

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990

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HOUSE JUDICIARY

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1           Sec. 12.47.095. NOTICE TO VICTIMS. (a) If an offender has been  
2 committed to the custody of the commissioner of health and social  
3 services under AS 12.47.090, the victim is entitled to notice of a  
4 pending change in the status of the offender. The commissioner of  
5 health and social services shall give notice as required by this  
6 section if

7           (1) the offender has been continued in commitment following  
8 expiration of the maximum term of imprisonment under AS 12.47.090(f)  
9 and the commissioner gives notice of release of the offender;

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

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

14           (4) the offender petitions for discharge under AS 12.47.-  
15 092(f).

16           (b) If a victim desires notice under this section, the victim  
17 shall maintain a current, valid mailing address on file with the  
18 commissioner of health and social services. The commissioner shall  
19 send the notice required by this section to the victim's last known  
20 address. The victim's address may not be disclosed to the offender or  
21 offender's attorney.

22           (c) The commissioner of health and social services is required  
23 to give notice of a change in the status of an offender under this  
24 section to any victim who has requested notice.

25           (d) If more than one person who qualifies as a victim under  
26 AS 12.55.185(11) desires notice, the commissioner of health and social  
27 services shall designate one person for purposes of receiving any  
28 notice required and exercising the rights granted by this section.

29           (e) In this section "victim" has the meaning given in

AS 12.55.185.

\* Sec. 3. AS 12.55 is amended by adding a new section to read:

Sec. 12.55.023. PARTICIPATION BY VICTIM IN SENTENCING. (a) If a victim requests, the prosecuting attorney shall provide the victim with a copy of the following portions of the presentence report:

(1) the summary of the offense prepared by the Department of Corrections;

(2) the defendant's version of the offense;

(3) all statements, and summaries of statements, of the victim; and

(4) the sentence recommendation of the Department of Corrections.

(b) A victim may submit to the sentencing court a written statement that the victim believes is relevant to the sentencing decision.

\* Sec. 4. AS 12.55.088 is amended by adding new subsections to read:

(d) A victim has the right to comment in writing to the court on a motion to modify or reduce a sentence filed by a person convicted of a crime against a person. If a motion is filed, the court shall, if feasible, send a copy of the motion to the Department of Corrections sufficiently in advance of any scheduled hearing or briefing deadline to enable the department to notify the victim. If the victim has earlier requested to be notified, the Department of Corrections shall send the victim a copy of the motion and inform the person of that person's rights under this section, the deadline for receipt of written comments, the hearing date, and the court's address.

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

(f) In deciding whether to reduce or modify a sentence, the

1 court shall consider the victim's comments, when relevant, and any  
2 response by the prosecuting attorney and the person filing the motion.

3 (g) If a victim desires notice under this section, the victim  
4 shall maintain a current, valid mailing address on file with the  
5 commissioner of corrections. The commissioner shall send the notice  
6 to the victim's last known address. The victim's address may not be  
7 disclosed to the offender or the offender's attorney.

8 \* Sec. 5. AS 12.55 is amended by adding a new section to read:

9 Sec. 12.55.172. DESIGNATION OF REPRESENTATIVE. If more than one  
10 person who qualifies as a victim under AS 12.55.185(11) desires notice  
11 under AS 12.55.088, the prosecuting attorney shall designate one  
12 person to represent all victims for purposes of receiving the notice  
13 required and exercising the rights granted under this chapter.

14 \* Sec. 6. AS 12.55.185(11) is repealed and reenacted to read:

15 (11) "victim" means

16 (A) a person against whom an offense has been perpe-  
17 trated;

18 (B) the personal representative of the person speci-  
19 fied in (A) of this paragraph, if the person has designated a  
20 personal representative by a written instrument;

21 (C) the following, if the person specified in (A) of  
22 this paragraph is a minor, incompetent, or incapacitated:

23 (i) an individual living in a spousal relation-  
24 ship to the person specified in (A) of this paragraph;

25 (ii) a parent of the person, if (i) of this sub-  
26 paragraph does not apply;

27 (iii) a guardian of the person, if (i) and (ii) of  
28 this subparagraph do not apply;

29 (iv) a custodian of the person, if (i) - (iii) of

1 this subparagraph do not apply;

2 (D) the following, if the person specified in (A) of  
3 this paragraph is dead:

4 (i) a person living in a spousal relationship  
5 with the deceased immediately before the deceased died;

6 (ii) an adult child of the deceased, if (i) of  
7 this subparagraph does not apply;

8 (iii) a parent of the deceased, if (i) and (ii) of  
9 this subparagraph do not apply;

10 (iv) a brother or sister of the deceased, if (i) -  
11 (iii) of this subparagraph do not apply;

12 (v) a grandparent of the deceased, if (i) - (iv)  
13 of this subparagraph do not apply; or

14 (vi) any other interested person, if (i) - (v) of  
15 this subparagraph do not apply.

16 \* Sec. 7. AS 12.61.010 is amended to read:

17 Sec. 12.61.010. RIGHTS OF CRIME VICTIMS. (a) Victims of crimes  
18 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 presentence report of a felony defendant, and to  
16 appear personally at that defendant's sentencing hearing to present a  
17 written or oral statement; and

18 (8) the right to be informed by the prosecuting attorney,  
19 at any time after the defendant's conviction, about the complete  
20 record of the defendant's convictions.

21 (b) Law [VICTIMS' EMPLOYERS, LAW] enforcement agencies, prosecu-  
22 tors, and the courts shall make every reasonable effort to ensure that  
23 victims of crimes have the rights set out in (a) of this section.  
24 However, a failure to ensure these rights does not give rise to a  
25 separate cause of action against anyone [VICTIMS' EMPLOYERS, LAW  
26 ENFORCEMENT AGENCIES, OTHER AGENCIES OF THE STATE, OR A POLITICAL  
27 SUBDIVISION OF THE STATE].

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

29 Sec. 12.61.015. DUTIES OF PROSECUTING ATTORNEY. (a) If a

1 victim of a felony requests, the prosecuting attorney shall make a  
2 reasonable effort to

3 (1) confer with the person against whom the offense has  
4 been perpetrated about that person's testimony before the defendant's  
5 trial;

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

8 (A) of the defendant's conviction;

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

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

15 (D) of the time and place of the sentencing proceed-  
16 ing;

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

19 (b) The notice given under (a)(2) of this section must inform  
20 the victim that the statement of the victim may contain any relevant  
21 information including

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

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

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

29 (4) the recommendation of the victim for an appropriate

sentence.

(c) The state and the prosecuting attorney may not be held liable in damages for any failure to comply with the requirements of this section.

Sec. 12.61.017. INTERFERENCE BY VICTIM'S EMPLOYER. (a) An employer may not penalize or threaten to penalize a victim because the victim is subpoenaed or requested by the prosecuting attorney to attend a court proceeding for the purpose of giving testimony. In this section, "penalize" means to take action affecting the employment status, wages, and benefits payable to the victim, including:

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

(b) A victim who suffers a pecuniary loss as a result of an employer's act prohibited by this section may bring a civil action to recover actual damages and punitive damages of three times the actual damages sustained.

\* Sec. 9. AS 12.61 is amended by adding a new section to read:

Sec. 12.61.030. DESIGNATION OF REPRESENTATIVE. If more than one person who qualifies as a victim under AS 12.55.185(11) makes a request under this chapter, the prosecuting attorney shall designate one person for purposes of receiving the notice required and exercising the rights granted under this chapter.

\* Sec. 10. AS 12.61 is amended by adding a new section to read:

Sec. 12.61.900. DEFINITIONS. In this chapter "victim" has the meaning given in AS 12.55.185.

\* Sec. 11. AS 33.16.120(a) is repealed and reenacted to read:

1 (a) If the victim requests notice of a scheduled hearing to  
2 review or consider discretionary parole for a prisoner convicted of a  
3 crime against a person, the board shall send notice of the hearing to  
4 the victim at least 30 days before the hearing. The notice must be  
5 accompanied by a copy of the prisoner's application for parole submitt-  
6 ed under AS 33.16.130(a). However, the copy of the application sent  
7 to the victim may not include the prisoner's proposed residence and  
8 employment addresses.

9 \* Sec. 12. AS 33.16.120(b) is repealed and reenacted to read:

10 (b) If a victim requests notice under this section, the victim  
11 shall maintain a current, valid mailing address on file with the  
12 board. The board shall send the notice required by this section to  
13 the last known address of the victim. The victim's address may not be  
14 disclosed to the prisoner or the prisoner's attorney.

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

16 (c) The victim has a right to attend meetings of the parole  
17 board and to comment, in writing or in person, on the proposed action  
18 of the board. Copies of any written [THE] comments shall be provided  
19 to the prisoner and the prisoner's attorney before action by the  
20 board.

21 \* Sec. 14. AS 33.16.120(e) is repealed and reenacted to read:

22 (e) If a victim requests, the board shall make every reasonable  
23 effort to notify the victim as soon as practicable in writing of its  
24 decision to grant or deny discretionary parole or to release the  
25 prisoner under AS 33.16.010(c). The notice under this subsection must  
26 include the expected date of the prisoner's release, the geographic  
27 area in which the prisoner is required to reside, and other pertinent  
28 information concerning the prisoner's conditions of parole that may  
29 affect the victim.

1 \* Sec. 15. AS 33.16.150(b) is amended to read:

2 (b) The board may require as a condition of discretionary or  
3 mandatory parole that a prisoner released on parole

4 (1) meet family obligations;

5 (2) pursue employment, education, counseling, or training;

6 (3) remain within stated geographic limits unless written  
7 permission to depart from the stated limits is granted the parolee;

8 (4) report upon release to the parole officer assigned to  
9 the parolee;

10 (5) report as required to the parole officer assigned to  
11 the parolee;

12 (6) reside at a stated place and notify the board of any  
13 change in place of residence;

14 (7) not possess or control firearms or other dangerous  
15 weapons;

16 (8) refrain from possessing or consuming alcoholic beverages;

17 (9) submit to reasonable searches and seizures by a parole  
18 officer, or a peace officer acting under the direction of a parole  
19 officer;

20 (10) submit to appropriate medical, mental health, or controlled  
21 substance or alcohol examination, treatment, or counseling;

22 (11) submit to periodic examinations designed to detect the  
23 use of alcohol or controlled substances;

24 (12) make restitution ordered by the court [TO A VICTIM OF  
25 THE PRISONER'S CRIME,] according to a schedule established by the  
26 board;

27 (1) refrain from opening, maintaining, or using a checking  
28 account or charge account;

1 (14) refrain from entering into a contract other than a  
2 prenuptial contract or a marriage contract;

3 (15) refrain from operating a motor vehicle;

4 (16) refrain from entering an establishment where alcoholic  
5 beverages are served, sold, or otherwise dispensed;

6 (17) refrain from participating in any other activity or  
7 associating with any other person that the board determines is rea-  
8 sonably likely to diminish the rehabilitative goals of parole, or that  
9 may endanger the public.

10 \* Sec. 16. AS 33.16 is amended by adding a new section to read:

11 Sec. 33.16.260. DESIGNATION OF REPRESENTATIVE. If more than one  
12 person who qualifies as a victim under AS 12.55.135(11) requests  
13 notice under this chapter, the commissioner shall designate one person  
14 for purposes of receiving the notice required and exercising the  
15 rights granted by this chapter.

16 \* Sec. 17. AS 33.20.080 is amended to read:

17 Sec. 33.20.080. BOARD OF PAROLE TO INVESTIGATE APPLICATIONS FOR  
18 EXECUTIVE CLEMENCY. The governor may refer applications for executive  
19 clemency to the board of parole. The board shall investigate each  
20 case and submit to the governor a report of the investigation, to-  
21 gether with all other information the board has regarding the appli-  
22 cant. When the report or investigation is submitted, the board shall  
23 also transmit to the governor the comments it has received under (b)  
24 of this section.

25 \* Sec. 18. AS 33.20.080 is amended by adding new subsections to read:

26 (b) If requested by the victim, the board shall send notice of  
27 an application for executive clemency submitted by a state prisoner  
28 convicted of a crime against a person to the victim. The victim may  
29 comment in writing to the board on the application for executive

1 clemency.

2 (c) If a victim desires notice under (b) of this section, the  
3 victim shall maintain a current, valid mailing address on file with  
4 the board. The board shall send the notice required under this sec-  
5 tion to the victim's last known address. The victim's address may not  
6 be disclosed to the applicant for executive clemency or the appli-  
7 cant's attorney.

8 (d) In this section, "victim" has the meaning given in AS 12.-  
9 55.185.

10 \* Sec. 19. AS 33.30 is amended by adding a new section to read:

11 Sec. 33.30.013. COMMISSIONER TO NOTIFY VICTIMS. (a) The com-  
12 missioner shall notify the victim if the offender

- 13 (1) escapes from custody;  
14 (2) is released to the community on a furlough; or  
15 (3) is released on an early release program.

16 (b) The commissioner is required to give notice of a change in  
17 the status of an offender under this section only if the victim has  
18 requested notice of the change.

19 (c) A victim who has requested notice under (b) of this section  
20 shall maintain a current, valid mailing address on file with the  
21 commissioner. The commissioner shall send the notice from the depart-  
22 ment required by this section to the victim's last known address. The  
23 victim's address may not be disclosed to the offender or the offend-  
24 er's attorney.

25 (d) The state may not be held liable in damages for the failure  
26 of the commissioner to comply with the requirements of this section.

27 \* Sec. 20. AS 33.30.211(1) is repealed and reenacted to read:

28 (f) If the commissioner considers a prisoner convicted of a  
29 crime against a person for a prerelease furlough and the victim has

1 requested notice under AS 33.30.013, the commissioner shall send  
2 notice of intent to consider the prisoner for a prerelease furlough to  
3 the victim. The victim may comment in writing on the commissioner's  
4 intent to release the prisoner on prerelease furlough status. The  
5 commissioner shall consider the victim's comments before making a  
6 final decision to release a prisoner on a prerelease furlough. The  
7 commissioner shall make a reasonable effort to notify the victim of an  
8 intent to release the prisoner on a prerelease furlough. The notice  
9 must contain the expected date of the prisoner's release, the geo-  
10 graphic area in which the prisoner will reside, and other pertinent  
11 information concerning the prisoner's release that may affect the  
12 victim.

13 \* Sec. 21. AS 33.30 is amended by adding a new section to read:

14 Sec. 33.30.292. DESIGNATION OF REPRESENTATIVE. If more than one  
15 person who qualifies as a victim under AS 12.55.185(11) requests  
16 notice under this chapter, the commissioner shall designate one person  
17 for purposes of receiving the notice required and of exercising the  
18 rights granted by this chapter.

19 \* Sec. 22. AS 44.23.020(b) is amended by adding a new paragraph to  
20 read:

21 (9) establish and maintain an assistance program to ensure  
22 that crime victims receive information about the rights, entitlements,  
23 and services that are provided by law.

24 \* Sec. 23. AS 47.10 is amended by adding a new section to read:

25 Sec. 47.10.072. ACCESS TO HEARING BY VICTIM. (a) If a crime  
26 was committed by a minor who is scheduled for a hearing under AS 47.-  
27 10.070, the victim may request from the court permission to attend the  
28 hearing. If the victim requests, the Department of Health and Social  
29 Services shall provide technical assistance to the victim in preparing

1 a written submission to the court requesting access to the hearing.  
 2 The Department of Health and Social Services shall make reasonable  
 3 efforts to inform victims of the availability of this assistance.

4 (b) If more than one person who qualifies as a victim under  
 5 AS 12.55.185(11) makes a request, the commissioner of health and  
 6 social services shall designate one person for purposes of receiving  
 7 the notice and exercising the rights granted by this section.

8 (c) In this section, "victim" has the meaning given in AS 12.-  
 9 55.185.

10 \* Sec. 24. Rule 32(d)(1), Alaska Rules of Criminal Procedure, is amend-  
 11 ed to read:

12 (1) WHEN MADE. The probation service shall make a presen-  
 13 tence investigation and report before the court imposes sentence or  
 14 grants probation. If [THE REPORT SHALL NOT BE DISCLOSED TO ANY ONE  
 15 EXCEPT COUNSEL UNLESS THE DEFENDANT HAS TENDERED A PLEA OF GUILTY OR  
 16 NOLO CONTENDERE OR HAS BEEN FOUND GUILTY. THE COURT MAY UTILIZE THE  
 17 REPORT IN DETERMINING IF A BARGAINED SENTENCE RECOMMENDATION WILL BE  
 18 FOLLOWED PURSUANT TO RULE 11. IN THE EVENT] the attorneys for the  
 19 parties request the preparation of a presentence report to aid them in  
 20 [PLEA] bargaining, the court may order such report to be made prior to  
 21 the time stated in this rule.

22 \* Sec. 25. Rule 32, Alaska Rules of Criminal Procedure, is amended by  
 23 adding a new paragraph to read:

24 (g) WRITTEN STATEMENT SUBMITTED BY VICTIM. If a written state-  
 25 ment is prepared and submitted under AS 12.55.023(b), and the offense  
 26 for which the defendant is being sentenced is a felony, the trial  
 27 court shall take the contents of the written statement into considera-  
 28 tion.

29 \* Sec. 26. Rule 35, Alaska Rules of Criminal Procedure, is amended by  
 CSHB 36( )

adding a new paragraph to read:

1 (c) The victim may comment on motions made under this rule as  
2 follows:

3 (1) When an individual convicted of a crime against a  
4 person files a motion to modify or reduce a sentence, the court shall,  
5 if feasible, send a copy of the motion to the Department of Correc-  
6 tions sufficiently in advance of any scheduled hearing or briefing  
7 deadline to enable the department to notify the victim, as directed by  
8 AS 12.55.088(d).

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

12 (3) The court shall consider the comments of the victim  
13 when relevant, and any response offered by the prosecuting attorney or  
14 the person filing the motion, in deciding whether to reduce or modify  
15 a sentence.

16 (4) If more than one person who qualifies as a victim under  
17 subparagraph (5) of this paragraph (c) requests the opportunity to  
18 exercise rights under this paragraph, the court shall allow the person  
19 designated under AS 12.55.172 to exercise those rights, or if a person  
20 has not been designated under AS 12.55.172, the court shall designate  
21 one person for purposes of exercising rights under this paragraph.

22 (5) In this rule, "victim" means

23 (A) a person against whom an offense has been perpe-  
24 trated;

25 (B) the personal representative of the person speci-  
26 fied in (A) of this paragraph, if the person has designated a  
27 personal representative by a written instrument;

28 (C) the following, if the person specified in (A) of  
29

1 this paragraph is a minor, incompetent, or incapacitated:

2 (i) an individual living in a spousal relation-  
3 ship to the person specified in (A) of this paragraph;

4 (ii) a parent of the person, if (i) of this sub-  
5 paragraph does not apply;

6 (iii) a guardian of the person, if (i) and (ii) of  
7 this subparagraph do not apply;

8 (iv) a custodian of the person, if (i) - (iii) of  
9 this subparagraph do not apply;

10 (D) the following, if the person specified in (A) of  
11 the paragraph is dead:

12 (i) a person living in a spousal relationship  
13 with the deceased immediately before the deceased died;

14 (ii) an adult child of the deceased, if (i) of  
15 this subparagraph does not apply;

16 (iii) a parent of the deceased, if (i) and (ii) of  
17 this subparagraph do not apply;

18 (iv) a brother or sister of the deceased, if (i) -  
19 (iii) of this subparagraph do not apply;

20 (v) a grandparent of the deceased, if (i) - (iv)  
21 of this subparagraph do not apply; or

22 (vi) any other interested person, if (i) - (v) of  
23 this subparagraph do not apply.

24 \* Sec. 27. APPLICABILITY. The provisions of this Act prescribing the  
25 rights of a crime victim and of a crime victim's representative, relative,  
26 or survivor during the course of criminal, civil, and administrative pro-  
27 ceedings apply to proceedings against defendants initiated on or after the  
28 effective date of this Act.

6-0188H  
Cook/  
Chanowet:  
1/18/89

Original sponsors: Donley, Gruenberg,  
Boucher, et al.

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 36 ( )  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the rights, entitlements, and  
7 services that are due to victims of crime and their  
8 survivors, and to claims by victims of crimes and  
9 their survivors arising from criminal conduct; and  
10 amending Rules 32 and 35 of the Alaska Rules of  
11 Criminal Procedure."

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

13 \* Section 1. SHORT TITLE. This Act may be referred to as the "Alaska  
14 Crime Victim's Rights Act."

15 \* Sec. 2. AS 09.38.065(a) is amended to read:

16 (a) Notwithstanding other provisions of this chapter,

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

19 (A) child support;

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

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

24 (2) a creditor may make a levy against exempt property to  
25 enforce a claim for

26 (A) the purchase price of the property or a loan made  
27 for the express purpose of enabling an individual to purchase the  
28 property and used for that purpose;

29 (B) labor or materials furnished to make, repair,

1 improve, preserve, store, or transport the property; and

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

4 (3) a creditor may make a levy against exempt property of  
5 any kind to enforce a claim arising from criminal conduct of the  
6 debtor that results in a felony conviction except that the debtor is  
7 entitled to an exemption in property

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

10 (i) household goods and wearing apparel rea-  
11 sonably necessary for one household;

12 (ii) books and musical instruments, if reasonably  
13 held for the personal use of the debtor or a dependent of  
14 the debtor; and

15 (iii) family portraits and heirlooms of particular  
16 sentimental value to the debtor; and

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

19 \* Sec. 3. AS 09.38.075(a) is amended to read:

20 (a) Unless a creditor is seeking collection of a claim enforce-  
21 able against exempt property under AS 09.38.065(a)(1) and (2) [AS 09.-  
22 38.065], the creditor may obtain a levy on an individual's property of  
23 a kind listed in AS 09.38.020 only by complying with this section.  
24 Before levy, the creditor shall file with the court out of which the  
25 process issues

26 (1) an affidavit stating that the creditor has reason to  
27 believe the individual has property of a kind listed in AS 09.38.020  
28 that is not exempt, identifying the property, setting out facts con-  
29 stituting the basis for believing the property is not exempt; and

1 (2) a request for an order by the court notifying the  
2 individual

3 (A) of the creditor's claim of a right to levy on the  
4 property identified as nonexempt,

5 (B) of the individual's right to contest the credi-  
6 tor's claim of a right to levy by filing with the clerk of the  
7 court, on or before a date fixed by the court, but not exceeding  
8 15 days after the issuance of the order, a written objection to  
9 the proposed levy and a statement of the grounds for the objec-  
10 tion and of the right to describe the property in lieu of setting  
11 its value,

12 (C) of the possible consequences of failure to respond  
13 to the notice as provided in (c) of this section, and

14 (D) of the information required by AS 09.38.085(a).

15 \* Sec. 4. AS 09.38.080(a) is amended to read:

16 (a) Except in a proceeding under AS 09.38.065(a)(1) and (2)  
17 [AS 09.38.065], a creditor shall comply with this section in obtaining  
18 a levy on property of an individual. In a proceeding to levy on  
19 personal property of a kind listed in AS 09.38.020, a creditor shall  
20 comply with this section and AS 09.38.075.

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

22 Sec. 12.47.095. NOTICE TO VICTIMS AND VICTIM'S SURVIVORS. (a)  
23 If an offender has been committed to the custody of the commissioner  
24 of health and social services under AS 12.47.090, the victim of the  
25 offense or the victim's survivor is entitled to notice of a pending  
26 change in the status of the offender. The commissioner of health and  
27 social services shall give notice as required by this section if

28 (1) the offender has been continued in commitment following  
29 expiration of the maximum term of imprisonment under AS 12.47.090(f)

and the commissioner petitions for release of the offender;

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

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

5 (4) the offender petitions for discharge under AS 12.47.-  
6 092(f).

7 (b) If a victim or the victim's survivor desires notice under  
8 this section, the victim or victim's survivor shall maintain a cur-  
9 rent, valid mailing address on file with the commissioner of health  
10 and social services. The commissioner shall send the notice required  
11 by this section to the last known address of the victim or the vic-  
12 tim's survivor. The address of the victim or the victim's survivor  
13 may not be disclosed to the offender or the offender's attorney.

14 (c) The commissioner of health and social services is required  
15 to give notice of a change in the status of an offender under this  
16 section only if the victim or the victim's survivor has requested  
17 notice of the change.

18 (d) If there is more than one survivor of the victim of crime,  
19 the commissioner of health and social services shall designate one  
20 survivor to represent all victim's survivors for purposes of receiving  
21 the notice to survivors required by this section, and of exercising  
22 the rights granted to survivors.

23 (e) In this section "victim," and "victim's survivor" or "survi-  
24 vor" have the meanings given in AS 12.55.185.

25 \* Sec. 6. AS 12.55.022 is amended to read:

26 Sec. 12.55.022. [VICTIM IMPACT] STATEMENT OF IMPACT OF CRIME ON  
27 VICTIM AND VICTIM'S SURVIVORS. As part of the presentence report  
28 prepared on each felony offender, the probation officer shall prepare

1 an [A VICTIM] impact statement reporting the following information:

2 (1) the financial, emotional, and medical effects of the  
3 offense on the victim or victim's survivors;

4 (2) the need of the victim or victim's survivors for resti-  
5 tution; and

6 (3) any other information required by the court.

7 \* Sec. 7. AS 12.55 is amended by adding a new section to read:

8 Sec. 12.55.023. PARTICIPATION BY VICTIM OR VICTIM'S SURVIVORS IN  
9 SENTENCING. (a) If a victim or victim's survivor requests, the  
10 prosecuting attorney shall provide the victim or victim's survivor  
11 with a copy of the following portions of the presentence report:

12 (1) the summary of the offense prepared by the Department  
13 of Corrections;

14 (2) the defendant's version of the offense;

15 (3) all statements, and summaries of statements, of the  
16 victim or victim's survivors; and

17 (4) the sentence recommendation of the Department of Cor-  
18 rections.

19 (b) A victim or victim's survivor may submit to the sentencing  
20 court a written statement that the victim or victim's survivor be-  
21 lieves might be relevant to the sentencing decision.

22 \* Sec. 8. AS 12.55.025(a) is amended to read:

23 (a) When imposing a sentence for conviction of a felony offense  
24 or a sentence of imprisonment exceeding 90 days or upon a conviction  
25 of a violation of AS 04, a regulation adopted under AS 04, or an  
26 ordinance adopted in conformity with AS 04.21.010, the court shall  
27 prepare, as a part of the record, a sentencing report which includes  
28 the following:

29 (1) a verbatim record of the sentencing hearing and any

other in-court sentencing procedures;

(2) findings on material issues of fact and on factual questions required to be determined as a prerequisite to the selection of the sentence imposed;

(3) a clear statement of the terms of the sentence imposed;

(4) any recommendations as to the place of confinement or the manner of treatment; and

(5) in the case of a conviction for a felony offense, information assessing

(A) the financial, emotional, and medical effects of the offense on the victim or victim's survivors;

(B) the need of the victim or victim's survivors for restitution; and

(C) any other information required by the court.

\* Sec. 9. AS 12.55.045(a) is amended to read:

(a) The court may order a defendant convicted of an offense to make restitution as provided in this section, including restitution to the victim or the victim's survivors, to a public, private, or private nonprofit organization that has provided counseling, medical, or shelter services to the victim or the victim's survivors, or as otherwise authorized by law. A defendant is presumed to have the ability to pay restitution unless the defendant establishes the inability to pay by a preponderance of the evidence. In determining the amount and method of payment of restitution, the court shall take into account the

(1) public policy that favors requiring criminals to compensate for damages and injury to [THEIR] victims or victim's survivors;

(2) financial burden placed on the victim and victim's

1 survivor and those who provide services to the victim as a result of  
2 the criminal conduct of the defendant; and

3 (3) financial resources of the defendant and the nature of  
4 the burden its payment will impose on dependents of the defendant.

5 \* Sec. 10. AS 12.55.051(d) is amended to read:

6 (d) The state may enforce payment of a fine and the restitution  
7 recipient may enforce payment of a restitution order against a defen-  
8 dant under AS 09.35 as if the order were a civil judgment enforceable  
9 by execution. This subsection does not limit the authority of the  
10 court to enforce fines and orders of restitution to victims and vic-  
11 tim's survivors.

12 \* Sec. 11. AS 12.55.088 is amended by adding new subsections to read:

13 (d) When an individual convicted of a crime against a person  
14 files a motion to modify a sentence, the court shall, if feasible  
15 given the time constraints and circumstances of the motion, send a  
16 copy of the motion to the Department of Corrections sufficiently in  
17 advance of any scheduled hearing so as to enable the department to  
18 notify the victim or the victim's survivor of the crime of the right  
19 to comment in writing as set out in (e) of this section. When an  
20 individual convicted of a crime against a person files a motion to  
21 reduce a sentence, the court shall send a copy of the motion to the  
22 Department of Corrections sufficiently in advance of any scheduled  
23 hearing so as to enable the department to notify the victim or the  
24 victim's survivor of the crime of the right to comment in writing as  
25 set out in (e) of this section.

26 (e) In the case of an individual convicted of a crime against a  
27 person, a victim or a victim's survivor has the right to comment in  
28 writing to the court on the motion to modify or reduce a sentence. If  
29 a victim or victim's survivor requests, the Department of Corrections

1 shall send to the victim or the victim's survivor a copy of a motion  
2 to modify or reduce a sentence upon receipt from the court. The  
3 Department of Corrections shall also notify the victim or the victim's  
4 survivor of the right to comment.

5 (f) The court shall provide copies of the victim's or the vic-  
6 tim's survivor's comments to the prosecuting attorney and to the  
7 person filing the motion to reduce or modify a sentence, or to the  
8 person's attorney.

9 (g) In deciding whether to reduce or modify a sentence, the  
10 court shall consider the comments of the victim or the victim's survi-  
11 vor, when relevant, and any response offered by the prosecuting attor-  
12 ney and the person filing the motion.

13 (h) If a victim or the victim's survivor desires notice under  
14 this section, the victim or victim's survivor shall maintain a cur-  
15 rent, valid mailing address on file with the commissioner of correc-  
16 tions. The commissioner shall send the notice required by this sec-  
17 tion to the last known address of the victim or the victim's survivor.  
18 The address of the victim may not be disclosed to the offender or the  
19 offender's attorney.

20 \* Sec. 12. AS 12.55 is amended by adding a new section to read:

21 Sec. 12.55.172. DESIGNATION OF VICTIM'S SURVIVOR. If there is  
22 more than one survivor of a victim of crime, the prosecuting attorney  
23 shall designate one survivor to represent all victim's survivors for  
24 purposes of receiving notice to victim's survivors required by this  
25 chapter, and of exercising the rights granted to victim's survivors  
26 under this chapter.

27 \* Sec. 13. AS 12.55.185 is repealed and reenacted to read:

28 Sec. 12.55.185. DEFINITIONS. In this chapter, unless the con-  
29 text requires otherwise,

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

3 (2) "dangerous instrument" has the meaning given in AS 11.-  
4 81.900;

5 (3) "firearm" has the meaning given in AS 11.81.900;

6 (4) "first felony conviction" means that the defendant has  
7 not been previously convicted of a felony;

8 (5) "judicial officer" has the meaning given in AS 11.56.-  
9 900;

10 (6) "pecuniary gain" means the amount of money or value of  
11 property at the time of commission of the offense derived by the  
12 defendant from the commission of the offense, less the amount of money  
13 or value of property returned to the victim of the offense or seized  
14 by or surrendered to lawful authority before sentence is imposed;

15 (7) "second felony conviction" means that the defendant  
16 previously has been convicted of a felony;

17 (8) "serious physical injury" has the meaning given in  
18 AS 11.81.900;

19 (9) "third felony conviction" means that the defendant has  
20 been at least twice previously convicted of a felony;

21 (10) "unconditional discharge" means that a defendant is  
22 released from all disability arising under a sentence, including  
23 probation and parole;

24 (11) "victim" means a person against whom an offense has  
25 been perpetrated or that person's representative, or, if the person is  
26 a minor, incompetent, or incapacitated, the spouse, parent, or legal  
27 guardian of that person;

28 (12) "victim's survivor" or "survivor" means the spouse,  
29 parent, child, brother, sister, aunt, uncle, parent-in-law, brother-

1 in-law, sister-in-law, grandparent, or legal guardian of a victim who  
2 is dead.

3 \* Sec. 14. AS 12.61.010 is amended to read:

4 Sec. 12.61.010. RIGHTS OF CRIME VICTIM AND VICTIM'S SURVIVORS  
5 [VICTIMS]. (a) A victim [VICTIMS] of a crime and the victim's survi-  
6 vors [CRIMES] have the following rights:

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

11 (2) the right to be notified that a sentencing hearing or a  
12 court proceeding to which the victim or the victim's survivor has been  
13 subpoenaed will not occur as scheduled;

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

18 (4) the right to be informed of the procedure to be fol-  
19 lowed to apply for and receive any [VICTIM] compensation under  
20 AS 18.67;

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

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

1 about the criminal incident if the questioning does not hinder the  
2 administration of medical assistance;

3 (7) the right to make a written or oral statement for use  
4 in preparation of the presentence report of a felony defendant, and to  
5 appear personally at the felony defendant's sentencing hearing to  
6 present a written or oral statement; and

7 (8) the right to be informed by the prosecuting attorney,  
8 at any time after the defendant's conviction, as to the complete  
9 record of the defendant's convictions.

10 (b) Law [VICTIMS' EMPLOYERS, LAW] enforcement agencies, prosecu-  
11 tors, and the courts shall make every reasonable effort to ensure that  
12 a victim [VICTIMS] of a crime and survivors of victims of a crime  
13 [CRIMES] have the rights set out in (a) of this section. However, a  
14 failure to ensure these rights does not give rise to a separate cause  
15 of action against [VICTIMS' EMPLOYERS,] law enforcement agencies,  
16 other agencies of the state, or a political subdivision of the state.

17 \* Sec. 15. AS 12.61 is amended by adding new sections to read:

18 Sec. 12.61.015. DUTIES OF PROSECUTING ATTORNEY. (a) If the  
19 victim of a crime that is a felony or the survivor of the victim of a  
20 crime that is a felony requests, the prosecuting attorney shall make a  
21 reasonable effort to

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

24 (2) in a manner reasonably calculated to give prompt actual  
25 notice, notify the victim or victim's survivor

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

28 (B) of the right of the victim or victim's survivor to  
29 make a written or oral statement for use in preparation of the

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

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

6 (D) of the time and place of the sentencing proceed-  
7 ing;

8 (3) notify the victim or the victim's survivor in writing  
9 of the final disposition of the case within 30 days after final dispo-  
10 sition of the case.

11 (b) The notice given under (a)(2) of this section must inform  
12 the victim or the victim's survivor that the statement of the victim  
13 or victim's survivor may contain any relevant information including

14 (1) an explanation of the nature and extent of physical,  
15 psychological, or emotional harm or trauma suffered by the victim or  
16 the victim's survivor;

17 (2) an explanation of the extent of economic loss or prop-  
18 erty damage suffered by the victim or the victim's survivor;

19 (3) an opinion of the need for and extent of restitution  
20 and whether the victim or the victim's survivor has applied for or  
21 received compensation for loss or damage; and

22 (4) the recommendation of the victim or the victim's survi-  
23 vor for an appropriate sentence.

24 (c) The state may not be held liable in damages for the failure  
25 of a prosecuting attorney to comply with the requirements of this  
26 section.

27 (d) The failure of a person to make a reasonable effort to  
28 comply with this section may not result in civil liability against the  
29 person.

1           Sec. 12.61.017. INTERFERENCE BY VICTIM'S EMPLOYER. (a) An  
2 employer may not discipline or threaten to discipline the victim of a  
3 crime because the victim is subpoenaed or requested by the prosecuting  
4 attorney to attend a court proceeding for the purpose of giving testi-  
5 mony. In this section, "discipline" means action affecting the  
6 employment status of and wages and benefits payable to the victim,  
7 including the victim's

8           (1) demotion or suspension;

9           (2) dismissal from employment; or

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

13           (b) A person who violates (a) of this section is guilty of a  
14 violation.

15           (c) A victim who suffers an ascertainable loss as a result of an  
16 employer's act declared unlawful by this section may bring a civil  
17 action to recover actual damages and punitive damages of three times  
18 the actual damages sustained.

19 \* Sec. 16. AS 12.61.020(b) is amended to read:

20           (b) A claim by a victim or victim's survivor arising out of an  
21 order of restitution under AS 12.55.045, or a judgment in a civil  
22 action against an offender for damages resulting from a crime is a  
23 superior claim for money that would otherwise be paid to the state  
24 under (a) of this section.

25 \* Sec. 17. AS 12.61.020(c) is amended to read:

26           (c) Notwithstanding other statutory limitations, a civil action  
27 by a victim or victim's survivor against an offender for damages  
28 resulting from the commission of the crime, must be commenced within  
29 10 years of the date of the crime, or the date of the discovery of the

1 perpetrator of the crime if the perpetrator is unknown on the date of  
2 the commission of the crime.

3 \* Sec. 18. AS 12.61 is amended by adding a new section to read:

4 c. 12.61.030. DESIGNATION OF VICTIM'S SURVIVOR. If there is  
5 more than one survivor of a victim of crime, the prosecuting attorney  
6 shall designate one survivor to represent all victim's survivors for  
7 purposes of receiving notice to victim's survivors required by this  
8 chapter, and of exercising the rights granted to victim's survivors  
9 under this chapter.

10 \* Sec. 19. AS 12.61 is amended by adding a new section to read:

11 Sec. 12.61.900. DEFINITIONS. In this chapter "victim" and  
12 "victim's survivor" or "survivor" have the meanings given in AS 12.-  
13 55.185.

14 \* Sec. 20. AS 33.16 (a) is amended to read:

15 (a) In determining whether a prisoner is suitable for discre-  
16 tionary parole, the board shall consider the preparole reports includ-  
17 ing

18 (1) the presentence report made to the sentencing court;

19 (2) the recommendations made by the sentencing court, by  
20 the prosecuting attorney, and by the defense attorney, and any state-  
21 ments made by the victim, the victim's survivor, or the prisoner at  
22 sentencing;

23 (3) the prisoner's institutional conduct history while  
24 incarcerated;

25 (4) recommendations made by the staff of the correctional  
26 facilities in which the prisoner was incarcerated;

27 (5) reports of prior crimes, juvenile histories, and previ-  
28 ous experiences of the prisoner on parole or probation;

29 (6) physical, mental, and psychiatric examinations of the

1 prisoner;

2 (7) information submitted by the prisoner, the sentencing  
3 court, the victim or the victim's survivor [OF THE CRIME], the pros-  
4 ecutor, or other persons having knowledge of the prisoner or the  
5 crime;

6 (8) information concerning an unjustified disparity in the  
7 sentence imposed on a prisoner in relation to other sentences imposed  
8 under similar circumstances; and

9 (9) other relevant information that may be reasonably  
10 available.

11 \* Sec. 21. AS 33.16.120(a) is repealed and reenacted to read:

12 Sec. 33.16.120. RIGHT TO COMMENT ON PAROLE OF PRISONER. (a) In  
13 the case of a state prisoner convicted of a crime against a person, if  
14 a victim or victim's survivor requests, the board shall send to the  
15 victim or victim's survivor notice of a hearing to review or consider  
16 discretionary parole for the prisoner. The notice must be sent to the  
17 victim or the victim's survivor at least 30 days before the scheduled  
18 hearing. The notice of hearing must be accompanied by a copy of the  
19 prisoner's application for parole submitted under AS 33.16.130(a).  
20 However, the copy of the application that is provided may not include  
21 the prisoner's proposed residence and employment address.

22 \* Sec. 22. AS 33.16.120(b) is repealed and reenacted to read:

23 (b) If a victim or the victim's survivor requests notice under  
24 this section, the victim or victim's survivor shall maintain a cur-  
25 rent, valid mailing address on file with the board. The board shall  
26 send the notice required by this section to the last known address of  
27 the victim or the victim's survivor. The address of the victim or the  
28 victim's survivor may not be disclosed to the prisoner or the prison-  
29 er's attorney.

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\* Sec. 23. AS 33.16.120(c) is amended to read:

(c) The victim has a right to attend meetings of the parole board and to comment, in writing or in person, on the proposed action of the board. The victim's survivor has a right to comment in writing on the proposed action. Copies of any written [THE] comments shall be provided to the prisoner and the prisoner's attorney before action by the board. Notwithstanding AS 33.16.900(10), if the victim is a minor, incompetent, or incapacitated, the victim's spouse, parent, or legal guardian may not exercise the right provided under this subsection.

\* Sec. 24. AS 33.16.120(e) is repealed and reenacted to read:

(e) If a victim or victim's survivor requests, the board shall make every reasonable effort to notify the victim or the victim's survivor in writing of its decision to grant or deny discretionary parole as soon as practicable. The notice under this subsection must include the expected date of the prisoner's release, the geographic area in which the prisoner is required to reside, and other pertinent information concerning the prisoner's conditions of parole that may affect the victim or the victim's survivor.

\* Sec. 25. AS 33.16.120(f) is repealed and reenacted to read:

(f) If a victim or victim's survivor requests, when a prisoner is released under AS 33.16.010(c), the board shall make every reasonable effort to notify the victim or the victim's survivor 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, and other pertinent information concerning the prisoner's conditions of parole that may affect the victim or the victim's survivor.

\* Sec. 26. AS 33.16.150(b) is amended to read:

1 (b) The board may require as a condition of discretionary or  
2 mandatory parole that a prisoner released on parole

3 (1) meet family obligations;

4 (2) pursue employment, education, counseling, or training;

5 (3) remain within stated geographic limits unless written  
6 permission to depart from the stated limits is granted the parolee;

7 (4) report upon release to the parole officer assigned to  
8 the parolee;

9 (5) report as required to the parole officer assigned to  
10 the parolee;

11 (6) reside at a stated place and notify the board of any  
12 change in place of residence;

13 (7) not possess or control firearms or other dangerous  
14 weapons;

15 (8) refrain from possessing or consuming alcoholic beverages;  
16

17 (9) submit to reasonable searches and seizures by a parole  
18 officer, or a peace officer acting under the direction of a parole  
19 officer;

20 (10) submit to appropriate medical, mental health, or controlled  
21 substance or alcohol examination, treatment, or counseling;

22 (11) submit to periodic examinations designed to detect the  
23 use of alcohol or controlled substances;

24 (12) make restitution ordered by the court [TO A VICTIM OF  
25 THE PRISONER'S CRIME,] according to a schedule established by the  
26 board;

27 (13) refrain from opening, maintaining, or using a checking  
28 account or charge account;

29 (14) refrain from entering into a contract other than a

1 prenuptial contract or a marriage contract;

2 (15) refrain from operating a motor vehicle;

3 (16) refrain from entering an establishment where alcoholic  
4 beverages are served, sold, or otherwise dispensed;

5 (17) refrain from participating in any other activity or  
6 associating with any other person that the board determines is rea-  
7 sonably likely to diminish the rehabilitative goals of parole, or that  
8 may endanger the public.

9 \* Sec. 27. AS 33.16 is amended by adding a new section to read:

10 Sec. 33.16.260. DESIGNATION OF VICTIM'S SURVIVOR. If there is  
11 more than one survivor of a victim of crime, the commissioner shall  
12 designate one survivor to represent all victim's survivors for  
13 purposes of receiving notice to victim's survivors required by this  
14 chapter, and of exercising the rights granted to victim's survivors  
15 under this chapter.

16 \* Sec. 28. AS 33.16.900 is amended by adding a new paragraph to read:

17 (11) "victim's survivor" or "survivor" has the meaning given  
18 in AS 12.55.185.

19 \* Sec. 29. AS 33.20.080 is amended to read:

20 Sec. 33.20.080. BOARD OF PAROLE TO INVESTIGATE APPLICATIONS FOR  
21 EXECUTIVE CLEMENCY. The governor may refer applications for executive  
22 clemency to the board of parole. The board shall investigate each  
23 case and submit to the governor a report of the investigation, to-  
24 gether with all other information the board has regarding the appli-  
25 cant. When the report or investigation is submitted, the board shall  
26 also transmit to the governor the comments it has received under (b)  
27 of this section.

28 \* Sec. 30. AS 33.20.080 is amended by adding new subsections to read:

29 (b) If requested by the victim or the victim's survivor, the

1 board shall send notice of an application for executive clemency  
2 submitted by a state prisoner who has been convicted of a crime  
3 against a person to the victim or the victim's survivor. The victim  
4 may comment in writing to the board on the application for executive  
5 clemency.

6 (c) If a victim or a victim's survivor desires notice under (b)  
7 of this section, the victim or the victim's survivor shall maintain a  
8 current, valid mailing address on file with the board. The board  
9 shall send the notice required under this section to the last known  
10 address of the victim or victim's survivor.

11 (d) The address of the victim or victim's survivor may not be  
12 disclosed to the applicant for executive clemency or the applicant's  
13 attorney.

14 (e) In this section,

15 (1) "crime against a person" has the meaning given in  
16 AS 33.30.901;

17 (2) "victim," and "victim's survivor" or "survivor" have  
18 the meanings given in AS 12.55.185.

19 \* Sec. 31. AS 33.30 is amended by adding a new section to read:

20 Sec. 33.30.013. COMMISSIONER TO NOTIFY VICTIMS. (a) The com-  
21 missioner shall notify the victim or the victim's survivor of an  
22 offense if the offender

23 (1) escapes from custody;

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

25 (3) is released on an early release program.

26 (b) The commissioner is required to give notice of a change in  
27 the status of an offender under this section only if the victim or the  
28 victim's survivor has requested notice of the change.

29 (c) A victim or victim's survivor who has requested notice under

1 (b) of this section shall maintain a current, valid mailing address on  
2 file with the commissioner. The commissioner shall send the notice  
3 from the department required by this section to the last known address  
4 of the victim or victim's survivor.

5 (d) The address of the victim or victim's survivor may not be  
6 disclosed to the offender or the offender's attorney.

7 (e) The state may not be held liable in damages for the failure  
8 of the commissioner to comply with the requirements of this section.

9 \* Sec. 32. AS 33.30.111(f) is repealed and reenacted to read:

10 (f) If the commissioner considers a prisoner convicted of a  
11 crime against a person for furlough, and the victim or victim's survi-  
12 vor has requested notice under AS 33.30.013, the commissioner shall  
13 send notice of intent to consider the prisoner for a prerelease fur-  
14 lough to the victim or the victim's survivor. The victim or the  
15 victim's survivor may comment in writing on the intent of the commis-  
16 sioner to release the prisoner on prerelease furlough status. The  
17 commissioner shall consider the comments of the victim or the victim's  
18 survivor before making a final decision to release a prisoner on a  
19 prerelease furlough. The commissioner shall make every reasonable  
20 effort to notify the victim or the victim's survivor of an intent to  
21 release the prisoner on a prerelease furlough. The notice must con-  
22 tain the expected date of the prisoner's release, the geographic area  
23 in which the prisoner will reside and other pertinent information  
24 concerning the prisoner's release that may affect the victim or the  
25 victim's survivor.

26 \* Sec. 33. AS 33.30.151(a) is amended to read:

27 (a) The commissioner shall establish correctional restitution  
28 centers in the state. The purpose of the centers is to provide cer-  
29 tain offenders with rehabilitation through community service and

1 employment while protecting the community through partial incarceration  
2 tion of the offender, and to create a means to provide restitution to  
3 a victim or victim's survivor [VICTIMS OF CRIMES].

4 \* Sec. 34. AS 33.30 is amended by adding a new section to read:

5 Sec. 33.30.292. DESIGNATION OF VICTIM'S SURVIVOR. If there is  
6 more than one survivor of a victim of crime, the commissioner shall  
7 designate one survivor to represent all survivors for purposes of  
8 receiving notice to survivors required by this chapter, and of exer-  
9 cising the rights granted to survivors under this chapter.

10 \* Sec. 35. AS 33.30.901 is amended by adding a new paragraph to read:

11 (14) "victim's survivor" or "survivor" has the meaning given  
12 in AS 12.55.185.

13 \* Sec. 36. AS 44.23.020(b) is amended by adding a new paragraph to  
14 read:

15 (9) establish and maintain an assistance program to ensure  
16 that victims of crimes and survivors of victims of crimes receive  
17 information about the rights, entitlements, and services that are  
18 provided to a victim or victim's survivor by law.

19 \* Sec. 37. AS 47.10 is amended by adding a new section to read:

20 Sec. 47.10.072. ACCESS TO HEARING BY VICTIM OR VICTIM'S SURVI-  
21 VOR. (a) If a crime was committed by a minor who is scheduled for a  
22 hearing under AS 47.10.070, the victim or the victim's survivor may  
23 request from the court permission to attend the hearing. If the  
24 victim or victim's survivor requests, the Department of Health and  
25 Social Services shall assist the victim or victim's survivor in pre-  
26 paring a written submission to the court requesting access to the  
27 hearing. The Department of Health and Social Services shall make  
28 reasonable efforts to inform victims of the availability of this  
29 assistance. If there is more than one survivor of a victim of crime,

1 the commissioner of health and social services shall designate one  
2 survivor to represent all survivors for purposes of exercising the  
3 rights granted under this section.

4 (b) In this section, "victim," and "victim's survivor" or "sur-  
5 vivor" have the meanings given in AS 12.55.185.

6 \* Sec. 38. AS 12.61.020(e)(2) is repealed.

7 \* Sec. 39. Rule 32(d)(1), Alaska Rules of Criminal Procedure, is amend-  
8 ed to read:

9 (1) WHEN MADE. The probation service shall make a presen-  
10 tence investigation and report before the court imposes sentence or  
11 grants probation. The presentence investigation and report shall be  
12 completed and made available to the court. The report shall not be  
13 disclosed to any one except counsel unless the defendant has tendered  
14 a plea of guilty or nolo contendere or has been found guilty. If the  
15 crime for which the person is to be sentenced is a felony, the con-  
16 tents shall be disclosed to counsel for the parties before the time of  
17 the hearing on the aggravator and mitigator factors and sentencing.  
18 The court may utilize the report in determining if a bargained sen-  
19 tence recommendation will be followed pursuant to Rule 11. In the  
20 event the attorneys for the parties request the preparation of a  
21 presentence report to aid them in plea bargaining the court may order  
22 such report to be made prior to the time stated in this rule.

23 \* Sec. 40. Rule 32, Alaska Rules of Criminal Procedure, is amended by  
24 adding a new subsection to read:

25 (g) WRITTEN STATEMENT SUBMITTED BY VICTIM OR VICTIM'S SURVIVOR.  
26 If a written statement is prepared and submitted by the victim of a  
27 felony offense or by the survivor of the victim of a felony offense  
28 under AS 12.55.023, the trial court shall take the content of the  
29 written statement into consideration when

1 (1) preparing those elements of the sentencing report  
2 required by AS 12.55.025 that relate to the effect of the felony  
3 offense on the victim or the victim's survivors; and

4 (2) considering the need for restitution under AS 12.55.-  
5 045.

6 \* Sec. 41. Rule 35, Alaska Rules of Criminal Procedure, is amended by  
7 adding a new subsection to read:

8 (c) The victim or victim's survivor may comment on motions made  
9 on this rule as follows:

10 (1) When an individual convicted of a crime against a  
11 person files a motion to modify a sentence, the court shall, if feasi-  
12 ble given the time constraints and circumstances of the motion, send a  
13 copy of the motion to the Department of Corrections sufficiently in  
14 advance of any scheduled hearing so as to enable the department to  
15 notify the victim of the crime or the victim's survivor of the right  
16 to comment in writing, as authorized by AS 12.55.088(e). When an  
17 individual convicted of a crime against a person files a motion to  
18 reduce a sentence under this rule, the court shall send a copy of the  
19 motion to the Department of Corrections sufficiently in advance of any  
20 scheduled hearing so as to enable the department to notify the victim  
21 of the crime or the victim's survivor of the right to comment in  
22 writing, as authorized by AS 12.55.088(e).

23 (2) The court shall provide copies of the comments of the  
24 victim or victim's survivor to the prosecuting attorney and to the  
25 person filing the motion to reduce or modify a sentence, or to the  
26 person's attorney.

27 (3) The court shall consider the comments of the victim or  
28 victim's survivor when relevant, and any response offered by the  
29 prosecuting attorney or the person filing the motion, in deciding

1 whether to reduce or modify a sentence.

2 (4) In this rule, "crime against a person," "victim,"  
3 "victim's survivor," and "survivor" have the meanings given in AS 12.-  
4 55.185.

5 \* Sec. 42. APPLICABILITY. The provisions of this Act prescribing the  
6 rights of a victim of a crime and of a victim's survivor during the course  
7 of criminal, civil, and administrative proceedings apply to proceedings  
8 against defendants initiated on or after the effective date of this Act.  
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Original sponsors: Donley, Gruenberg,  
Boucher, et al.

IN THE HOUSE

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CS FOR HOUSE BILL NO. 36 ( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
SIXTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the rights, entitlements, and services that are due to victims of crime and their survivors, and to claims by victims of crimes and their survivors arising from criminal conduct; and amending Rules 32 and 35 of the Alaska Rules of Criminal Procedure."

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

\* Section 1. AS 09.38.065(a) is amended to read:

(a) Notwithstanding other provisions of this chapter,

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

(A) child support;

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

(C) state or local taxes; [AND]

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

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

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

(C) a special assessment imposed to defray costs of a

public improvement benefiting the property; and

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

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

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

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

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

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

\* Sec. 2. AS 09.38.075(a) is amended to read:

(a) Unless a creditor is seeking collection of a claim enforceable against exempt property under AS 09.38.065(a)(1) and (2) [AS 09.-38.065], the creditor may obtain a levy on an individual's property of a kind listed in AS 09.38.020 only by complying with this section. Before levy, the creditor shall file with the court out of which the process issues

(1) an affidavit stating that the creditor has reason to believe the individual has property of a kind listed in AS 09.38.020 that is not exempt, identifying the property, setting out facts constituting the basis for believing the property is not exempt; and

(2) a request for an order by the court notifying the individual

1 (A) of the creditor's claim of a right to levy on the  
2 property identified as nonexempt,

3 (B) of the individual's right to contest the credi-  
4 tor's claim of a right to levy by filing with the clerk of the  
5 court, on or before a date fixed by the court, but not exceeding  
6 15 days after the issuance of the order, a written objection to  
7 the proposed levy and a statement of the grounds for the objec-  
8 tion and of the right to describe the property in lieu of setting  
9 its value,

10 (C) of the possible consequences of failure to respond  
11 to the notice as provided in (c) of this section, and

12 (D) of the information required by AS 09.38.085(a).

13 \* Sec. 3. AS 09.38.080(a) is amended to read:

14 (a) Except in a proceeding under AS 09.38.065(a)(1) and (2)  
15 [AS 09.38.065], a creditor shall comply with this section in obtaining  
16 a levy on property of an individual. In a proceeding to levy on  
17 personal property of a kind listed in AS 09.38.020, a creditor shall  
18 comply with this section and AS 09.38.075.

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

20 Sec. 12.47.095. NOTICE TO VICTIMS AND VICTIM'S SURVIVORS. (a)  
21 If an offender has been committed to the custody of the commissioner  
22 of health and social services under AS 12.47.090, the victim of the  
23 offense or the victim's survivor is entitled to notice of a pending  
24 change in the status of the offender. The commissioner of health and  
25 social services shall give notice as required by this section if

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

29 (2) the court is to consider modification of an order of

1 conditional release for the offender under AS 12.47.092(e);

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

4 (4) the offender petitions for discharge under AS 12.47.-  
5 092(f).

6 (b) If a victim or the victim's survivor desires notice under  
7 this section, the victim or victim's survivor shall maintain a cur-  
8 rent, valid mailing address on file with the commissioner of health  
9 and social services. The commissioner shall send the notice required  
10 by this section to the last known address of the victim or the vic-  
11 tim's survivor. The address of the victim or the victim's survivor  
12 may not be disclosed to the offender or the offender's attorney.

13 (c) The commissioner of health and social services is required  
14 to give notice of a change in the status of an offender under this  
15 section only if the victim or the victim's survivor has requested  
16 notice of the change.

17 (d) If there is more than one survivor of the victim of crime,  
18 the commissioner of health and social services shall designate one  
19 survivor to represent all victim's survivors for purposes of receiving  
20 the notice to survivors required by this section, and of exercising  
21 the rights granted to survivors.

22 (e) In this section "victim," and "victim's survivor" or  
23 "survivor" have the meanings given in AS 12.55.185.

24 \* Sec. 5. AS 12.55.022 is amended to read:

25 Sec. 12.55.022. (VICTIM IMPACT) STATEMENT OF IMPACT OF CRIME ON  
26 VICTIM AND VICTIM'S SURVIVORS. As part of the presentence report  
27 prepared on each felony offender, the probation officer shall prepare  
28 an [A VICTIM] impact statement reporting the following information:

29 (1) the financial, emotional, and medical effects of the

offense on the victim or victim's survivors;

(2) the need of the victim or victim's survivors for restitution; and

(3) any other information required by the court.

\* Sec. 6. AS 12.55 is amended by adding a new section to read:

Sec. 12.55.023. PARTICIPATION BY VICTIM OR VICTIM'S SURVIVORS IN SENTENCING. (a) If a victim or victim's survivor requests, the prosecuting attorney shall provide the victim or victim's survivor with a copy of the following portions of the presentence report:

(1) the summary of the offense prepared by the Department of Corrections;

(2) the defendant's version of the offense;

(3) all statements, and summaries of statements, of the victim or victim's survivors; and

(4) the sentence recommendation of the Department of Corrections.

(b) A victim or victim's survivor may submit to the sentencing court a written statement that the victim or victim's survivor believes might be relevant to the sentencing decision.

\* Sec. 7. AS 12.55.025(a) is amended to read:

(a) When imposing a sentence for conviction of a felony offense or a sentence of imprisonment exceeding 90 days or upon a conviction of a violation of AS 04, a regulation adopted under AS 04, or an ordinance adopted in conformity with AS 04.21.010, the court shall prepare, as a part of the record, a sentencing report which includes the following:

(1) a verbatim record of the sentencing hearing and any other in-court sentencing procedures;

(2) findings on material issues of fact and on factual

1 questions required to be determined as a prerequisite to the selection  
2 of the sentence imposed;

3 (3) a clear statement of the terms of the sentence imposed.

4 (4) any recommendations as to the place of confinement or  
5 the manner of treatment; and

6 (5) in the case of a conviction for a felony offense,  
7 information assessing

8 (A) the financial, emotional, and medical effects of  
9 the offense on the victim or victim's survivors;

10 (B) the need of the victim or victim's survivors for  
11 restitution; and

12 (C) any other information required by the court.

13 \* Sec. 8. AS 12.55.045(a) is amended to read:

14 (a) The court may order a defendant convicted of an offense to  
15 make restitution as provided in this section, including restitution to  
16 the victim or the victim's survivors, to a public, private, or private  
17 nonprofit organization that has provided counseling, medical, or  
18 shelter services to the victim or the victim's survivors, or as other-  
19 wise authorized by law. A defendant is presumed to have the ability  
20 to pay restitution unless the defendant establishes the inability to  
21 pay by a preponderance of the evidence. In determining the amount and  
22 method of payment of restitution, the court shall take into account  
23 the

24 (1) public policy that favors requiring criminals to com-  
25 pensate for damages and injury to [THEIR] victims or victim's survi-  
26 vors;

27 (2) financial burden placed on the victim and victim's  
28 survivor and those who provide services to the victim as a result of  
29 the criminal conduct of the defendant; and

1 (3) financial resources of the defendant and the nature o.  
2 the burden its payment will impose on dependents of the defendant.

3 \* Sec. 9. AS 12.55.051(d) is amended to read:

4 (d) The state may enforce payment of a fine and the restitution  
5 recipient may enforce payment of a restitution order against a defen-  
6 dant under AS 09.35 as if the order were a civil judgment enforceable  
7 by execution. This subsection does not limit the authority of the  
8 court to enforce fines and orders of restitution to victims and vic-  
9 tim's survivors.

10 \* Sec. 10. AS 12.55.088 is amended by adding new subsections to read:

11 (d) When an individual convicted of a crime against a person  
12 files a motion to modify a sentence, the court shall, if feasible  
13 given the time constraints and circumstances of the motion, send a  
14 copy of the motion to the Department of Corrections sufficiently in  
15 advance of any scheduled hearing so as to enable the department to  
16 notify the victim or the victim's survivor of the crime of the right  
17 to comment in writing as set out in (e) of this section. When an  
18 individual convicted of a crime against a person files a motion to  
19 reduce a sentence, the court shall send a copy of the motion to the  
20 Department of Corrections sufficiently in advance of any scheduled  
21 hearing so as to enable the department to notify the victim or the  
22 victim's survivor of the crime of the right to comment in writing as  
23 set out in (e) of this section.

24 (e) In the case of an individual convicted of a crime against a  
25 person, a victim or a victim's survivor has the right to comment in  
26 writing to the court on the motion to modify or reduce a sentence. If  
27 a victim or victim's survivor requests, the Department of Corrections  
28 shall send to the victim or the victim's survivor a copy of a motion  
29 to modify or reduce a sentence upon receipt from the court. The

1 Department of Corrections shall also notify the victim or the victim's  
2 survivor of the right to comment.

3 (f) The court shall provide copies of the victim's or the vic-  
4 tim's survivor's comments to the person filing the motion to reduce or  
5 modify a sentence, or to the person's attorney.

6 (g) In deciding whether to reduce or modify a sentence, the  
7 court shall consider the comments of the victim or the victim's survi-  
8 vor, when relevant, and any response offered by the person filing the  
9 motion.

10 (h) If a victim or the victim's survivor desires notice under  
11 this section, the victim or victim's survivor shall maintain a cur-  
12 rent, valid mailing address on file with the commissioner of correc-  
13 tions. The commissioner shall send the notice required by this sec-  
14 tion to the last known address of the victim or the victim's survivor.  
15 The address of the victim may not be disclosed to the offender or the  
16 offender's attorney.

17 (i) If there is more than one survivor of a victim of crime, the  
18 prosecuting attorney shall designate one survivor to represent all  
19 victim's survivors for purposes of receiving the notice to victim's  
20 survivors required by this section, and of exercising the rights  
21 granted to victim's survivors.

22 \* Sec. 11. AS 12.55.185 is repealed and reenacted to read:

23 Sec. 12.55.185. DEFINITIONS. In this chapter, unless the con-  
24 text requires otherwise,

25 (1) "crime against a person" has the meaning given in  
26 AS 33.30.901;

27 (2) "dangerous instrument" has the meaning given in AS 11.-  
28 81.900;

29 (3) "firearm" has the meaning given in AS 11.81.900;

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(4) "first felony conviction" means that the defendant has not been previously convicted of a felony;

(5) "judicial officer" has the meaning given in AS 11.56.900;

(6) "pecuniary gain" means the amount of money or value of property at the time of commission of the offense derived by the defendant from the commission of the offense, less the amount of money or value of property returned to the victim of the offense or seized by or surrendered to lawful authority before sentence is imposed;

(7) "second felony conviction" means that the defendant previously has been convicted of a felony;

(8) "serious physical injury" has the meaning given in AS 11.81.900;

(9) "third felony conviction" means that the defendant has been at least twice previously convicted of a felony;

(10) "unconditional discharge" means that a defendant is released from all disability arising under a sentence, including probation and parole;

(11) "victim" means a natural person against whom an offense has been perpetrated;

(12) "victim's survivor" or "survivor" means the spouse, parent, child, brother, sister, aunt, uncle, parent-in-law, brother-in-law, sister-in-law, grandparent, or legal guardian of a victim who is dead.

\* Sec. 12. AS 12.61.010 is amended to read:

Sec. 12.61.010. RIGHTS OF CRIME VICTIM AND VICTIM'S SURVIVORS [VICTIMS]. (a) A victim [VICTIMS] of a crime and the victim's survivors [CRIMES] have the following rights:

(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 or the victim's survivor is involved;

4 (2) the right to be notified that a sentencing hearing or a  
5 court proceeding to which the victim or the victim's survivor has been  
6 subpoenaed will not 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  
13 AS 18.67;

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

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

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

29 (8) the right to be informed by the prosecuting attorney.

1 at any time after the defendant's conviction, as to the complete  
2 record of the defendant's convictions.

3 (b) Law [VICTIMS' EMPLOYERS, LAW] enforcement agencies, prosecu-  
4 tors, and the courts shall make every reasonable effort to ensure that  
5 a victim [VICTIMS] of a crime and survivors of victims of a crime  
6 [CRIMES] have the rights set out in (a) of this section. However, a  
7 failure to ensure these rights does not give rise to a separate cause  
8 of action against [VICTIMS' EMPLOYERS,] law enforcement agencies,  
9 other agencies of the state, or a political subdivision of the state.

10 \* Sec. 13. AS 12.61 is amended by adding new sections to read:

11 Sec. 12.61.015. DUTIES OF PROSECUTING ATTORNEY. (a) If the  
12 victim of a crime that is a felony or the survivor of the victim of a  
13 crime that is a felony requests, the prosecuting attorney shall make a  
14 reasonable effort to

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 or victim's survivor

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

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

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

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

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(3) notify the victim or the victim's survivor in writing of the final disposition of the case within 30 days after final disposition of the case.

(b) The notice given under (a)(2) of this section must inform the victim or the victim's survivor that the statement of the victim or victim's survivor may contain any relevant information including

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

(2) an explanation of the extent of economic loss or property damage suffered by the victim or the victim's survivor;

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

(4) the recommendation of the victim or the victim's survivor for an appropriate sentence.

(c) The state may not be held liable in damages for the failure of a prosecuting attorney to comply with the requirements of this section.

(d) The failure of a person to make a reasonable effort to comply with this section may not result in civil liability against the person.

Sec. 12.61.017. INTERFERENCE BY VICTIM'S EMPLOYER. (a) An employer may not discipline or threaten to discipline the victim of a crime because the victim is subpoenaed or requested by the prosecuting attorney to attend a court proceeding for the purpose of giving testimony. In this section, "discipline" means action affecting the employment status of and wages and benefits payable to the victim, including the victim's

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

6 (b) A person who violates (a) of this section is guilty of a  
7 violation.

8 (c) A victim who suffers an ascertainable loss as a result of an  
9 employer's act declared unlawful by this section may bring a civil  
10 action to recover actual damages and punitive damages of three times  
11 the actual damages sustained.

12 \* Sec. 14. AS 12.61.020(b) is amended to read:

13 (b) A claim by a victim or victim's survivor arising out of an  
14 order of restitution under AS 12.55.045, or a judgment in a civil  
15 action against an offender for damages resulting from a crime is a  
16 superior claim for money that would otherwise be paid to the state  
17 under (a) of this section.

18 \* Sec. 15. AS 12.61.020(c) is amended to read:

19 (c) Notwithstanding other statutory limitations, a civil action  
20 by a victim or victim's survivor against an offender for damages  
21 resulting from the commission of the crime, must be commenced within  
22 10 years of the date of the crime, or the date of the discovery of the  
23 perpetrator of the crime if the perpetrator is unknown on the date of  
24 the commission of the crime.

25 \* Sec. 16. AS 12.61 is amended by adding new sections to read:

26 Sec. 12.61.900. DEFINITIONS. In this chapter "victim" and  
27 "victim's survivor" or "survivor" have the meanings given in AS 12.-  
28 55.185.

29 Sec. 12.61.999. SHORT TITLE. This chapter may be cited as the

"Alaska Crime Victim's and Survivor's Rights Act."

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2 \* Sec. 17. AS 33.16.110(a) is amended to read:

3 (a) In determining whether a prisoner is suitable for discre-  
4 tionary parole, the board shall consider the preparole reports includ-  
5 ing

6 (1) the presentence report made to the sentencing court;

7 (2) the recommendations made by the sentencing court, by  
8 the prosecuting attorney, and by the defense attorney, and any state-  
9 ments made by the victim, the victim's survivor, or the prisoner at  
10 sentencing;

11 (3) the prisoner's institutional conduct history while  
12 incarcerated;

13 (4) recommendations made by the staff of the correctional  
14 facilities in which the prisoner was incarcerated;

15 (5) reports of prior crimes, juvenile histories, and previ-  
16 ous experiences of the prisoner on parole or probation;

17 (6) physical, mental, and psychiatric examinations of the  
18 prisoner;

19 (7) information submitted by the prisoner, the sentencing  
20 court, the victim or the victim's survivor [OF THE CRIME], the pros-  
21 ecutor, or other persons having knowledge of the prisoner or the  
22 crime;

23 (8) information concerning an unjustified disparity in the  
24 sentence imposed on a prisoner in relation to other sentences imposed  
25 under similar circumstances; and

26 (9) other relevant information that may be reasonably  
27 available.

28 \* Sec. 18. AS 33.16.120(a) is repealed and reenacted to read:

29 Sec. 33.16.120. RIGHT TO COMMENT ON PAROLE OF PRISONER. (a) In

1 the case of a state prisoner convicted of a crime against a person, if  
2 a victim or victim's survivor requests, the board shall send to the  
3 victim or victim's survivor notice of a hearing to review or consider  
4 discretionary parole for the prisoner. The notice must be sent to the  
5 victim or the victim's survivor at least 30 days before the scheduled  
6 hearing. The notice of hearing must be accompanied by a copy of the  
7 prisoner's application for parole submitted under AS 33.16.130(a).  
8 However, the copy of the application that is provided may not include  
9 the prisoner's proposed residence and employment address.

10 \* Sec. 19. AS 33.16.120(b) is repealed and reenacted to read:

11 (b) If a victim or the victim's survivor requests notice under  
12 this section, the victim or victim's survivor shall maintain a cur-  
13 rent, valid mailing address on file with the board. The board shall  
14 send the notice required by this section to the last known address of  
15 the victim or the victim's survivor. The address of the victim or the  
16 victim's survivor may not be disclosed to the prisoner or the  
17 prisoner's attorney.

18 \* Sec. 20. AS 33.16.120(c) is amended to read:

19 (c) The victim or the victim's survivor has a right to attend  
20 meetings of the parole board and to comment, in writing or in person,  
21 on the proposed action of the board. Copies of any written [THE] com-  
22 ments shall be provided to the prisoner and the prisoner's attorney  
23 before action by the board.

24 \* Sec. 21. AS 33.16.120(e) is repealed and reenacted to read:

25 (e) If a victim or victim's survivor requests, the board shall  
26 make every reasonable effort to notify the victim or the victim's  
27 survivor in writing of its decision to grant or deny discretionary  
28 parole as soon as practicable. The notice under this subsection must  
29 include the expected date of the prisoner's release, the geographic

1 area in which the prisoner is required to reside, and other pertinent  
2 information concerning the prisoner's conditions of parole that may  
3 affect the victim or the victim's survivor.

4 \* Sec. 22. AS 33.16.120(f) is repealed and reenacted to read:

5 (f) If a victim or victim's survivor requests, when a prisoner  
6 is released under AS 33.16.010(c), the board shall make every reason-  
7 able effort to notify the victim or the victim's survivor before the  
8 prisoner's release date. Notification under this subsection must  
9 include the expected date of the prisoner's release, the geographic  
10 area in which the prisoner is required to reside, and other pertinent  
11 information concerning the prisoner's conditions of parole that may  
12 affect the victim or the victim's survivor.

13 \* Sec. 23. AS 33.16.150(b) is amended to read:

14 (b) The board may require as a condition of discretionary or  
15 mandatory parole that a prisoner released on parole

- 16 (1) meet family obligations;
- 17 (2) pursue employment, education, counseling, or training;
- 18 (3) remain within stated geographic limits unless written  
19 permission to depart from the stated limits is granted the parolee;
- 20 (4) report upon release to the parole officer assigned to  
21 the parolee;
- 22 (5) report as required to the parole officer assigned to  
23 the parolee;
- 24 (6) reside at a stated place and notify the board of any  
25 change in place of residence;
- 26 (7) not possess or control firearms or other dangerous  
27 weapons;
- 28 (8) refrain from possessing or consuming alcoholic bever-  
29 ages;

1 (9) submit to reasonable searches and seizures by a parole  
2 officer, or a peace officer acting under the direction of a parole  
3 officer;

4 (10) submit to appropriate medical, mental health, or con-  
5 trolled substance or alcohol examination, treatment, or counseling;

6 (11) submit to periodic examinations designed to detect the  
7 use of alcohol or controlled substances;

8 (12) make restitution ordered by the court [TO A VICTIM OF  
9 THE PRISONER'S CRIME,] according to a schedule established by the  
10 board;

11 (13) refrain from opening, maintaining, or using a checking  
12 account or charge account;

13 (14) refrain from entering into a contract other than a  
14 prenuptial contract or a marriage contract;

15 (15) refrain from operating a motor vehicle;

16 (16) refrain from entering an establishment where alcoholic  
17 beverages are served, sold, or otherwise dispensed;

18 (17) refrain from participating in any other activity or  
19 associating with any other person that the board determines is rea-  
20 sonably likely to diminish the rehabilitative goals of parole, or that  
21 may endanger the public.

22 \* Sec. 24. AS 33.16.900 is amended by adding a new paragraph to read:

23 (11) "victim's survivor" or "survivor" has the meaning given  
24 in AS 33.30.901.

25 \* Sec. 25. AS 33.20.080 is amended to read:

26 Sec. 33.20.080. BOARD OF PAROLE TO INVESTIGATE APPLICATIONS FOR  
27 EXECUTIVE CLEMENCY. The governor may refer applications for executive  
28 clemency to the board of parole. The board shall investigate each  
29 case and submit to the governor a report of the investigation,

1 together with all other information the board has regarding the appli-  
2 cant. When the report or investigation is submitted, the board shall  
3 also transmit to the governor the comments it has received under (b)  
4 of this section.

5 \* Sec. 26. AS 33.20.080 is amended by adding new subsections to read:

6 (b) If requested by the victim or the victim's survivor, the  
7 board shall send notice of an application for executive clemency  
8 submitted by a state prisoner who has been convicted of a crime  
9 against a person to the victim or the victim's survivor. The victim  
10 may comment in writing to the board on the application for executive  
11 clemency.

12 (c) If a victim or a victim's survivor desires notice under (b)  
13 of this section, the victim or the victim's survivor shall maintain a  
14 current, valid mailing address on file with the board. The board  
15 shall send the notice required under this section to the last known  
16 address of the victim or victim's survivor.

17 (d) The address of the victim or victim's survivor may not be  
18 disclosed to the applicant for executive clemency or the applicant's  
19 attorney.

20 (e) In this section,

21 (1) "crime against a person" has the meaning given in  
22 AS 33.30.901;

23 (2) "victim," and "victim's survivor" or "survivor" have  
24 the meanings given in AS 12.55.185.

25 \* Sec. 27. AS 33.30 is amended by adding a new section to read:

26 Sec. 33.30.013. COMMISSIONER TO NOTIFY VICTIMS. (a) The com-  
27 missioner shall notify the victim or the victim's survivor of an  
28 offense if the offender

29 (1) escapes from custody;

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

2 (3) is released on an early release program.

3 (b) The commissioner is required to give notice of a change in  
4 the status of an offender under this section only if the victim or the  
5 victim's survivor has requested notice of the change.

6 (c) A victim or victim's survivor who has requested notice under  
7 (b) of this section shall maintain a current, valid mailing address on  
8 file with the commissioner. The commissioner shall send the notice  
9 from the department required by this section to the last known address  
10 of the victim or victim's survivor.

11 (d) The address of the victim or victim's survivor may not be  
12 disclosed to the offender or the offender's attorney.

13 \* Sec. 28. AS 33.30.111(f) is repealed and reenacted to read:

14 (f) If the commissioner considers a prisoner convicted of a  
15 crime against a person for furlough, and the victim or victim's  
16 survivor has requested notice under AS 33.30.013, the commissioner  
17 shall send notice of intent to consider the prisoner for a prerelease  
18 furlough to the victim or the victim's survivor. The victim or the  
19 victim's survivor may comment in writing on the intent of the commis-  
20 sioner to release the prisoner on prerelease furlough status. The  
21 commissioner shall consider the comments of the victim or the victim's  
22 survivor before making a final decision to release a prisoner on a  
23 prerelease furlough. The commissioner shall make every reasonable  
24 effort to notify the victim or the victim's survivor of an intent to  
25 release the prisoner on a prerelease furlough. The notice must con-  
26 tain the expected date of the prisoner's release, the geographic area  
27 in which the prisoner will reside and other pertinent information  
28 concerning the prisoner's release that may affect the victim or the  
29 victim's survivor. If there is more than one survivor of a victim of

1 crime, the commissioner shall designate one survivor to represent all  
2 survivors for purposes of receiving the notice to survivors required  
3 by law, and of exercising the rights granted to survivors.

4 \* Sec. 29. AS 33.30.151(a) is amended to read:

5 (a) The commissioner shall establish correctional restitution  
6 centers in the state. The purpose of the centers is to provide cer-  
7 tain offenders with rehabilitation through community service and  
8 employment while protecting the community through partial incar-  
9 ceration of the offender, and to create a means to provide restitution  
10 to a victim or victim's survivor [VICTIMS OF CRIMES].

11 \* Sec. 30. AS 33.30.901 is amended by adding a new paragraph to read:

12 (14) "victim's survivor" or "survivor" has the meaning given  
13 in AS 12.55.185.

14 \* Sec. 31. AS 44.23.020(b) is amended by adding a new paragraph to  
15 read:

16 (9) establish and maintain an assistance program to ensure  
17 that victims of crimes and survivors of victims of crimes receive  
18 information about the rights, entitlements, and services that are  
19 provided to a victim or victim's survivor by law.

20 \* Sec. 32. AS 47.10 is amended by adding a new section to read:

21 Sec. 47.10.072. ACCESS TO HEARING BY VICTIM OR VICTIM'S SURVI-  
22 VOR. (a) If a crime was committed by a minor who is scheduled for a  
23 hearing under AS 47.10.070, the victim or the victim's survivor may  
24 request from the court permission to attend the hearing. If the  
25 victim or victim's survivor requests, the Department of Health and  
26 Social Services shall assist the victim or victim's survivor in pre-  
27 paring a written submission to the court requesting access to the  
28 hearing. The Department of Health and Social Services shall make  
29 reasonable efforts to inform victims of the availability of this

1 assistance. If there is more than one survivor of a victim of crime,  
2 the commissioner of health and social services shall designate one  
3 survivor to represent all survivors for purposes of exercising the  
4 rights granted under this section.

5 (b) In this section, "victim," and "victim's survivor" or  
6 "survivor" have the meanings given in AS 12.55.185.

7 \* Sec. 33. AS 12.61.020(e)(2) is repealed.

8 \* Sec. 34. Rule 32(d)(1), Alaska Rules of Criminal Procedure, is amend-  
9 ed to read:

10 (1) WHEN MADE The probation service shall make a presen-  
11 tence investigation and report before the court imposes sentence or  
12 grants probation. The presentence investigation and report shall be  
13 completed and made available to the court. The report shall not be  
14 disclosed to any one except counsel unless the defendant has tendered  
15 a plea of guilty or nolo contendere or has been found guilty. If the  
16 crime for which the person is to be sentenced is a felony, the con-  
17 tents shall be disclosed to counsel for the parties before the time of  
18 the hearing on the aggravator and mitigator factors and sentencing.  
19 The court may utilize the report in determining if a bargained sen-  
20 tence recommendation will be followed pursuant to Rule 11. In the  
21 event the attorneys for the parties request the preparation of a  
22 presentence report to aid them in plea bargaining the court may order  
23 such report to be made prior to the time stated in this rule.

24 \* Sec. 35. Rule 32. Alaska Rules of Criminal Procedure, is amended by  
25 adding a new subsection to read:

26 (g) WRITTEN STATEMENT SUBMITTED BY VICTIM OR VICTIM'S SURVIVOR.  
27 If a written statement is prepared and submitted by the victim of a  
28 felony offense or by the survivor of the victim of a felony offense  
29 under AS 12.55.023, the trial court shall take the content of the

1 written statement into consideration when

2 (1) preparing those elements of the sentencing report  
3 required by AS 12.55.025 that relate to the effect of the felony  
4 offense on the victim or the victim's survivors; and

5 (2) considering the need for restitution under  
6 AS 12.55.045.

7 \* Sec. 36. Rule 35, Alaska Rules of Criminal Procedure, is amended by  
8 adding a new subsection to read:

9 (c) The victim or victim's survivor may comment on motions made  
10 on this rule as follows:

11 (1) When an individual convicted of a crime against a  
12 person files a motion to modify a sentence, the court shall, if feasi-  
13 ble given the time constraints and circumstances of the motion, send a  
14 copy of the motion to the Department of Corrections sufficiently in  
15 advance of any scheduled hearing so as to enable the department to  
16 notify the victim of the crime of the right to comment in writing, as  
17 authorized by AS 12.55.088(e). When an individual convicted of a  
18 crime against a person files a motion to reduce a sentence under this  
19 rule, the court shall send a copy of the motion to the Department of  
20 Corrections sufficiently in advance of any scheduled hearing so as to  
21 enable the department to notify the victim of the crime of the right  
22 to comment in writing, as authorized by AS 12.55.088(e).

23 (2) The court shall provide copies of the comments of the  
24 victim or victim's survivor to the prosecuting attorney and to the  
25 person filing the motion to reduce or modify a sentence, or to the  
26 person's attorney.

27 (3) The court shall consider the comments of the victim or  
28 victim's survivor when relevant, and any response offered by the  
29 person filing the motion, in deciding whether to reduce or modify a

1 sentence.

2 (4) In this rule,

3 (A) "crime against a person" means

4 (i) a crime as set out in AS 11.41, except cu  
5 dial interference under AS 11.41.320 and 11.41.330; or

6 (ii) a crime against a person in this or anot  
7 jurisdiction having elements substantially identical  
8 those of a crime as set out in AS 11.41, except custodi  
9 interference under AS 11.41.320 and 11.41.330;

10 (B) "victim" means a natural person against whom a  
11 offense has been perpetrated;

12 (C) "victim's survivor" or "survivor" means the  
13 spouse, parent, child, brother, sister, aunt, uncle, parent-  
14 in-law, brother-in-law, sister-in-law, grandparent, or legal  
15 guardian, of a victim who is dead.

16 \* Sec. 37. APPLICABILITY. The provisions of this Act prescribing the  
17 rights of a victim of a crime and of a victim's survivor during the course  
18 of criminal, civil, and administrative proceedings apply to proceedings  
19 against defendants initiated on or after the effective date of this Act.  
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# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

sentence.

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(4) In this rule,

(A) "crime against a person" means

(i) a crime as set out in AS 11.41, except custodial interference under AS 11.41.320 and 11.41.330; or

(ii) a crime against a person in this or another jurisdiction having elements substantially identical to those of a crime as set out in AS 11.41, except custodial interference under AS 11.41.320 and 11.41.330;

(B) "victim" means a natural person against whom an offense has been perpetrated;

(C) "victim's survivor" or "survivor" means the spouse, parent, child, brother, sister, aunt, uncle, parent-in-law, brother-in-law, sister-in-law, grandparent, or legal guardian, of a victim who is dead.

\* Sec. 37. APPLICABILITY. The provisions of this Act prescribing the rights of a victim of a crime and of a victim's survivor during the course of criminal, civil, and administrative proceedings apply to proceedings against defendants initiated on or after the effective date of this Act.

PROPOSED AMENDMENTS TO CSHB 36 (Jud)

Page 9, lines 24 - 27, the language should be changed as follows:

(11) "victim" means a person against whom an offense has been perpetrated or that person's representative, or, if the person is a minor [,] or incompetent, [OR INCAPACITATED,] the [SPOUSE,] parent or legal guardian of that person;

Page 16, lines 7 - 10, the language should be changed as follows:

Notwithstanding AS 33.16.900(10), [IF THE VICTIM IS A MINOR, INCOMPETENT, OR INCAPACITATED,] the victim's [SPOUSE] representative, parent or legal guardian may not exercise the right provided under this subsection.

Pages 22 - 23, Section 41 amending Rule 35 of the Alaska Rules of criminal Procedure requires an additional subsection (and renumbering the final subsection):

(3) If there is more than one survivor of a victim of crime, the prosecuting attorney shall designate one survivor to represent all victim's survivors for purposes of receiving notice to victim's survivors required by this chapter, and of exercising the rights granted to victim's survivors under this rule.

H B

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STATE OF ALASKA  
THE LEGISLATURE

POUCHY - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE REFERENCE LIBRARY

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

HB 52

H. HESS

2/23/89



*Andy*

**Representative Jim Zawacki**  
**Alaska State Legislature**

311 C STREET SUITE 415  
ANCHORAGE ALASKA 99501  
(907) 561 2037

400 E 15 AVENUE  
POUCH 4  
JUNEAU ALASKA 99801  
(907) 465 2719/2693

MEMBER  
STATE AFFAIRS COMMITTEE  
LEGISLATIVE COUNCIL  
FINANCE SUBCOMMITTEE  
PUBLIC SAFETY  
ANCHORAGE CAUCUS  
CO CHAIRMAN

**M E M O R A N D U M**

**TO:** Max Gruenberg, Co-Chair  
Judiciary Committee  
House of Representatives

**FROM:** Jim Zawacki  
Representative

**DATE:** April 11, 1989

**RE:** CSHB52

*Jim*

-----  
I would like to respectfully request that the House Judiciary Committee schedule a hearing for CSHB52 at the earliest convenience of the chair.

Thank you very much for your consideration.

# HOUSE COMMITTEE REPORT

(7)]

Date Referred: April 5, 1989

FURTHER REFERRALS: FINANCE

Date of Committee Action: 4/24/89

The JUDICIARY Committee considered:

HB 52

HOUSE BILL NO. 52

[TEACHERS/ADMINISTRATORS CRIMINAL RECORDS]

"An Act relating to access to criminal records by the Department of Education; and providing for an effective date."

RECOMMENDATIONS:

- [ ] be replaced with CS HB 52 (Judiciary) [ ] the same title [X] a new title
- [ ] have attached amendment(s)
- [ ] do pass
- [ ] do not pass
- [ ] no recommendation
- [X] individual recommendations
- [ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(s):  
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- [ ] fiscal impact \_\_\_\_\_
- [ ] zero fiscal note \_\_\_\_\_
- [ ] zero with analysis \_\_\_\_\_

- [X] fiscal note(s) DOE 4/5/89
- [X] zero fiscal note(s) Dept of Law 4/5/89
- [ ] zero fn/analysis \_\_\_\_\_

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Chairman's Signature

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 3, 1989

SUBJECT: Access to criminal records - CSHB 52(HESS)  
TO: Representative Johnny Ellis  
FROM: Michael F. Ford *M.F.*  
Legislative Counsel

I wanted to bring several points to your attention regarding CSHB 52(HESS). First, if it is the intent of the committee to require that records of any convictions for both contributing to the delinquency of a minor and sex crimes be released, then I would recommend amending the duty of the Department of Public Safety to require that both categories of convictions be disclosed, regardless of the request. Second, in sec. 2, I would recommend that "initial" be inserted before the word "certification" if you do not intend to require disclosure for a person after their first certification. Last, in section 1, I would recommend deleting the phrase "authorize the disclosure of" and insert "disclose the", as a clean-up change to the bill.

NEA  
wants  
OK.

Please contact me if you have further questions.

MF:kb  
wkk3/063

Forwarded to: Reps. Zwicki, Gill, Greenberg

*Hagden*  
*Please note!*  
*and take appropriate*  
*action.*

6-0247D  
Ford  
4/22/89

Original sponsors: Zawacki and Hanley

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 52 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to access by an interested person to  
7 criminal records of all felony convictions, convic-  
8 tions involving contributing to the delinquency of a  
9 minor, and convictions involving sex crimes of cer-  
10 tain persons; and providing for an effective date."

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

12 \* Section 1. AS 12.62.035(a) is amended to read:

13 (a) An [NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN] inter-  
14 ested person [AS DEFINED IN (e) OF THIS SECTION] may request from the  
15 Department of Public Safety [COMMISSION] records of all felony con-  
16 victions, convictions involving contributing to the delinquency of a  
17 minor, and convictions involving any sex crimes of a person who holds  
18 or applies for a position in which the person has or would have super-  
19 visory or disciplinary power over a minor. The Department of Public  
20 Safety [COMMISSION] shall disclose [AUTHORIZE THE DISCLOSURE OF] the  
21 information to the requesting interested person and shall provide a  
22 copy of the information to the person who is the subject of the re-  
23 quest.

24 \* Sec. 2. AS 12.62.035 is amended by adding a new subsection to read:

25 (f) The Department of Education shall request and receive re-  
26 cords under (a) of this section for a person seeking initial certifi-  
27 cation as a teacher or administrator.

28 \* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).  
29

A M E N D M E N T

OFFERED IN THE HOUSE

BY ZAWACKI

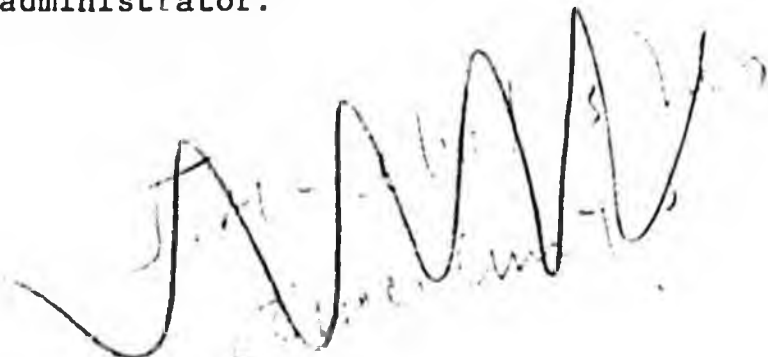
TO: HB 52

Page 1, lines 21 - 25:

Delete all material and insert:

"(f) The Department of Education shall request and receive records under (a) of this section for a person seeking certification as a teacher or administrator."

*of record*

A large, stylized handwritten signature in black ink, appearing to be 'J. M. Ford', is written across the lower middle of the page.

During the original drafting of this legislation, there was a misinterpretation between the Sponsor of the bill and the drafter. Section 2, f(2) "shall request records on behalf of a school district" was not intended by the Sponsor to be in the original draft.

Therefore, the Sponsor will be respectfully requesting permission of the House HESS Committee to offer an amendment to the bill. This proposed amendment would simply remove the previously stated provision.

The above mentioned provision which would require that the Department of Education request records on behalf of a school district imposes unnecessary duties and financial burdens on DOE, and may introduce additional potential for delay or mishandling of a request, without any obvious benefit. Since school districts considering the employment of a person are already "interested persons" under AS 12.62.035(e), and could therefore request records directly if they so desired.

This explanation may sound difficult on paper, but it is rather easy to explain. If you have any questions or would like further clarification, please contact Portia in my office at 2719.

Thank you for your time and consideration.

LETTERS OF SUPPORT

for

HB52

March 29, 1989

1. NEA-Alaska
2. Yukon/Koyukuk School District, Nenana, Ak.
3. Chatham School District, Angoon, Ak.
4. Mr. Pius F. Imgalrea, Chevak, Ak.
5. Anchorage School District, Anchorage, Ak.
6. Fairbanks North Star Borough Schools, Fairbanks, Ak.
7. Matanuska-Susitna Borough School District
8. Alaska Gateway School District, Tok, Ak.
9. Alaska PTA
10. Copper River School District, Glennallen, Ak.
11. Mr. Alex Tatum, Chevak, Ak.
12. Ms. Lillian Pingayak, Chevak, Ak.
13. Kodiak Baptist Mission, Kodiak, Ak.
14. Kenai Peninsula School District
15. Governor's Interim Commission on Children and Youth
16. Yupit School District, Akiachak, Ak.
17. Justice for Children, Juneau, Ak.
18. Louise Howerter, Juneau, Ak.
19. Pat Marlin, Juneau, Ak.
20. Sue Miller, Juneau, Ak.
21. Lower Yukon School District, Mountain Village, Ak.
22. Chugach School Board, Chenega Bay, Ak.

23. Hydaburg City School, Hydaburg, Ak.
24. Seward Chamber of Commerce, Seward, Ak.
25. Skagway City Schools, Skagway, Ak.
26. North Slope Borough School District
27. Cordova Chamber of Commerce, Cordova, Ak.
28. Talkeetna Chamber of Commerce, Talkeetna, Ak.
29. Big Lake Chamber of Commerce, Big Lake, Ak.



# NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

## ANCHORAGE REGIONAL OFFICE

1411 W 33RD AVENUE  
ANCHORAGE, ALASKA 99503  
(907) 274-0536

## JUNEAU OFFICE

105 MUNICIPAL WAY, SUITE 302  
JUNEAU, ALASKA 99801  
(907) 586-3090

## FAIRBANKS REGIONAL OFFICE

2118 CUSHMAN STREET  
FAIRBANKS, ALASKA 99701  
(907) 456-4435

February 20, 1989

To: Representative Johnny Ellis, Chair  
Members, House HESS Committee

Re: House Bill No. 52; "An Act relating to access  
to criminal records by the Department of  
Education; and providing for an effective date."

NEA-Alaska supports the concept that the Department of Education should function as the "interested person" per AS 12.62.035 (a) on behalf of all school districts.

Such a change would standardize the varying procedures which are in place in different districts and should serve to make the entire process more efficient.

This could easily be done as part of the original request by prospective applicants for Alaska teacher certification.

If this is the intent of HB 52, then NEA-Alaska supports it and encourages your favorable consideration.

We do have some concern as to the purpose of the deletion on line 12 of HB 52 and would like to receive further clarification re same.

Thank you for your consideration of our position.

Respectfully submitted,

Bob Manners  
Executive Secretary

cc: Representative Jim Zawacki



# ASSOCIATION OF ALASKA SCHOOL BOARDS

316 W. 11th St. • Juneau, Alaska 99801-1510 • (907) 586-1083

## POSITION PAPER

### HB 52

### Access to Criminal Records

"The Association of Alaska School Boards supports passage of HB 52, "An Act relating to access to criminal records by the Department of Education; and providing for an effective date."

AS 12.62.035, titled "Request for Criminal Justice Information," provides that any organization in the State of Alaska that employs personnel who have supervisory or disciplinary authority over minors may require criminal justice information for any person that holds or applies for a position.

Such information is intended to identify any person that may have been convicted of contributing to the delinquency of a minor or any sex crimes in order to protect our youth from potential abuse from such persons.

The Association of Alaska School Boards supports the position that a criminal investigation becomes a requirement for certification of teaching in the State of Alaska. AASB also encourages the same investigation for re-certification if there has been a break in service.

# Kodiak Baptist Mission

1944 Rezanof Drive East

Kodiak, Alaska 99615

(907) 486-4126



February 2, 1989

Representative Jim Zawacki  
Alaska State Legislature  
House of Representatives  
Pouch V  
Juneau, AK 99811

Dear Representative Zawacki:

All of the youth in the care of the Kodiak Baptist Mission attend public school. We are concerned about their health and safety while in the educational environment, therefore, we support HBS2.

Sincerely,

*Jeannie Volker*  
Jeannie Volker  
Executive Director

JV/jp

# KENAI PENINSULA BOROUGH SCHOOL DISTRICT

148 North Binkley Street • Soldotna, AK 99669 • Phone 907/262-5848



February 2, 1989

Representative Jim Zawacki  
Alaska House of Representatives  
Box V  
Juneau, AK 99811-3101

Dear Jim:

Thank you for your recent correspondence regarding HB 52. We certainly endorse the basic concepts embodied in your bill. It is our belief that the examination process belongs with the Department of Education at the time that a teacher certificate is issued.

The legislature should be aware that there would no doubt be an additional cost to the Department of Education for the necessary staff to accomplish the background checks that would be required. It is not practical for individual districts to undertake this process due to costs and considerable duplication of effort.

I trust that this information is helpful.

Sincerely,

A handwritten signature in cursive script that reads "Fred".

Fred Pomeroy  
Superintendent

bj

cc: Senator Paul Fischer  
Senator Jalmar Kerttula  
Senator Mike Szymanski  
Representative Bette Cato  
Representative Mike Navarre  
Representative C.E. Swackhammer  
Representative Kay Wallis

STEVE COWPER  
GOVERNOR



Office of the Governor  
P.O. Box A  
Juneau, Alaska 99811  
465-3155

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU  
INTERIM COMMISSION ON CHILDREN AND YOUTH

February 1, 1989

Honorable Jim Zawacki  
Alaska State House  
P.O. Box V  
Juneau, Alaska 99811

Dear Representative Zawacki:

I apologize for the delay in responding to your January 25th letter requesting a position statement on HB52. The Commission was meeting in Anchorage at the time your request was received.

Although the Commission has had in effect for two years a policy of not taking positions on individual pieces of legislation, we have and do comment, in a conceptual framework, on items of special interest.

As you may know, the Commission addressed the issue of access to criminal records in its report. The recommendation spoke to the need for a "statewide system that provides employers with the criminal history of all personnel working directly with or supervising children."

Based on this recommendation, the Commission supports access to criminal records provided that the information is comprehensive enough to be useful, is made available in a timely manner, and is accessible to all employers.

Please feel free to contact the Commission office if there's anything further we can provide.

Sincerely,

A handwritten signature in cursive script that reads "Carla".

Carla Timpono  
Program Coordinator

CT:km

cc: Patty Meritt, Chair, GICCY  
Caren Robinson, Special Assistant, Governor's Office  
Shari Kochman, Legislative Aide, Governor's Office

Alaska's rates of child sexual and physical abuse are shocking, as noted above. Because the state does not keep records of assaults and murders by age of victim, we do not know how many of these incidents resulted in criminal charges and convictions. Anchorage alone had 618 child sexual abuse cases in 1986, a rate of 1,042 per 100,000 minor inhabitants, or 6.6 times the national rate of 158 per 100,000. Most professionals in child sexual abuse estimate that the hidden rate of child sexual abuse between five and 10 times greater than the reported rate.

Increased education and public awareness have led to increased reporting and expectations for protection of children and prosecution of offenders. Most reports, even those that are substantiated, do not result in the offender being prosecuted or treatment being made available to the victim. The resulting lack of confidence in the system means that children are victimized twice. They believe no one can or will rescue them or hold their abuser accountable.

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*Most professionals in child sexual abuse estimate that the hidden rate of child sexual abuse between five and 10 times greater than the reported rate.*

---

The Governor should charge this or a new Commission with an in-depth analysis of how the existing child protection system can be improved. To assist that analysis, law enforcement officials should keep data on reported incidents of assault and abuse, and the court system and the Alaska Judicial Council should keep statistics on sentencing of individuals found guilty of child sexual assault and physical abuse.



Our children are potentially at risk of abuse because pre-employment investigations for prior history of abuse are not required. Several obstacles prevent reducing this risk including the following:

- Abusers often have no formal conviction record.
- Criminal background checks are currently authorized but not required.
- Child caregivers are frequently hired on short notice and work briefly before moving to a better paying job.
- Agencies that investigate criminal histories and licensing actions have insufficient personnel.
- Convicted offenders of sexual assault may now have their record cleared through a suspended imposition of sentence regardless of whether they spend any time in jail.
- No system keeps track of reports of abuse on the same alleged abuser or allows disclosure to appropriate persons.

A statewide system that provides employers with the criminal history of all personnel working directly with or supervising children should be developed. This system should provide the information in a timely way at little cost to employee or employer. To assure that all sexual assault convictions remain on the record, criminal sentencing laws should be amended to prohibit suspended imposition of sentences for individuals convicted of sexual assault. Additionally, the child protection laws should allow for appropriate disclosure of instances of abuse by a person who works directly with or supervises children to authorized persons or agencies that employ people or use volunteers who work with children. Due process requires that the alleged abuser be given the opportunity to have a fair hearing before a determination that the report of abuse is founded is disclosed.

## PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE ZAWACKI

NAME: BRADLEY RAPHEL  
 TITLE: SUPERINTENDENT, YUPIIT SCHOOL DISTRICT  
 ADDRESS: BOX 100  
 CITY: AKIACHAK ZIP: 99551  
 PHONE: 825-4427

BILL NO: HB 52  
 SUBJECT: TEACHERS/ADMINISTRATORS CRIMINAL RECORDS  
 MESSAGE: THE YUPIIT SCHOOL DISTRICT BOARD OF EDUCATION HAS PASSED A RESOLUTION IN SUPPORT OF HB 52. WE ENCOURAGE YOU AND SUPPORT YOU IN JIM ZAWACKI'S EFFORTS TO HAVE HB 52 PASSED.

POMID: 03113420  
 DATE: 02/02/89  
 TIME: 11:34:20  
 LIONAME: ANCHORAGE LIO

COPIES: REPRESENTATIVE    SENATOR  
           HOFFMAN                BINKLEY

## PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE ZAWACKI

NAME: MARY ANN JONES  
 TITLE:  
 ADDRESS: P.O. BOX 403  
 CITY: KING SALMON, ALASKA ZIP: 99613  
 PHONE: 246-3092

BILL NO: SB 17  
 SUBJECT: CAPITAL PUNISHMENT  
 MESSAGE: I WOULD LIKE TO VOTE YES FOR IT AND ALSO LIKE TO HAVE YOUR RESPONSE ON HOW YOU ARE GOING TO VOTE. THANK YOU.

POMID: 03113811  
 DATE: 02/02/89  
 TIME: 11:38:11  
 LIONAME: ANCHORAGE LIO

COPIES: REPRESENTATIVES    REPRESENTATIVES    SENATORS

BARNES	BOUCHER	ADAMS
BOYER	BROWN	BINKLEY
CATO	COLLINS	COGHILL
COTTEN	DAVIDSON	DUNCAN
DAVIS, C.	DAVIS, M.	ELIASON
DOHLEY	ELLIS	FAHRENKAMP
FOSTER	FURNACE	FAIKS
GOLL	GRUEBERG	FISCHER
GRUSSENDORF	HANLEY	FRANK
HOFFMAN	Hudson	HALFORD
JACKO	KOPONEN	JONES
LARSON	LEMAN	KELLY
MACLEAN	HARTIN	KERTTULA
MENARD	MILLER	PEARCE
NAVARRE	PETT JOHN	POURCHOT
PHILLIPS	RIEGER	ROBEY
SHARP	SHULZ	STUBULENSKI
SPOHMOLZ	SWACHHAMMER	SZYMLINSKI
TAYLOR	ULMER	UEHLING
WALLIS		ZHAROFF

Alex Tatum  
150 Riverway  
Chevak, Alaska 99563  
February 3, 1989

Representative Jim Zawacki  
Alaska State Legislature  
Pouch V.  
Juneau, Alaska 99811

re: House Bill 52

Dear Jim;

This letter is to express full support of House Bill 52 dealing with employees of school districts having an undisclosed history of criminal sexual activity. However, I feel that this bill should be carried a step farther. People who serve on school boards should also have to be checked out in the same manner as teachers or other employees.

In our community of Chevak, we are involved in an unusual situation involving a school board member. This person was fired from a nearby school district for having sexual relations with several of his female students over a period of time - while employed as a certified teacher. After being fired from his position he, and his spouse, moved back to Chevak. The spouse was subsequently hired by this district as a certified teacher. The male spouse ran for the school board and seem to have won the election by a narrow (3 votes) margin.

Unlike larger communities such as Anchorage or Fairbanks etc.- there was no PUBLIC knowledge of the persons record. In fact, most of us didn't know that the person was running for the school board until the day of the election. Unlike larger communities there was no campaigning or even a posting of who was running for the school board.

Now we are faced with the potential of having a person on our school board with a history of repeated sexual misconduct with students under his control. From what the Department of Education says there is nothing that we can do about it. It is also our understanding that the Department of Law says the same thing.

Considering this fact, I feel that the bill under consideration should be amended to include school board officials also. In a small community such as ours, a school board official has a great deal of contact with students - including working as a chaperon on field trips at times.

Please consider amending the legislation to include covering school board members as part of the bill.

Sincerely,



Alex Tatum

# *Copper River School District*



Superintendent's Office  
Box 108  
Glennallen, Alaska 99588  
(907) 822-3234

February 6, 1989

Representative James E. Zawacki  
P.O. Box V (MS 3100)  
Juneau, AK 99811

Dear Jim:

Thank you for sponsoring such a greatly needed bill. It seems that HB52 will patch us some holes and allow us to keep people with a history of criminal sexual activity out of our schools.

Perhaps you should be aware that many of us (administrators) fear for our careers when we report a potential problem. This situation magnifies itself when the individual is a member of the NEA. Speaking from personal experience, my professional career is on the line because I investigated a teacher whom I suspected as being potentially dangerous to the children of this District.

The bottom line of this problem is the NEA's enforcement arm, the PTPC. I was told by the PTPC Executive Director that all NEA generated complaints against me would be dropped if I allow the PTPC to place a reprimand in my personnel file for notifying the members of my elected board of education of the contents of a court order I received garnishing the wages of one of my teachers for failure to pay child support. In my professional opinion, failure to pay child support should be viewed as child abuse, or at least child neglect.

Lillian Pingayak  
P.O. Box 5403  
Chevak, AK 99563

February 3, 1989

Representative Jim Zawacki  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Representative Zawacki:

As per our conversation on 2-1-89, I am following up with a letter. As I mentioned, I firmly support House Bill No. 52 which, I understand, is pending a hearing.

I feel that the present educational system should play a role in preventing people with past crimes related to sexual activities from working in school environments. Keeping the State of Alaska in mind as a state with a reported high number of sexual crimes, there should be some measures made to prevent people with records of criminal sexual activities working in our schools.

I know that many schools practice a lot of safety measures involving school children such as preventing physical injuries around school properties and in school activities. In all instances, the vitally unseen safety of children can easily be overlooked and that is the safety from sexual harassment or other sexually related incidents. I believe it is time that our school system start taking steps to protect school children from unseen harm from employees who may be freely taking advantage of the unprotected.

In addition to my support for HR52, I would like to bring to your attention a situation our community is facing at this time. We have a community member--a former certified teacher--who was employed by LKSD. During the time he was employed, it was found that he was engaged in sexual misconduct involving one of his female students. Due to that he was fired and since then has moved to our village. His wife currently is employed by our district.

During the last elections he ran for the Kashunamiut Board of Education and because of family support and the little knowledge of his past from community members, he won by a marginal vote. At this time there is discontent among the villagers who feel that this individual should not be seated in the board because of his past activities while he worked as a teacher.



Mentasta  
Tetlin  
Tok

Northway  
Dot Lake  
Eagle  
Tanacross

## SCHOOL DISTRICT REAA 16

P.O. Box 226, Tok, Alaska 99780

Representative Jim Zawacki 907-883-5151

District 7  
P. O. Box V  
Juneau, Alaska 99811

February 6, 1989

Dear Representative Zawacki,

Your efforts in preventing persons from becoming school employees who have previous criminal sexual activity is certainly something that will be helpful. Alaska Gateway requires the fingerprinting check.

When I met you in Juneau the other day, I made the comment that I had initiated the action within the Professional Teaching Practices Commission which requires Alaska to participate in the interstate exchange of information about educators whose certificates have been revoked. The State Offices did not want the responsibility of communicating to all of the other States that we had revoked the certificate for a teacher or an administrator. You may, at some point, want to add that requirement to statute as well.

We certainly want to do everything we can to prevent child abuse, in any manner, at the hands of the State employee. I can also assure you that there is more child abuse that goes on in the hands of the family and friends in this school district, everyday, than there is at the hands of all school district employees in the State in years. If we really want to make a difference in child abuse, sexual and other wise, there needs to be some action taken in regard to the responsibility of bringing a human life into the world. Children, who are the product of recreational activity or adolescent need, instead of a loving adult relationship or children who have parents or family who abuse them and neglect them in favor of alcohol, drugs or other pleasures, and on and on, are a far more significant problem.

The biggest problem, of course, is the recidivism of sex offenders whether or not they are convicted. We do very little, at present, to prevent recurrence of the crime. Why is it we have a repeat rate of over 90% while Denmark's is exactly the opposite?

**"Where Teachers Are The Gateway To Learning"**

Dot Lake  
907-882-2663

Eagle  
907-547-2210

Mentasta  
907-291-2317

Northway  
907-778-6301

Tok  
907-883-5161

Tetlin

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**