the
26 debtor resulting in a felony or misdemeanor conviction except that the
27 debtor is entitled to an exemption in property

28 (A) not to exceed an aggregate value of \$1,500
29 chosen by the individual from the following categories of

1 property:

2 (i) household goods and wearing apparel rea-
3 sonably necessary for one household;

4 (ii) books and musical instruments, if reasonably
5 held for the personal use of the debtor or a dependent of
6 the debtor; and

7 (iii) family portraits and heirlooms of particular
8 sentimental value to the debtor; and

9 (B) not to exceed an aggregate value of \$1,400 of the
10 debtor's implements, professional books, and tools of the trade.

11 * Sec. 4. AS 12.47 is amended by adding a new section to read:

12 Sec. 12.47.095. NOTICE TO VICTIMS. (a) If an offender has been
13 committed to the custody of the commissioner of health and social
14 services under AS 12.47.090, the victim of the offense is entitled to
15 notice of a pending change in the status of the offender. The notice
16 required by this section shall be given

17 (1) by the commissioner of health and social services

18 (A) if the offender has been continued in commitment
19 following expiration of the maximum term of imprisonment under
20 AS 12.47.090(f) and the commissioner petitions for release of the
21 offender; or

22 (B) if the court is to consider modification of an
23 order of conditional release for the offender under AS 12.47.-
24 092(e);

25 (2) by the attorney general, or the prosecutor, as applica-
26 ble,

27 (A) if a court is to consider conditional release of
28 the offender under AS 12.47.090(k) and 12.47.092(a); or

29 (B) if the offender petitions for discharge under

AS 12.47.092(f).

1
2 (b) If the victim has died, is a minor, or is incapacitated, the
3 commissioner of health and social services, the attorney general, or
4 the prosecutor shall give notice, when required by (a) of this sec-
5 tion, to the victim's spouse, parent, child, brother, sister, aunt,
6 uncle, parent-in-law, brother-in-law, sister-in-law, or legal guar-
7 dian.

8 (c) A state officer is required to give notice of a change in
9 the status of an offender under this section only if the victim or a
10 person entitled to notice under (b) of this section has requested
11 notice of the change.

12 (d) A victim, or a person who is entitled to notice under (b) of
13 this section, shall maintain a current, valid mailing address on file
14 with the commissioner of health and social services or the attorney
15 general. The address of record is the address for all communication
16 of notice from the commissioner of health and social services or the
17 attorney general required by this section. Mail that is transmitted
18 by the commissioner or the attorney general to the address of record
19 satisfies the legal requirements with respect to notice unde this
20 section.

21 * Sec. 5. AS 12.55.022 is amended by adding new subsections to read:

22 (b) The victim has the right to submit or make a written or oral
23 statement to the probation officer for use by that officer in prepar-
24 ing a presentence investigation report concerning the defendant. The
25 probation officer shall inform the victim of that right.

26 (c) If the victim requests the victim's written statement shall
27 be included in the presentence investigation report.

28 * Sec. 6. AS 12.55.155(c) is amended by adding new paragraphs to read:

29 (27) the defendant's conduct caused financial harm that has

had a substantial effect on the victim;

(28) a victim has died as the result of the defendant's conduct and the victim's immediate family has experienced substantial physical, emotional, or financial harm.

* Sec. 7. AS 12.55.155(f) is amended to read:

(f) If the state seeks to establish a factor in aggravation at sentencing or if the defendant seeks to establish a factor in mitigation at sentencing, written notice must be served on the opposing party and filed with the court not later than 10 days before the date set for imposition of sentence. Written notice shall also be served within that time by the prosecutor upon the victim of the defendant indicating that the victim has a right to appear. The victim may appear personally at aggravation or mitigation proceedings and sentencing proceedings to present evidence and express opinions concerning the physical, emotional, or financial harm caused to the victim and other factors relating to the crime, the defendant, disposition of the defendant after sentencing, and the need for restitution. The court in imposing sentence shall consider the evidence and opinions presented by the victim at aggravation or mitigation proceedings and sentencing proceedings and in the presentence report. Factors in aggravation and factors in mitigation must be established by clear and convincing evidence before the court sitting without a jury. All findings must be set out with specificity.

* Sec. 8. AS 12.55.185(11) is amended to read:

(11) "victim" means a natural person against whom the offense has been perpetrated; [THE VICTIM OF THE OFFENSE OR,] if the person [VICTIM] has died, is a minor, or is incapacitated, the term includes the person's [A] spouse, parent, child, brother, sister, aunt, uncle, parent-in-law, brother-in-law, sister-in-law, or legal

guardian [OF THE VICTIM].

1
2 * Sec. 9. AS 12.61.010(a) is amended to read:

3 (a) Victims of crimes have the following rights:

4 (1) the right to be informed by the appropriate law en-
5 forcement agency or the prosecuting attorney of the dates of all
6 criminal proceedings involving the defendant relating to the case in
7 which the victim is involved;

8 (2) the right to be notified that a sentencing hearing or a
9 court proceeding to which the victim has been subpoenaed will not
10 occur as scheduled;

11 (3) the right to receive protection from harm and threats
12 of harm arising out of cooperation with law enforcement and prosecu-
13 tion efforts, and to be provided with information as to the protection
14 available;

15 (4) the right to be informed of the procedure to be fol-
16 lowed to apply for and receive any victim compensation under AS 18.67;

17 (5) at the request of the prosecution or a law enforcement
18 agency, the right to cooperate with the criminal justice process
19 without loss of pay and other employee benefits and without interfer-
20 ence in any form by the employer of the victim of crime; [AND]

21 (6) the right to obtain access to immediate medical assis-
22 tance and not to be detained for an unreasonable length of time by a
23 law enforcement agency before having medical assistance administered;
24 however, an employee of the law enforcement agency may, if necessary,
25 accompany the person to a medical facility to question the person
26 about the criminal incident if the questioning does not hinder the
27 administration of medical assistance;

28 (7) the right to make a written or oral statement for use
29 in preparation of the defendant's presentence report, and to appear

personally at the defendant's sentencing hearing to present a written or oral statement;

(8) the right to appear personally to make a written or oral statement to a court for consideration by the court if the offender files a motion for a modification or reduction of sentence;

(9) the right to make a written statement to the governor for consideration by the governor if

(A) the governor considers a pardon, commutation of sentence, reprieve, or suspension or remission of a fine or forfeiture for the offender under AS 33.20.070; or

(B) the offender applies to the governor for clemency under AS 33.20.080;

(10) the right to obtain from the prosecuting attorney at any time after the defendant's conviction a copy of the record of all the defendant's convictions; and

(11) the right to obtain from the prosecuting attorney, without a motion, at any time after the defendant's conviction or the disposition of final appeal of that conviction, if any, access to presentence reports prepared for the court and police reports prepared by the appropriate law enforcement agency that relate to the case in which the victim was involved; a court may deny the victim access to a presentence report or police report under this paragraph if the court determines that the nature and weight of a privacy interest asserted by or affecting an agency or person outweighs the right of the victim to a report; the court may make a determination after a hearing in camera and, if the court determines that a report should not be disclosed to a victim, it shall provide a written statement identifying the particular privacy interest asserted and the reasons for its decision.

Gov's Bill written

list

Gov's Bill written

GR/6

1 * Sec. 10. AS 12.61 is amended by adding new sections to read:

2 Sec. 12.61.015. DUTIES OF PROSECUTING ATTORNEY. (a) Upon the
3 request of the victim of a crime, ^{inc. M.S. 2000} the prosecuting attorney shall

4 (1) confer with the victim about the victim's testimony
5 before the selection of the jury and the trial of the defendant;

6 (2) in a manner reasonably calculated to give prompt actual
7 notice, notify the victim

8 (A) of the defendant's conviction and the crimes for
9 which the defendant was convicted;

10 (B) of the victim's right to make a written or oral
11 statement for use in preparation of the defendant's presentence
12 report, and to appear personally at the defendant's sentencing
13 hearing to present a written or oral statement;

14 (C) that the presentence report and any statement by
15 the victim will be made available to the defendant unless exempt-
16 ed from disclosure by the court;

17 (D) of the address and telephone number of the office
18 that will prepare the presentence report; and

19 (E) of the time and place of the sentencing proceed-
20 ing;

21 (3) notify the victim in writing of the final disposition
22 of the case within 30 days after final disposition of the case.

23 (b) The notice given under (a)(2) of this section shall inform
24 the victim that the victim's statement may contain any relevant infor-
25 mation including

26 (1) an explanation of the nature and extent of physical,
27 psychological, or emotional harm or trauma suffered by the victim;

28 (2) an explanation of the extent of economic loss or prop-
29 erty damage suffered by the victim;

1 (3) an opinion of the need for and extent of restitution
2 and whether the victim has applied for or received compensation for
3 loss or damage; and

4 (4) the victim's recommendation for an appropriate sen-
5 tence.

6 Sec. 12.61.017. INTERFERENCE BY VICTIM'S EMPLOYER. (a) An
7 employer may not discipline or threaten to discipline the victim of a
8 crime because the victim is subpoenaed or requested by the prosecuting
9 attorney to attend a court proceeding for the purpose of giving testi-
10 mony.

11 (b) In (a) of this section, "discipline" means action affecting
12 the employment status of and wages and benefits payable to the victim,
13 including

- 14 (1) the victim's demotion or suspension;
15 (2) the victim's dismissal from employment; or
16 (3) the victim's loss of pay or benefits, except pay and
17 benefits that are directly attributable to the victim's absence from
18 employment to attend the court proceeding.

19 (c) A person who violates (a) of this section is guilty of a
20 class B misdemeanor.

21 * Sec. 11. AS 33.16.120(c) is amended to read:

22 (c) The victim has a right to attend, or be represented by
23 counsel at meetings of the parole board and to comment in writing, in
24 person or by counsel on the proposed action of the board. Copies of
25 any written [THE] comments shall be provided to the prisoner and the
26 prisoner's attorney before action by the board. Notwithstanding
27 AS 33.16.900(10), if the victim has died, is a minor, or is incapac-
28 itated, the victim's spouse, parent, child, brother, sister, aunt,
29 uncle, parent-in-law, brother-in-law, sister-in-law, or legal guardian

may not exercise the right provided under this subsection.

* Sec. 12. AS 33.16.120(e) is amended to read:

(e) Upon request of the victim, [IF THE BOARD DECIDES TO RELEASE ON PAROLE A PRISONER WHO IS CONVICTED OF A CRIME AGAINST A PERSON,] the board shall make every reasonable effort to notify the victim of its decision to grant or deny discretionary parole as soon as practicable [BEFORE THE PRISONER'S RELEASE DATE]. Notification under this subsection must include the expected date of the prisoner's release, the geographic area in which the prisoner is required to reside, the prisoner's residence address, and other pertinent information concerning the prisoner's conditions of parole that may affect the victim.

* Sec. 13. AS 33.16.120(f) is amended to read:

(f) Upon request of the victim, if a prisoner is released under AS 33.16.010(c), the board shall make every reasonable effort to notify the victim before the prisoner's release date. Notification under this subsection must include the expected date of the prisoner's release, the geographic area in which the prisoner is required to reside, the prisoner's residence address, and other pertinent information concerning the prisoner's conditions of parole that may affect the victim.

* Sec. 14. AS 33.30 is amended by adding a new section to read:

Sec. 33.30.013. COMMISSIONER TO NOTIFY VICTIMS. (a) The commissioner shall notify the victim of an offense if the offender

- (1) escapes from custody;
- (2) is released to the community on a furlough;
- (3) is released to a correctional restitution center;
- (4) is released on an early release program; or

[(5) who was found guilty but mentally ill under AS 12.47.-

050(a) is named in a petition filed by the commissioner under

1 AS 12.47.050(e) for a screening investigation to determine the need
2 for further treatment.

3 (b) If the victim has died, is a minor, or is incapacitated, the
4 commissioner shall give notice, when required by (a) of this section,
5 to the victim's spouse, parent, child, brother, sister, aunt, uncle,
6 parent-in-law, brother-in-law, sister-in-law, or legal guardian.

7 (c) The commissioner is required to give notice of a change in
8 the status of an offender under this section only if the victim or a
9 person entitled to notice under (b) of this section has requested
10 notice of the change.

11 (d) A victim, or a person who is entitled to notice under (b) of
12 this section, shall maintain a current, valid mailing address on file
13 with the commissioner. The address of record is the address for all
14 communication of notice from the department required by this section.
15 Mail that is transmitted by the commissioner to the address of record
16 satisfies the legal requirements with respect to notice under this
17 section.

18 * Sec. 15. AS 44.41.020 is amended by adding a new subsection to read:

19 PS (c) To ensure that victims of crimes receive information about
20 the entitlements and services that are provided to victims of crimes
21 by law, the Department of Public Safety shall establish and maintain a
22 victim assistance program. The victim assistance program shall con-
23 sist of a victim assistance supervisor, who is an employee of the
24 department, and volunteers. The victim assistance supervisor shall

25 (1) manage the victim assistance program;

26 (2) recruit volunteers and train them to provide informa-
27 tion and assistance to victims of crime; and

28 (3) provide direction to and make periodic evaluations of
29 the volunteers.

1 * Sec. 16. AS 47.10 is amended by adding a new section to read:

2 *Juvenile*
3 *Hearings* Sec. 47.10.072. VICTIM'S ACCESS TO HEARING. The victim of a
4 crime committed by a minor who is scheduled for a hearing under
5 AS 47.10.070 may request the court to attend the hearing. If the
6 victim requests, the Department of Health and Social Services shall
7 assist the victim in preparing a written submission to the court
8 requesting access to the hearing. The Department of Health and Social
9 Services shall make reasonable efforts to inform victims of the avail-
10 ability of this assistance. In this section, "victim" has the meaning
11 given in AS 12.55.185(11).

12 * Sec. 17. Rule 32(d)(1), Alaska Rules of Criminal Procedure, is amend-
13 ed to read:

14 (1) WHEN MADE. The probation service shall make presentence
15 investigation and report before the court imposes sentence or grants
16 probation. The presentence investigation and report shall be complet-
17 ed and made available to the court and the attorneys for the parties
18 at the time of the aggravator and mitigator hearing and prior to
19 sentencing. The report shall not be submitted to the court or its
20 contents disclosed to any one except counsel unless the defendant has
21 tendered a plea of guilty or nolo contendere or has been found guilty.
22 The court may utilize the report in determining if a bargained sen-
23 tence recommendation will be followed pursuant to Rule 11. In the
24 event the attorneys for the parties request the preparation of a
25 presentence report to aid them in plea bargaining the court may order
26 such report to be made prior to the time stated in this rule.

27 * Sec. 18. AS 12.61.010(a), as amended by sec. 9 of this Act, has the
28 effect of amending Alaska Rule of Criminal Procedure 32(d)(2) by making
29 presentence reports available to victims of crime without a court order.

* Sec. 19. APPLICABILITY. The provisions of this Act prescribing the

1 rights of victims of crimes in the course of criminal, civil, and adminis-
2 trative proceedings apply to proceedings against defendants initiated on or
3 after the effective date of this Act.
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5-0242B
Chenoweth ✓
1/15/88

Original sponsors: Donley, Collins,
Martin, et al.

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 296 ()
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to victims of crime, claims arising
7 from criminal conduct, and service of process on
8 prisoners; and amending Rule 3(c) of the Alaska Child
9 in Need of Aid Rules and Rule 3(c) of the Alaska
10 Delinquency Rules."

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

12 * Section 1. AS 12.61 is amended by adding a new section to read:

13 Sec 12.61.100. SHORT TITLE. This chapter may be cited as the
14 "Alaska Crime Victim's Rights Act."

15 * Sec. 2. AS 09.05 is amended by adding a new section to read:

16 Sec. 09.05.050. SERVICE OF PROCESS ON PRISONERS. (a) In a
17 civil action against a person committed to the custody of the commis-
18 sioner of corrections under state law, the summons may be served on
19 the commissioner of corrections. Service of the summons is made by
20 registered mail or delivery of a copy of it to the commissioner of
21 corrections. The commissioner shall keep a record of each process
22 served under this section and the day and hour of service. This
23 service is sufficient service on the prisoner.

24 (b) The commissioner of corrections shall deliver a notice of
25 the service and a copy of the summons to the prisoner within 10 days
26 after the date of service.

27 (c) The commissioner of corrections shall make an affidavit
28 showing that service of the summons on the defendant has been made as
29 provided in (b) of this section. The affiant shall attach to the

1 affidavit a copy of the summons and shall file the affidavit and
2 attached papers with the court having jurisdiction of the cause.

3 (d) The court in which the action is pending may order an exten-
4 sion of time necessary to give the defendant reasonable opportunity to
5 defend the action.

6 * Sec. 3. AS 09.38.065(a) is amended to read:

7 (a) Notwithstanding other provisions of this chapter,

8 (1) a creditor may make a levy against exempt property of
9 any kind to enforce a claim for

10 (A) child support;

11 (B) unpaid earnings of up to one month's compensation
12 or the full-time equivalent of one month's compensation for
13 personal services of an employee; or

14 (C) state or local taxes; and

15 (2) a creditor may make a levy against exempt property to
16 enforce a claim for

17 (A) the purchase price of the property or a loan made
18 for the express purpose of enabling an individual to purchase the
19 property and used for that purpose;

20 (B) labor or materials furnished to make, repair,
21 improve, preserve, store, or transport the property; and

22 (C) a special assessment imposed to defray costs of a
23 public improvement benefiting the property;

24 (3) a creditor may make a levy against exempt property to
25 enforce a claim arising from criminal conduct of the debtor resulting
26 in a felony or misdemeanor conviction except that the following items
27 of property remain exempt within the specified value limitations:

28 (A) implements, professional books, and tools of the
29 trade chosen by the debtor, not to exceed an aggregate value of

1 \$750;

2 (B) household goods and wearing apparel chosen by the
 3 debtor and reasonably necessary for one household, not to exceed
 4 an aggregate value of \$250.

5 * Sec. 4. AS 12.47 is amended by adding a new section to read:

6 Sec. 12.47.095. NOTICE TO VICTIMS. (a) If an offender has been
 7 committed to the custody of the commissioner of health and social
 8 services under AS 12.47.090, the victim of the offense is entitled to
 9 notice of a pending change in the status of the offender. The notice
 10 required by this section shall be given

11 (1) by the commissioner of health and social services

12 (A) if the offender has been continued in commitment
 13 following expiration of the maximum term of imprisonment under
 14 AS 12.47.090(f) and the commissioner petitions for release of the
 15 offender; or

16 (B) if the court is to consider modification of an
 17 order of conditional release for the offender under AS 12.47.-
 18 092(e);

19 (2) by the attorney general, or the prosecutor, as applica-
 20 ble,

21 (A) if a court is to consider conditional release of
 22 the offender under AS 12.47.090(k) and 12.47.092(a); or

23 (B) if the offender petitions for discharge under
 24 AS 12.47.092(f).

25 (b) If the victim has died, is a minor, or is incapacitated, the
 26 commissioner of health and social services, the attorney general, or
 27 the prosecutor shall give notice, when required by (a) of this sec-
 28 tion, to the victim's spouse, parent, child, brother, sister, aunt,
 29 uncle, parent-in-law, brother-in-law, sister-in-law, or legal

1 guardian.

2 (c) A state officer is required to give notice of a change in
3 the status of an offender under this section only if the victim or a
4 person entitled to notice under (b) of this section has requested
5 notice of the change.

6 (d) A victim, or a person who is entitled to notice under (b) of
7 this section, shall maintain a current, valid mailing address on file
8 with the commissioner of health and social services or the attorney
9 general. The address of record is the address for all communication
10 of notice from the commissioner of health and social services or the
11 attorney general required by this section. Mail that is transmitted
12 by the commissioner or the attorney general to the address of record
13 satisfies the legal requirements with respect to notice under this
14 section.

15 * Sec. 5. AS 12.55.155(c) is amended by adding a new paragraph to read:

16 (27) the defendant's conduct caused substantial physical,
17 emotional, or financial harm to the victim or, if the victim has died
18 as a result of the defendant's conduct, to the victim's immediate
19 family.

20 * Sec. 6. AS 12.55.155(f) is amended to read:

21 (f) If the state seeks to establish a factor in aggravation at
22 sentencing or if the defendant seeks to establish a factor in mitiga-
23 tion at sentencing, written notice must be served on the opposing
24 party and filed with the court not later than 10 days before the date
25 set for imposition of sentence. Written notice shall also be served
26 within that time by the prosecutor upon the victim of the defendant
27 indicating that the victim has a right to appear and participate. The
28 victim may appear personally or by counsel at aggravation or mitiga-
29 tion proceedings and sentencing proceedings to present evidence and

1 express opinions concerning the physical, emotional, or financial harm
2 caused to the victim and other factors relating to the crime, the
3 defendant, disposition of the defendant after sentencing, and the need
4 for restitution. The court in imposing sentence shall consider the
5 evidence and opinions presented by the victim at aggravation or miti-
6 gation proceedings and sentencing proceedings and in the presentence
7 report. Factors in aggravation and factors in mitigation must be
8 established by clear and convincing evidence before the court sitting
9 without a jury. All findings must be set out with specificity.

10 * Sec. 7. AS 12.55.185(11) is amended to read:

11 (11) "victim" means a natural person against whom the of-
12 fense has been perpetrated; [THE VICTIM OF THE OFFENSE OR,] if the
13 person [VICTIM] has died, is a minor, or is incapacitated, the term
14 includes the person's [A] spouse, parent, child, brother, sister,
15 aunt, uncle, parent-in-law, brother-in-law, sister-in-law, or legal
16 guardian [OF THE VICTIM].

17 * Sec. 8. AS 12.61.010(a) is amended to read:

18 (a) Victims of crimes have the following rights:

19 (1) the right to be informed by the appropriate law en-
20 forcement agency or the prosecuting attorney of the date of trial and
21 the date of sentencing of the case in which the victim is involved;

22 (2) the right to be notified that a sentencing hearing or a
23 court proceeding to which the victim has been subpoenaed will not
24 occur as scheduled;

25 (3) the right to receive protection from harm and threats
26 of harm arising out of cooperation with law enforcement and prosecu-
27 tion efforts, and to be provided with information as to the protection
28 available;

29 (4) the right to be informed of the procedure to be

1 followed to apply for and receive any victim compensation under
2 AS 18.67;

3 (5) at the request of the prosecution or a law enforcement
4 agency, the right to cooperate with the criminal justice process
5 without loss of pay and other employee benefits and without interfer-
6 ence in any form by the employer of the victim of crime; [AND]

7 (6) the right to obtain access to immediate medical assis-
8 tance and not to be detained for an unreasonable length of time by a
9 law enforcement agency before having medical assistance administered;
10 however, an employee of the law enforcement agency may, if necessary,
11 accompany the person to a medical facility to question the person
12 about the criminal incident if the questioning does not hinder the
13 administration of medical assistance;

14 (7) the right to make a written or oral statement for use
15 in preparation of the defendant's presentence report, and to appear
16 personally or by counsel at the defendant's sentencing hearing to
17 present a written or oral statement;

18 (8) the right to appear personally or by counsel to make a
19 written or oral statement to a court for consideration by the court if
20 the offender files a motion for a modification or reduction of sen-
21 tence;

22 (9) the right to make a written statement to the governor
23 for consideration by the governor if

24 (A) the governor considers a pardon, commutation of
25 sentence, reprieve, or suspension or remission of a fine or
26 forfeiture for the offender under AS 33.20.070; or

27 (B) the offender applies to the governor for clemency
28 under AS 33.20.080; and

29 (10) the right to obtain, without a motion, access to police

1 reports from the appropriate law enforcement agency related to the
2 case in which the victim was involved.

3 * Sec. 9. AS 12.61 is amended by adding new sections to read:

4 Sec. 12.61.015. DUTIES OF PROSECUTING ATTORNEY. (a) Upon the
5 request of the victim of a crime, the prosecuting attorney shall

6 (1) confer with the victim before the selection of the jury
7 and the trial of the defendant;

8 (2) in a manner reasonably calculated to give prompt actual
9 notice, notify the victim

10 (A) of the defendant's conviction and the crimes for
11 which the defendant was convicted;

12 (B) of the victim's right to make a written or oral
13 statement for use in preparation of the defendant's presentence
14 report, and to appear personally or by counsel at the defendant's
15 sentencing hearing to present a written or oral statement;

16 (C) that the presentence report and any statement by
17 the victim will be made available to the defendant unless exempt-
18 ed from disclosure by the court;

19 (D) of the address and telephone number of the office
20 that will prepare the presentence report; and

21 (E) of the time and place of the sentencing proceed-
22 ing;

23 (3) notify the victim in writing of the final disposition
24 of the case within 30 days after final disposition of the case.

25 (b) The notice given under (a)(2) of this section shall inform
26 the victim that the victim's statement may contain any relevant infor-
27 mation including

28 (1) an explanation of the nature and extent of physical,
29 psychological, or emotional harm or trauma suffered by the victim;

1 (2) an explanation of the extent of economic loss or prop-
2 erty damage suffered by the victim;

3 (3) an opinion of the need for and extent of restitution
4 and whether the victim has applied for or received compensation for
5 loss or damage; and

6 (4) the victim's recommendation for an appropriate sen-
7 tence.

8 Sec. 12.61.017. INTERFERENCE BY VICTIM'S EMPLOYER. An employer
9 of a victim of crime who disciplines or discharges or threatens to
10 discipline or discharge the victim because the victim is subpoenaed or
11 requested by the prosecuting attorney to attend a court proceeding for
12 the purpose of giving testimony is guilty of a class B misdemeanor.

13 * Sec. 10. AS 33.16.120(c) is amended to read:

14 (c) The victim has a right to attend, or be represented by
15 counsel at, meetings of the parole board and to comment in writing, in
16 person or by counsel on the proposed action of the board. Copies of
17 any written [THE] comments shall be provided to the prisoner and the
18 prisoner's attorney before action by the board. Notwithstanding
19 AS 33.16.900(10), if the victim has died, is a minor, or is incapac-
20 itated, the victim's spouse, parent, child, brother, sister, aunt,
21 uncle, parent-in-law, brother-in-law, sister-in-law, or legal guardian
22 may not exercise the right provided under this subsection.

23 * Sec. 11. AS 33.16.120(e) is amended to read:

24 (e) Upon request of the victim, [IF THE BOARD DECIDES TO RELEASE
25 ON PAROLE A PRISONER WHO IS CONVICTED OF A CRIME AGAINST A PERSON,]
26 the board shall make every reasonable effort to notify the victim of
27 its decision to grant or deny discretionary parole as soon as prac-
28 ticable [BEFORE THE PRISONER'S RELEASE DATE]. Notification under this
29 subsection must include the expected date of the prisoner's release,

1 the geographic area in which the prisoner is required to reside, the
2 prisoner's residence address, and other pertinent information concern-
3 ing the prisoner's conditions of parole that may affect the victim.

4 * Sec. 12. AS 33.16.120(f) is amended to read:

5 (f) Upon request of the victim, if a prisoner is released under
6 AS 33.16.010(c), the board shall make every reasonable effort to
7 notify the victim before the prisoner's release date. Notification
8 under this subsection must include the expected date of the prisoner's
9 release, the geographic area in which the prisoner is required to
10 reside, the prisoner's residence address, and other pertinent informa-
11 tion concerning the prisoner's conditions of parole that may affect
12 the victim.

13 * Sec. 13. AS 33.30 is amended by adding a new section to read:

14 Sec. 33.30.013. COMMISSIONER TO NOTIFY VICTIMS. (a) The com-
15 missioner shall notify the victim of an offense if the offender

16 (1) escapes from custody;

17 (2) is released to the community on a furlough;

18 (3) is released to a correctional restitution center;

19 (4) is released on an early release program; or

20 (5) who was found guilty but mentally ill under AS 12.47.-

21 050(a) is named in a petition filed by the commissioner under AS 12.-
22 47.050(e) for a screening investigation to determine the need for
23 further treatment.

24 (b) If the victim has died, is a minor, or is incapacitated, the
25 commissioner shall give notice, when required by (a) of this section,
26 to the victim's spouse, parent, child, brother, sister, aunt, uncle,
27 parent-in-law, brother-in-law, sister-in-law, or legal guardian.

28 (c) The commissioner is required to give notice of a change in
29 the status of an offender under this section only if the victim or a

1 person entitled to notice under (b) of this section has requested
2 notice of the change.

3 (d) A victim, or a person who is entitled to notice under (b) of
4 this section, shall maintain a current, valid mailing address on file
5 with the commissioner. The address of record is the address for all
6 communication of notice from the department required by this section.
7 Mail that is transmitted by the commissioner to the address of record
8 satisfies the legal requirements with respect to notice under this
9 section.

10 * Sec. 14. AS 47.10.070 is amended to read:

11 Sec. 47.10.070. HEARINGS. The court may conduct the hearing in
12 an informal manner in the courtroom or in chambers. A hearing may be
13 held before a young adult advisory panel in accordance with AS 47.10.-
14 075. The court shall give notice of the hearing to the department and
15 it may send a representative to the hearing. The court shall also
16 transmit a copy of the petition to the department. The representative
17 of the department may also be heard at the hearing. The public shall
18 be excluded from the hearing, except that the victim of an offense
19 that is the subject of the hearing may attend the hearing, or be
20 represented at the hearing by counsel. If the victim has died, is a
21 minor, or is incapacitated, the victim's spouse, parent, child, broth-
22 er, sister, aunt, uncle, parent-in-law, brother-in-law, sister-in-law,
23 or legal guardian, may attend the hearing, or be represented at the
24 hearing by counsel. The [BUT THE] court, in its discretion, may
25 permit other individuals to attend a hearing, if their attendance is
26 compatible with the best interests of the minor. Nothing in this
27 section may be applied in such a way as to deny a child's rights to a
28 public trial and to a trial by jury.

29 * Sec. 15. AS 47.10.070, as amended by sec. 14 of this Act, has the

1 effect of amending Rule 3(c) of the Alaska Child in Need of Aid Rules and
2 Rule 3(c) of the Alaska Delinquency Rules by giving the victim of an of-
3 fense committed by a minor, or certain members of the victim's family or
4 the victim's legal guardian, the right to attend a hearing involving that
5 minor.

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A M E N D M E N T

Offered in the HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES COMMITTEE

By Donley

TO: CSHB 296()

Page 1, line 8:

Delete "and"

Page 1, line 10, following "Rules":

Insert: "; and amending Rule 32(d)(2) of the Alaska Rules of Criminal Procedure"

Page 7, line 2, following "involved"

Insert: ", and the right to obtain, without a motion, at any time after the defendant's conviction, access to presentence reports from the court or the person responsible for preparing presentence reports related to the case in which the victim was involved"

Page 10, following line 28:

Insert a new bill section to read:

"* Sec. 15. AS 12.61.010(a), as amended by sec. 8 of this Act, has the effect of amending Alaska Rule of Criminal Procedure 32(d)(2) by making presentence reports available to victims of crime without a court order."

enumber the following bill section accordingly.

#2

A M E N D M E N T

Offered in the HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES COMMITTEE

By Donley

TO: CSHB 296 ()

Page 1, line 8:

Delete "and"

Page 1, line 10, following "Rules":

Insert: "; and amending Rule 32(d)(2) of the Alaska Rules of Criminal
Procedure"

Page 7, line 2, following "involved"

Insert: ", and the right to obtain, without a motion, at any time
after the defendant's conviction, copies of presentence reports from the
court or the person responsible for preparing presentence reports related
to the case in which the victim was involved; before providing a copy of a
presentence report under this paragraph, the court officer having custody
of the original presentence report, the person responsible for preparing
presentence reports, or the person employed by the appropriate law
enforcement agency having custody of the police report shall delete from
the report the name of any person and any other information in the report
that might identify a person who gave testimony upon which the report is
based"

Page 10, following line 28:

Insert a new bill section to read:

"* Sec. 15. AS 12.61.010(a), as amended by sec. 8 of this Act, has the effect of amending Alaska Rule of Criminal Procedure 32(d)(2) by making presentence reports available to victims of crime without a court order."

Renumber the following bill section accordingly.

#3

A M E N D M E N T

Offered in the HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES COMMITTEE

By Donlev

TO: CSHB 296()

Page 1, line 8:

Delete "and"

Page 1, line 10, following "Rules":

Insert: "; and amending Rule 32(d)(2) of the Alaska Rules of Criminal
Procedure"

Page 6, line 29, following "access to", through page 1, line 2, delete all
material and insert:

"(A) police reports from the appropriate law enforce-
ment agency related to the case in which the victim was involved;

(B) presentence reports from the court or the person
responsible for preparing presentence reports related to the case
in which the victim was involved; access under this subparagraph
may be requested orally or in writing from the court in which
sentence of the defendant was entered; the request may be made at
any time after the defendant's conviction; after a request made
under this subparagraph, the victim is entitled to access unless
the court determines or the person responsible for preparing the
presentence report shows, by a preponderance of the evidence,

that access to the report would prove detrimental to the re-
habilitation of the defendant or to the safety of the public."

Page 10, following line 28:

Insert a new bill section to read:

"* Sec. 15. AS 12.61.010(a), as amended by sec. 8 of this Act, has the effect of amending Alaska Rule of Criminal Procedure 32(d)(2) by making presentence reports available to victims of crime without a court order."

Renumber the following section accordingly.

#4

A M E N D M E N T

Offered in the HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES COMMITTEE

By Donley

TO: CSHB 296 ()

Page 8, lines 19 - 20:

Delete "is a minor, or is incapacitated,"

Page 8, line 22, after "may":

Insert: "attend meetings of the parole board, and may comment in writing on the proposed action of the board, but may"

Page 8, line 22, after "right":

Delete: "provided"

Insert: "to comment on the proposed action of the board in person or by counsel that is provided to the victim"

FISCAL NOTE

REQUEST

Revision Date: 1/19/88 Agency Affected: Public Safety
 Title: An Act relating to victims of BRU: Council on Domestic Violence &
crime, claims arising from criminal etc Sexual Assault; AK State Troopers
 Sponsor: Donley, et. al. Components: _____
 Requestor: House HESS

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUNDS						
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: M.J. Clemens Phone: 465-4336
 Division: Administrative Services Date: 1-19-88
 Approved by Commissioner: Arthur English Date: 1-19-88
 Agency: Public Safety

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)
 Senate Secretary

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to victims
of crime, etc.
Sponsor: Donley, et al.
Requestor: House Judiciary

Agency Affected: Public Safety
BRU: Council on Domestic Violence
and Sexual Assault
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Barbara Miklos, Executive Director Phone: 465-4356
Division: Council on Domestic Violence & Sexual Assault Date: 1/20/88
Approved by Commissioner: Paul A. Aronson, Dep. Comm. Date: 1-28-88
Agency: Public Safety

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

HB296

In the past five years, the issue of victims' rights has received much attention in the media and in state legislatures. See ABA, Guidelines for Fair Treatment of Crime Victims and Witnesses (1983). A number of academic commentators have addressed the topic. See, e.g., Henderson, The Wrongs of Victim's Rights, 37 Stan. L. Rev. 937 (1985); Abrahamson, Redefining Roles: The Victim's Rights Movement, 1985 Utah L. Rev. 517 (1985); Victim's Rights Symposium, 11 Pepperdine L. Rev. 1 (1984). In 1984, the Alaska legislature passed an Act Relating to Victim's Rights and Amending Criminal Rule 32(d)(2) of the Alaska Rules of Criminal Procedure. Section 4 ch. 154 SLA 1984. See AS 12.55.022;

025(a) 12.61.016 33.15.068(a) 33.15.065
33.15.260 33.30.250 33.30.260