

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10306 HOUSE JUDICIARY

150

assistant U.S. attorney who is executive director of the National Commission on the Future of DNA Evidence, which Attorney General Janet Reno recently created. "How much money are we willing to put into the system to reduce the backlog so that we can use DNA more quickly and more effectively to solve and prevent crimes?"

The mounting momentum behind DNA databases, however, is also pushing forward objections to DNA evidence. Last week in Massachusetts, for example, a judge halted the gathering of blood samples for DNA profiling from thousands of prison inmates, probationers and parolees after several sued the state, arguing that it was an illegal search and seizure performed without proper safeguards.

Although similar challenges in other states have failed, civil liberties questions continue to come up as states move ahead, including issues of who, exactly, must submit to testing, and who can have access to the data.

In the aftermath of the DNA debacle at the O.J. Simpson murder trial, in which the defense accused the Los Angeles Police Department of contaminating DNA evidence, concerns also linger over whether the police and laboratory workers are being properly trained to handle such potentially damning evidence.

Still, financing is a burning question for DNA overseers like Dr. Paul Ferrara of Virginia's Division of Forensic Science, whose groundbreaking DNA program has been given a \$10 million budget for the next three years and who believes it will take \$500 million to establish a full-fledged national databank.

"We still have backlogs of six months or more before we can get to every case," Ferrara said. "How many crimes that we took a year to solve could have been solved in a week? And how many further offenses, rapes or murders, were committed by that individual in the meantime?"

In Florida, Coffman recalled, a convicted rapist was just eight days away from being paroled in 1995 when his DNA sample was finally entered into the databank. It was found to match evidence left at the horrific rape, mutilation and murder of another woman more than three years earlier.

That is the difference DNA databanks can make, said Walter Rowe, a professor of forensic sciences at George Washington University who has advised the federal government on dispensing some of the \$25 million that Congress allotted to DNA databases in 1994.

A national database, "God knows, may turn out to have an enormous impact," Rowe said, "if you reflect that rapists tend to be repeaters and studies have shown that most of the violent crime is committed by a very small number of criminals. If we're able to identify these guys and send them away, or if, instead of convicting the guy for one sexual assault we get him for 10 and he goes away for the rest of his life, think about the impact that will have on the safety of citizens."

Indeed, no one, not even those who have challenged DNA sample-gathering in court, deny that the databases can be heaven-sent crime-fighting tools. And DNA can work on prisoners' behalf as well. Already, 53 convicts have been exonerated after DNA testing was applied to the evidence in their cases, said Barry C. Scheck, whose Innocence Project at Yeshiva University's Benjamin Cardozo School of Law helped many of them gain freedom.

Rather, the main lingering questions about DNA testing and databases concern who should have to give samples and how those samples are handled.

The very existence of a DNA database smacks more of a Big Brother-ish assault on privacy than the existence of the national computerized network of fingerprints, civil libertarians say. Taking blood is much more invasive than fingerprints, they point out, and DNA carries so much more information -- information subject to abuse by insurance companies or even geneticists seeking the gene for something like pedophilia.

Furthermore, said Benjamin Keehn, a Boston public defender representing some of the inmates who have challenged the DNA collection here, "It's a very dangerous slippery slope" to round up thousands of convicts, probationers and parolees, as Massachusetts was doing, on the argument that they are likelier to commit a crime.

"Why not round up poor people?" Keehn asked. "Poor people are more likely to commit a crime, so shouldn't we have their DNA on file? Of course, there are benefits every time you get a cold hit. There are going to be dramatic success stories. But where does it stop? Why not take DNA samples at birth?"

In South Dakota, DNA samples are taken upon arrest, like fingerprints. Virginia, which has the most comprehensive database nationwide, with 160,000 samples gathered though only 10,000 have been analyzed, now gathers samples from all convicted felons, and even some juveniles.

And that, Ferrara argued, is the way to go. More than half of his cold hits from the crime scenes of rapes and murders came from felons who had previously been convicted only of breaking and entering or burglary, he said.

Scheck, who helped defend O.J. Simpson, advocates that states write into their DNA database laws that the data can be used by law enforcement agencies "for identification purposes only" to avoid abuses. Many states, like Massachusetts, have left their language more vague.

Two states, in fact, have not even passed database laws. But the two, Vermont and Rhode Island, are expected to finally join the other 48 this legislative session. Many other states have simply not allocated much money to their DNA databases, so large backlogs of unanalyzed samples have developed.

Even those that have kept up, however, will now have to start converting their samples from the old technique, known as Restriction Fragment Length Polymorphism, to a new method, Short Tandem Repeat, or STR. That faster, less expensive method looks at areas of the DNA strand that are generally considered something like "junk" DNA and do not determine an individual's traits.

It is a giant conversion task, experts say, but promises a great payoff. Technology has so advanced from the days when testing each DNA sample took weeks and cost several hundred dollars, they say, that in the near future, sample analysis will be largely automated, take only hours and eventually cost as little as \$10.

The technology has also advanced in that it can analyze far tinier quantities of biological evidence -- even the saliva from a cigarette butt or envelope flap and the sweat from a hatband, said Terry Laber, supervisor of the DNA unit of the Minnesota Bureau of Criminal Apprehension.

In some ways, he said, DNA evidence has already surpassed fingerprints in usefulness, and Minnesota's state crime laboratory now does DNA testing at all crime scenes, including mere burglaries.

Whether or not it beats fingerprinting, DNA evidence is especially valuable because of the types of crime scenes where it is usually found, said Harlan Levy, a former New York City prosecutor who wrote "And the Blood Cried Out" (Avon 1997) about the power of DNA evidence.

"They're murder cases and sexual violence cases," he said. "The kinds of cases where people care very dramatically about identifying the people who committed them and getting them off the street. And DNA databanks make that possible."

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Alaska Civil Liberties Union

An Affiliate of the American Civil Liberties Union

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Phone: (907) 258-0044 Fax: (907) 258-0288 Email: akclu@alaska.net

To: All House members

From: Jennifer Rudinger, Executive Director

Date: Thursday, April 19, 2001

Re: SB 99/HB 143: DNA collection from persons convicted of burglary

The Alaska Civil Liberties Union opposes SB 99/HB 143 and respectfully urges this body to put an end to the progressive expansion of DNA collection by the government. DNA collected from one person not only reveals personal information about that person (much of which has nothing to do with serving the needs of law enforcement), but it also reveals very personal information about that person's blood relatives. Unlike fingerprinting, which *only* reveals information that can be used for identification purposes, DNA gives the government control over a great deal of personal, private information about anyone related to the sample source. Therefore, expansion of the government's power to collect DNA from its citizens – even people convicted of crimes – should not be taken lightly. SB 99/HB 143 proposes to invade the privacy of innocent relatives, and the government's only justification is that in Alaska, there is roughly a 6% chance that burglars *might* later commit violent crimes in which they leave DNA evidence at the crime scene.

To give the House some background, DNA testing and profiling are becoming increasingly more common. States across the country and the federal government are expanding the scope of their DNA data banks as scientific knowledge about the content of this genetic material is growing by leaps and bounds.

In October 1998, the FBI opened a national database that brings together the DNA records from all 50 states and the federal government into one centralized system, known as CODIS (Combined DNA Index System). If this trend is allowed to continue, the most intimate and personal information about each individual could routinely become a matter of public record, to be used and abused at the state's discretion.

Initially, these DNA storehouses were created to house information about convicted sex offenders exclusively. The argument was that sex offenders were especially prone to recidivism, typically left DNA evidence at the crime scene, and hence, were important to identify. Whether or not that argument was sufficient, we were assured at the time that only convicted sex offenders would be tested, and the information gleaned from these tests would be used by law enforcement officials strictly for identification purposes.

But it is often the case that information initially collected for one, limited purpose is before long used for many other purposes. Slowly and inexorably, the pool of people being tested, and the range of uses for the data, has been expanding, raising grave concerns for personal privacy. In less than a decade, law enforcement officials across

the country have gone from advocating collection of DNA from only convicted sex offenders, to all violent offenders, to all burglars, to all persons convicted of any crime, to all juvenile offenders. In many states, the DNA samples are maintained even if a conviction is overturned.

Louisiana has gone a step further. A new state law will collect DNA data from everyone *arrested* for a felony crime -- before they have been convicted. In Louisiana, the record can be kept even if the person is found innocent. Former U.S. Attorney General Janet Reno asked the National Commission on the Future of DNA Evidence to look into the possibility of applying this concept across the country. In December 1998, New York City Police Commissioner Howard Safir jumped on the bandwagon, proposing the same idea. And New York's Mayor Rudy Giuliani not only voiced his support for the proposal, but went so far as to say that he would support the collection of DNA samples from all babies *at birth*, giving the city a genetic database of all its citizens!

The collection of DNA samples and the creation of DNA data banks have legitimate and vital medical, scientific and forensic purposes. Research can lead to treatments and even cures for many genetic diseases. DNA can prove that an individual was at the scene of a crime. It can also prove the innocence of a suspect, preventing terrible miscarriages of justice. DNA can even be used to correct wrongful convictions based upon an erroneous identification (although law enforcement and prosecutors are decidedly less enthusiastic about this use).

But it is equally clear that there is tremendous potential for abuse. The vast amount of information to be gleaned, the incredible longevity of DNA samples, and the ease with which DNA databases can be shared and accessed raise grave privacy, equality and due process concerns. Though DNA has been touted as a high-tech equivalent to fingerprints, this comparison is dangerously misleading. Where fingerprints can be used for identification purposes only, DNA samples can provide insight into a breathtaking wealth of singularly private information -- information about a person's ethnicity, family relationships, family history and the likelihood of getting some 4,000 genetic conditions and diseases. This information belongs to each individual, not the government. Further, geneticists are constantly increasing the database of information that can be gleaned from DNA -- some even claim that there are genetic markers for "criminal tendencies," sexual orientation, substance abuse, etc. The possibilities -- and thus the dangers -- are endless.

Today, the growing law enforcement databases raise the immediate specter of widespread discrimination. Given the over-targeting of Alaska Natives, African Americans, Latinos and other minorities within the criminal justice system nationwide, the government will have the disproportionate power to track millions of people of color.

Now the sponsors of SB 99/HB 143 want the Alaska Legislature to expand DNA sampling to include convicted burglars. It will help identify more violent criminals in the future, proponents say. Claiming that this is a minor and necessary expansion of the present system, proponents ask, "What's the harm?"

Because genetic information pertains not only to the individual whose DNA is sampled, but to everyone who shares in that person's blood line, potential threats to genetic privacy posed by their collection extend well beyond the millions of Americans whose samples are currently on file. Moreover, there is no requirement in SB 99/HB 143 or in the Alaska Statutes that the DNA sample from which genetic information is taken be destroyed. It is precisely the availability of these samples lying around that sparks ingenious ideas about new ways to use the information contained in those samples, thus prompting new legislation authorizing ever-increasing numbers of permissible uses for Alaskan citizens' DNA. This allows for the future possibility that all of the information could be used in other ways that we cannot even anticipate today.

For a perfect example of this phenomenon that the ACLU calls "function creep," the House needs look no further than the original version of HB 143. Shortly after SB 99 was introduced in the Senate (mandating collection from burglars only), Rep. Murkowski introduced HB 143 in the House and suggested that the State should not stop at burglars but should go so far as to allow law enforcement to demand DNA samples from anyone related to a missing person if law enforcement articulates even a remote possibility that this information "may benefit law enforcement." In order to allow such government seizure of Alaskans' DNA, the government must demonstrate a much tighter fit between ends and means than simply alleging that it "may benefit law enforcement."

We do not doubt that the sponsors of HB 143 and SB 99 have good intentions. However, once the genie is out of the bottle, so to speak, it can be impossible to close the lid on ever-expanding uses for this technology. Therefore, we urge you to exercise the utmost caution when considering the implications of expanding the State's ability to collect DNA from its citizens. There is a long and unfortunate history of despicable behavior by governments toward people whose genetic composition has been considered "abnormal" under the prevailing societal standards of the day. While the FBI has stated that this information will be used for limited forensic purposes, the history in our country is that information compiled for one purpose will be used for another. For example, Social Security numbers were initially intended only for use as an aid tracking social security payments but are now a universal identifier. Another example, Census records created for general statistical purposes were used to round up innocent Japanese Americans and place them in internment camps during World War II.

Your constituents throughout Alaska are concerned about the government's ever-increasing control over their personal information, and their concerns cross party and ideological lines. The Alaska Civil Liberties Union fields inquiries virtually every week regarding the government's demand for personal information – Social Security numbers, Census information, background checks, DNA and genetic information, etc. Almost every week, Alaskans voice concerns that the government cannot be trusted to keep this information confidential or to limit its use to the initial purpose for which it is given. And we agree. Your constituents are right.

In conclusion, SB 99/HB 143 does not "only" affect the person from whom a DNA sample is taken – it affects their relatives, who are law-abiding citizens innocent of any

crime. And the government's proposed justification for collecting DNA from burglars just doesn't fly in Alaska. Unlike the other states that law enforcement likes to cite, the Department of Public Safety has conceded that in Alaska, only 6% of burglars ever go on to commit a violent crime – meaning that 94% do *not*. We should not take DNA from people who have never committed a violent crime on the theory that someday 6% of them *might* commit a violent crime. If so, where will this end?

Please end it here and now. Please do not pass SB 99 or HB 143 out of the House.

SB

100

Alaska State Legislature
President of the Senate

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Official Business

SPONSOR STATEMENT

CSSSSB 100 (RLS) (Title amended)

"An act relating to regulation and operation of personal motor vehicles and to vehicle registration"

In the fall of 2001, a new clean fuel and quiet technological transportation device was unveiled to the nation. It is referred to as an Electric Personal Assistance Mobility Device. The intent of Senate Bill 100 is to define state and municipal regulation and operation of electric personal motor vehicles.

An Electric Personal Assistance Mobility Device is a self-balancing two non-tandem wheeled device that transport a single person with a no-emissions electric propulsion system. The maximum speed of this device is 15 miles or less. Its footprint is narrower than the average adult's shoulders and is no longer than a large shoe. When operated, the mobility device uses the same space as a pedestrian and takes up less space than a bicycle or other tandem-wheeled transportation. Because of its revolutionary dynamics, it can turn in place without impacting any nearby object. The device works seamlessly with the body's movements as the gyroscope and tilt sensors monitor the user's center of gravity 100 times a second. As a person leans slightly forward, the mobility device moves forward and such backwards.

As an electric wheelchair, this new personal assistance mobility device may provide increased and welcomed independence for both the elderly and the disabled, not to mention its many other uses. It was invented to act more in the capacity of a pedestrian rather than a motor vehicle and should therefore be regulated as such. In this light, the National Highway Traffic Safety Administration ruled this device is not a motor vehicle and should not be under their jurisdiction.

To date, seventeen states have signed similar legislation into law, four states have bills awaiting Governor signature and the remaining twenty-nine states have bills in the legislative process.

The legislation has a zero fiscal note. I appreciate the committee's favorable consideration of this legislation. Thank you.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CS SSSB 100
 (S) Publish Date: 4/10/02

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title An Act relating to Electric Personal BRU _____
Vehicles / Registration Component _____
 Sponsor Sen. Halford _____
 Requester Senate Transportation Committee Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

Prepared by: SENATE TRANSPORTATION COMMITTEE Phone 465-3879
 Division _____ Date/Time _____
 Approved by: /s/ Senator Cowdery, Chair Date 4/9/02
 Agency _____

SB

103

Moved by
Rokeberg
Adopted
as amended

Conceptual amendment - to draft

22-LS0148\G.1

Cramer

4/4/01

make sure this
requirement is in the right
spot

AMENDMENT #1

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROKEBERG

TO: CSSB 103(FIN)

1 Page 1, line 1, following "campaigns":

2 Insert ", financial disclosure statements of public officials and legislators,"

3

4 Page 1, following line 2:

5 Insert a new bill section to read:

6 **** Section 1.** AS 15.13.030 is amended to read:

7 **Sec. 15.13.030. Duties of the commission.** The commission shall

8 (1) develop and provide all forms for the reports and statements
9 required to be made under this chapter, AS 24.45, and AS 39.50; the commission
10 shall develop and provide a single form to be used for filings of financial
11 disclosure statements by public officials under AS 39.50 and filings of financial
12 disclosure statements by legislators under AS 24.60.200 - 24.60.260;

13 (2) prepare and publish a manual setting out uniform methods of
14 bookkeeping and reporting for use by persons required to make reports and statements
15 under this chapter and otherwise assist candidates, groups, and individuals in
16 complying with the requirements of this chapter;

17 (3) receive and hold open for public inspection reports and statements
18 required to be made under this chapter and, upon request, furnish copies at cost to
19 interested persons;

20 (4) compile and maintain a current list of all filed reports and
21 statements;

22 (5) prepare a summary of each report filed under AS 15.13.110 and
23 make copies of this summary available to interested persons at their actual cost;

24 (6) notify, by registered or certified mail, all persons who are

1 delinquent in filing reports and statements required to be made under this chapter;

2 (7) examine, investigate, and compare all reports, statements, and
3 actions required by this chapter, AS 24.45, and AS 39.50;

4 (8) prepare and publish a biennial report concerning the activities of
5 the commission, the effectiveness of this chapter, its enforcement by the attorney
6 general's office, and recommendations and proposals for change; the commission shall
7 notify the legislature that the report is available;

8 (9) adopt regulations necessary to implement and clarify the provisions
9 of AS 24.45, AS 39.50, and this chapter, subject to the provisions of AS 44.62
10 (Administrative Procedure Act)."
11

12 Page 1, line 3:

13 Delete "Section 1"

14 Insert "Sec. 2"

15
16 Renumber the following bill sections accordingly.

Moved by
Berkowitz
FAILS

AMENDMENT #2

OFFERED IN THE HOUSE

by Representative Berkowitz

TO: CS SB 103 (FIN)

- 1 Page 5, lines 3-5,
- 2 Delete all materials

Moved
by Berkowitz
FAILS

AMENDMENT #3

OFFERED IN THE HOUSE

by Representative Berkowitz

TO: CS SB 103 (FIN)

- 1 Page 6, lines 2-9,
- 2 Delete all materials

Moved
by Berkowitz
FAILS

AMENDMENT #4A

OFFERED IN THE HOUSE

by Representative Berkowitz

TO: CS SB 103 (FIN)

- 1 Page 7, lines 1-5,
- 2 Delete all materials

Adopted

Dgan

Conceptual Amendment #4B

Page 7, Line 1

insert "per year" after "or less"

Moved by
Berkowitz
FAILS

AMENDMENT #5

OFFERED IN THE HOUSE

by Representative Berkowitz

TO: CS SB 103 (FIN)

- 1 Page 9, line 31,
- 2 Delete all materials
- 3 Page 10, lines 1-5,
- 4 Delete all materials

Adopted

Amendment #5B

Ogan

Page 9, Line 31

Insert "incidental" in front of "use"

moved
by Baskowitz
WITHDRAWN

Amendment #5c

Page 10, Line 2

delete "or federal Constitution"

Moved
by Berkowitz
WITHDRAWN

Amendment # 6

CS SB 103 (FIN)

Rep. Berkowitz

Page 5, Lines 6 - 11,

Delete all materials

Rokeberg
FAILS

Amendment #7

Conceptual Amendment

If a ~~legislature~~ legislative member
dies - his wife gets remaining POET
account funds



Official Business

Alaska State Legislature

State Capitol
Juneau, AK 99801-1182

MEMORANDUM

TO: Representative Norman Rokeberg, Chair
House Judiciary Committee

FROM: Senator Gene Therriault, Chair
Senate State Affairs Committee

Submitted for G.T.

DATE: April 5, 2001

SUBJECT: Hearing Request

APR 05 2001

I respectfully request that SB 103 be scheduled for a hearing in the House Judiciary Committee.

Sponsored by the Senate State Affairs Committee, SB103 is largely a clean-up bill to address conflicts and concerns that have arisen in the campaign finance and legislative ethics statutes. It also puts into law administrative rulings made by the Alaska Public Offices Commission (APOC) and informal advice given by the Legislative Ethics Committee. This legislation is different from last year's HB 225. It does not contain what were the more controversial elements of that bill.

Please contact me if you have any additional questions.



Alaska State Legislature

Official Business

State Capitol
Juneau, AK 99801-1182

Senate Bill 103

"An Act relating to election campaigns and legislative ethics; and providing for an effective date."

SPONSOR: Senate State Affairs Committee

SPONSOR STATEMENT:

Senate Bill 103 is largely a clean-up bill to address conflicts and concerns that have arisen in the campaign finance and legislative ethics statutes. It also puts into law administrative rulings made by the Alaska Public Offices Commission (APOC) and informal advice given by the Legislative Ethics Committee. This legislation is different from last year's HB 225. It does not contain what were the more controversial elements of that bill.

SB 103 makes the following changes:

- Clarifies that multiple groups controlled by a single candidate be treated as a single group for purposes of the contribution limit in AS 15.13.070(b)(1)
- Adds thank you advertisements to list of permissible uses of unused campaign funds
- Increases the total value of personal property which may be retained by a candidate
- Provides that money held by public entities may be used to influence the outcome of a ballot proposition or question under limited circumstances
- Clarifies and further defines contributions
- Adds new exceptions to and clarifies the prohibition on use of public assets and resources by legislators and legislative employees for nonlegislative purposes and certain previously prohibited public political uses

<u>Section</u>	<u>pg,ln</u>	<u>issue</u>	<u>reason</u>	<u>example</u>
1	p 1; 11-14	multiple groups controlled by a single candidate are treated as a single group for contribution limit purposes		non-partisans for Candidate Smith and Friends and Neighbors for Candidate Smith; a single contributor may not give \$500 to both groups
2	p 2, ln 7	surplus campaign funds used for thank you ads	APOC already allows this; the Legislature is merely codifying it	
	p 3, ln 20-26	POET Account transfers are limited to \$10,000 for Reps and \$20,000 for Senators	the POET Reserve is being repealed in section 9	
3	p 4, ln 13	the value of property retained by the candidate is increased to \$5,000		
	p 4, ln 16-26	retaining bulk mail permits	If, as a legislator, you used your campaign's bulk mail permit, you can use it in your next race for public office without it being considered a contribution in your next race	You can use the same bulk mail permit across races and terms in office without having to reapply for new permits in each new race
	p 5, ln 1-2	greeting cards purchased with campaign funds	APOC already allows this; the Legislature is merely codifying it	
	p 5, ln 3-5	campaign signs may be retained or disposed of by the candidate	this is a little bit of a gray area--APOC currently says signs have no value after the race. The legislature is clarifying that the candidate may decide what to do with their signs	
4	p 5, ln 9	money held by state entities may be used to influence the outcome of a ballot proposition	allows legislators to use their office account or staff support or oppose proposed constitutional amendments; constitutional amendments may only come from the legislature	Sen Smith uses money in his office account (held by LAA) to pay for stationery or postage on a mailing regarding his support or opposition to a constitutional amendment; while APOC may find this falls within the "legislative duties" exception, this new language would clearly allow for it

<u>Section</u>	<u>pg.In</u>	<u>issue</u>	<u>reason</u>	<u>example</u>
5	p 5, ln 25-31	professionals volunteering for a political party or candidate	politics today, unfortunately, requires the services of professionals more and more often: legal challenges, campaign finance compliance; Attorneys and Accountants charge various fees within their profession--differences between rates charged by private and non-profit attorneys result in treating two people differently; why should a family law attorney be "charged" at her hourly professional rate for work outside of her expertise?	
	p 6, ln2-5	two or fewer mass mailings before each election	political parties should have the ability to trumpet who they support in a given election--the "slate" mailings aren't a "direct" benefit to a single candidate	
	p 6, ln 6-9	polls limited to issues	allows candidates to receive information	
	p 6, ln 10-14	newsletter communication	legislators should be able to communicate to their constituents without APOC deciding that it constitutes a contribution	Sen. Smith should be able to include information in a newsletter to his constituents that helps them think about state issues at a time when their awareness is heightened on this subject
6	p 6-7, ln 30-5	communications on any subject	1st Amendment principles; this is not a loophole--there is a limitation on how much communicating a given entity may do	

<u>Section</u>	<u>pg,ln</u>	<u>issue</u>	<u>reason</u>	<u>example</u>
7	p 8, ln 2-3	use of legislative offices	legislators already may use their offices for non-legislative purposes during session and the 5 days before and after session; this increases those days so that people can come to Juneau earlier and stay longer without being unduly burdened	a legislator who has a law practice and brings his family with him to Juneau will need additional days before and after session to first get their children into school on-time and then allow them to finish out the rest of the school year once session is over. This allows them to use their office for a non-legislative purpose without violating the Ethics statutes
	p 8, ln 11-21	reasonable exceptions to what legislators and their employees may do with state facilities, funds, and services	F through J are all activities that the Ethics committee has already permitted through informal advice or formal rulings; this is just the Legislature codifying current practices	Susie Barnett is leaving in June and we will have a new person providing informal advice--if that person has a different perspective, legislators might engage in activities that have long been permissible but would now be considered impermissible
	p 8, ln 22-26	communications on any subject	currently, this is a gray area--this creates a bright line for the Ethics Committee to consider in the event of a complaint	
	p 9, ln 21-22	use of legislative offices	duplicating the exception granted in the earlier part of the same section	
	p 9, ln 30	use of photographs	allows a legislator to use the same photograph for campaigns that s/he used as a legislator	
	p 9-10, ln 31-5	legislators supporting or opposing constitutional amendments	constitutional amendments can only originate in the legislature--those who propose them should be able to explain why they have put this before the voters	Sen. Smith proposes, and successfully carries through the legislative process, a constitutional amendment; if the local rotary wants to hear why this amendment is necessary, Sen. Smith should be able to speak to that body and voice his/her support for the ballot question.
8	p 11, ln 7-12	gifts of travel	we already allow hospitality with regard to residences and accommodations; this allows transportation to be included--between legislators <i>only</i>	

LEGAL SERVICES

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Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 28, 2001

SUBJECT: Sectional Summary of Campaign Finance and Legislative Ethics
CS SB103(FIN)

TO: Senator Gene Therriault
Attn: Joe Balash

FROM: Kathryn L. Kurtz *KK*
Legislative Counsel

You have requested a sectional summary of the above-described bill.

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

Section 1. Permits candidates to register multiple groups to support them but specifies that all groups controlled by a single candidate be treated as a single group for purposes of the contribution limit in AS 15.13.070(b)(1).

Section 2. Adds thank you advertisements as a permissible use of unused campaign funds. Eliminates transfers of leftover campaign funds to public office expense term account reserves, but retains provision allowing transfers to public office expense term (POET) accounts. Limits transfers to POET accounts to \$10,000 for candidates for the house of representatives and \$20,000 for candidates for the senate. Requires that funds left in a POET account at the end of a candidate's term of office be disposed of by donating them to a political party, the state's general fund, a municipality, the federal government, or a 26 U.S.C. 501(c)(3) charitable organization, or by repaying contributions to contributors.

Section 3. Increases the total value of personal property which may be retained by a candidate after a campaign from \$2,500 to \$5,000. Specifies that campaign photographs and seasonal greeting cards may be retained and used. Provides that campaign signs prepared for an election that has already taken place have no monetary value.

Section 4. Amends AS 15.13.145(b), which restricts use of state money for influencing the outcome of elections, to reflect the change in section 6 of this bill permitting

legislators and legislative employees to use governmental resources to support or oppose a proposed amendment to the state or federal constitution.

Section 5. Excludes from the definition of campaign contribution: (a) services provided by volunteers to political parties, including legal and accounting services but not other professional services, (b) two or fewer mass mailings by each political party before each election, (c) certain poll results, and (d) newsletters from legislators to their constituents.

Section 6. Excludes from the definition of expenditure communications with a value of \$500 or less made by a corporation to its stockholders and employees and their families, or by a nonprofit corporation, labor organization, or business or trade association to its employees and members and their families.

Section 7. Adds new exceptions to and clarifies the prohibition on use of public assets and resources by legislators and legislative employees for nonlegislative purposes, including: use of staff to prepare and send out seasonal greeting cards, transporting computers or other office equipment owned by a legislator but used primarily for a state function, use of photographs of legislators, reasonable use of the Internet except for election campaign purposes, solicitation and acceptance in state facilities of donations to recognized non-political charitable organizations, and newsletters from legislators to constituents. Increases the period before and after session during which legislators may use their private office in Juneau for nonlegislative purposes from five days to ten days.

Also adds a number of exceptions to and clarifies the prohibition on use of public assets and resources for certain previously prohibited political uses, including: use of photographs, and support or opposition of constitutional amendments (but not to solicit contributions for a proposed constitutional amendment). Increases the period before and after session during which legislators may use their private office in Juneau for nonlegislative purposes from five days to ten days.

Section 8. Adds an exception to AS 24.60.080(c) permitting a legislator to accept a gift of transportation from another legislator, in a vehicle owned by the other legislator, except for political campaign purposes and trips for obtaining information of legislative concern.

Section 9. Repeals AS 15.13.116(d), the section providing for POET reserve accounts.

Section 10. Transitional provision requiring candidates elected before the effective date of the act to transfer any funds held in a POET reserve account to a POET account before January 1, 2002.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSSB103 (JUD)
 (S) Publish Date: 3/23/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title: "An act relating to election campaigns" BRU: Alaska Public Offices Commission
 Component: _____
 Sponsor: Senate State Affairs
 Requester: Senate Finance Component Number: 70

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	52.5	52.5	52.5	52.5	52.5	52.5
Travel	4.1	0.0	0.0	0.0	0.0	0.0
Contractual	21.7	23.2	23.2	23.2	21.0	21.0
Supplies	0.6	0.6	0.6	0.6	0.6	0.6
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	78.9	76.3	76.3	76.3	74.1	74.1

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

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	78.9	78.9	76.3	76.3	74.1	74.1
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	78.9	76.3	76.3	76.3	74.1	74.1

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	2	2	2	2	2	2
Temporary	0	0	0	0	0	0

ANALYSIS: *(Attach a separate page if necessary)*
 See Attached

Prepared by: Brooke Miles Phone 276-4176
 Division: Alaska Public Offices Commission Date/Time 3/20/01 10:40 AM
 Approved by: Jim Duncan, Commissioner Date 3/21/01
 Agency: Department of Administration

For distribution information, call the Governor's Legislative Office

Fiscal Note Analysis
SB 103 #2

This is staff's estimate of the fiscal impact of CSSB 103(JUD). The Commission will not have an opportunity to review the proposed legislation and staff's recommendations for a fiscal note until their next meeting on March 29th and 30th, 2001.

SB 103 will result in additional costs to the Commission. The bill increases the amount of surplus campaign goods that may be taken by a candidate for personal use from \$2500 to \$5000 and provides that candidates may also retain campaign photographs, seasonal greeting cards and campaign signs.

In addition, the bill makes changes to AS 15.13 and to the legislative ethics act that will permit legislators and legislative staff to expend public funds in support of or opposition to a ballot question that amends the constitution. This will likely result in public inquiries and complaints requiring investigation by commission staff. It also amends the definition of "contribution" to exclude all professional services provided voluntarily to candidates and groups. This will result in both public inquiries and third party complaints requiring commission staff investigation and commission adjudication.

This draft fiscal note also reflects the costs to the Commission for conducting statewide seminars to educate candidates, groups, and political parties about the changes; revising manuals, forms, and database structures; and responding to informal inquiries, and advisory opinion requests.

Personal services costs reflect a permanent part time Paralegal Assistant I to assist the current Investigator position, a permanent part-time Administrative Clerk I to provide support, and overtime for current employees to amend reporting materials and conduct training for the Anchorage municipal elections and the 2002 state and municipal election cycles.

SB

105

Adopted

22-LS0909A
Luckhaupt
4/11/01

HOUSE CONCURRENT RESOLUTION NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Introduced:
Referred:

A RESOLUTION

1 **Suspending Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State**
2 **Legislature, concerning Senate Bill No. 105, relating to crime victims.**

3 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 That under Rule 54, Uniform Rules of the Alaska State Legislature, the provisions of
5 Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State Legislature, regarding
6 changes to the title of a bill, are suspended in consideration of Senate Bill No. 105, relating to
7 crime victims.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


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

MEMORANDUM

April 11, 2001

SUBJECT: HCS CSSB 105(JUD); Section 6, AS 12.30.075
(Work Order No. 22-LS0219\L)

TO: Representative Norman Rokeberg
Attn: Heather

FROM: Gerald P. Luckhaupt 
Legislative Counsel

Enclosed is the HCS CSSB 105(JUD) that you requested. I have one comment about sec. 6.¹ Be advised that the proposed language that provides for forfeited performance bonds to be held in trust by the court and paid to the crime victims may amount to an unconstitutional dedicated fund under Art. IX, § 7, Constitution of the State of Alaska, and may also constitute an unconstitutional expenditure of state assets without an appropriation in violation of the appropriation clause under Art. IX, § 13. It appears that once the violation that gives rise to the forfeiture has occurred and the court has ordered the forfeiture of the bond, the bond is now a state asset and must be disposed of by an appropriation. A somewhat similar procedure that involved the payment of fines to the Wildlife Safeguard Fund was questioned in an audit report and the Supreme Court barred the practice as being unconstitutional a number of years ago. See Audit Control Number 12-4431-93 (March 23, 1993), pages 16 and 33.

GPL:lmb
01-134.lmb

Enclosure

¹ I may have had more comments but considering the rushed nature of this request, our review has been limited.

AMENDMENT # 1

Moved by
Robertson
Adopted

OFFERED IN THE HOUSE

TO: HCS CSSB 105(JUD), Draft Version "L"

1 Page 6, lines 8-9:

2 Following "misdemeanor."

3 Delete "A copy of the completed form shall be provided"

4 Insert "The defendant shall provide a copy of the completed form"

5

6 Page 7, line 2 through Page 8, line 6:

7 Delete all material and insert:

8 (e) The Department of Law is authorized to collect restitution on behalf of the recipient
9 unless

10 (1) the recipient elects as provided in (f) of this section to enforce the order of
11 restitution without the assistance of the Department of Law; or

12 (2) the order requires restitution to be made in a form other than payment of a
13 specific dollar amount.

14 (f) The court shall forward a copy of an order of restitution to the Department of
15 Law when the judgement is entered. Along with the copy of the order, the court shall
16 provide the name, date of birth, social security number, and current address of the
17 recipient of the restitution and the defendant, to the extent that the court has that
18 information in its possession. Upon receipt of the order and other information from the
19 court, the Department of Law shall send a notice to the recipient regarding the recipient's
20 rights under this section, including the right to elect to enforce the order of restitution
21 without the assistance of the Department of Law. The information provided to the
22 Department of Law under this subsection is confidential and is not open to inspection as a
23 public record under AS 40.25.110. The Department of Law or its agents may not
24 disclose the information except as necessary to collect on the restitution.

1 (g) The Department of Law may not begin collection procedures on the order of
2 restitution until the recipient has been given notice and has been given 30 days after
3 receipt of notice to elect to collect the restitution without the assistance of the Department
4 of Law. A recipient may inform the Department of Law at a later time of the recipient's
5 election to collect the restitution without the assistance of the Department of Law; upon
6 receipt of that information, the Department of Law may no longer proceed with collection
7 efforts on behalf of the recipient. A recipient who has elected under this section to
8 collect restitution without the assistance of the Department of Law may not later request
9 the services of that department to collect the restitution.

10 (h) If the Department of Law or its agents proceed to collect restitution on behalf
11 of a recipient under (g) of this section, the actions of the Department of Law or an agent
12 of the Department of Law on behalf of the recipient do not create an attorney-client
13 relationship between the Department of Law and the recipient. The Department of Law
14 or its agent may not settle a judgement for restitution without the consent of the recipient
15 of the restitution.

16 (i) An action for damages may not be brought against the state or any of its
17 agents, officers, or employees based on an action or omission under this section.

18 (j) The Department of Law may enter into contracts on behalf of the state to carry
19 out the collection procedures of this section. The Department of Law may adopt
20 regulations necessary to carry out the collection procedures of this section, including the
21 reimbursement of attorneys fees and costs in appropriate cases.

22
23 Page 23, lines 19-20:

24 Following "election to"

25 Delete "inform the Department of Law of an election to"

26
27 Page 22, line 27:

28 Following "when the"

29 Delete "order"

30 Insert "judgement"

31

1 Page 23, line 29:

2 Following: "settle"

3 Delete "an order of"

4 Insert "a judgement for"

5

Adopted

AMENDMENT #2

OFFERED IN THE HOUSE

TO: HCS CSSB 105(JUD), Draft Version "L"

- 1 Page 1, line 2:
2 Delete "authority of litigants and the court to comment on the"
3
4 Page 2, line 1:
5 Delete "Rules 16 and 30"
6 Insert "Rule 16"
7
8 Page 8, lines 7 - 13:
9 Delete all material.
10 Insert a new bill section to read:
11 **"* Sec. 12. AS 12.55 is amended by adding a new section to read:**
12 **Sec. 12.55.151. Court may not reduce or mitigate punishment based on**
13 **victini's failure to appear or testify. Notwithstanding another provision of law,**
14 **when sentencing a defendant, a court may not mitigate or reduce the punishment of the**
15 **defendant based on, or otherwise consider as a mitigating factor or reason to impose a**
16 **lesser punishment, the failure of the crime victim to appear or testify."**
17
18 Page 25, lines 25 - 29:
19 Delete all material.
20
21 Renumber the following bill sections accordingly.
22
23 Page 26, lines 12 - 16:
24 Delete all material.

1

2 Renumber the following bill sections accordingly.

3

4 Page 27, line 1:

5 Delete "and 34 - 37"

6 Insert "34, and 35"

7

8 Page 27, line 5:

9 Delete "39, and 40"

10 Insert "37, and 38"

11

12 Page 27, line 7:

13 Delete "and 34 - 37"

14 Insert "34, and 35"

15

16 Page 27, line 9:

17 Delete "and 38"

18 Insert "and 36"

Adopted

AMENDMENT #3

OFFERED IN THE HOUSE

TO: HCS CSSB 105(JUD), Draft Version "L"

1 Page 2, line 2:

2 Delete "Rule 501"

3 Insert "Rules 402 and 501"

4

5 Page 16, lines 7 – 12:

6 Delete all material and insert:

7 "Sec. 24.65.200. Victims' advocate's privilege not to testify or produce
8 documents or other evidence. Except as may be necessary to enforce the provisions
9 of this chapter, the determinations, conclusions, thought processes, discussions,
10 records, reports, and recommendations of or information collected by the victims'
11 advocate or staff of the victims' advocate are not admissible in a civil or criminal
12 proceeding, and are not subject to questioning or disclosure by subpoena or
13 discovery."

14

15 Page 26, line 10:

16 Delete "Rule 501"

17 Insert "Rules 402 and 501"

18

19 Page 26, line 11:

20 Following "testify":

21 Insert "or produce evidence"

22 Following "court":

23 Insert "and precluding admissibility of certain evidence in certain cases"

Adopted

22-LS0219\L.3
Luckhaupt
4/18/01

AMENDMENT #4

OFFERED IN THE HOUSE

TO: HCS CSSB 105(JUD), Draft Version "L"

- 1 Page 16, lines 24 – 26:
- 2 Delete ", including the governor and lieutenant governor, when acting with regard to
- 3 executive clemency, judges, and magistrates"

Adopted

AMENDMENT #5

OFFERED IN THE HOUSE

TO: HCS CSSB 105(JUD), Draft Version "L"

1 Page 14, line 31:

2 Delete "or"

3

4 Page 15, line 3, following "rights":

5 Insert";

6 (5) a victim counselor concerning a matter made confidential by AS 18.66.200 -

7 18.66.250; or

8 (6) a justice agency concerning records that lead to the disclosure of a confidential

9 police informant."

All Adopted

Conceptual Amendment #6

Page 14, Line 6, after "privileges"

Delete: "that witnesses have in the courts of this state,"

Insert: "recognized by court rule and statute of this state,"

Conceptual Amendment #7

Page 15, Line 3, following "rights"

Insert: "or an attorney retained by the person or appointed by a court to represent the person."

Conceptual Amendment #8

Sunset date for the Office of Victim's Rights provisions: July 1, 2006

Conceptual Amendment #9

Page 5, Line 6

Delete: "forfeited and applied"

Not
offered

Amendment #5

CSSB 105 (FIN)

Rep. Berkowitz

Page 10, Line 8, following "knowingly"

Insert, "and without good cause"

Page 10, Line 9, following "knowingly"

Insert, "and without good cause"

Adopted

22-LS0219AL
Luckhaupt
4/11/01

**HOUSE CS FOR CS FOR SENATE BILL NO. 105(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION**

BY THE HOUSE JUDICIARY COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATORS HALFORD, Donley, Taylor, Lincoln, Davis, Cowdery, Ward, Green

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to victims' rights; relating to establishing an office of victims' rights;
2 relating to the authority of litigants and the court to comment on the crime victim's
3 choice to appear or testify in a criminal case; relating to compensation of victims of
4 violent crimes; relating to eligibility for a permanent fund dividend for persons
5 convicted of and incarcerated for certain offenses; relating to notice of appropriations
6 concerning victims' rights; relating to restitution for criminal and delinquency acts;
7 authorizing the state to collect restitution on behalf of victims of crime and delinquent
8 acts and the release of certain information related to that collection; relating to the
9 forfeiture of certain cash and other security for payment of other restitution; relating to
10 access by the Violent Crimes Compensation Board to certain records regarding
11 delinquency acts to award compensation to victims; relating to immunity for damages
12 related to certain collections of restitution; amending Rule 82, Alaska Rules of Civil

1 Procedure, Rules 16 and 30, Alaska Rules of Criminal Procedure, Rule 9, Alaska
2 Delinquency Rules, and Rule 501, Alaska Rules of Evidence; and providing for an
3 effective date."

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

5 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 SHORT TITLE. This Act may be known as the Crime Victims' Rights and Advocacy
8 Act of 2001.

9 * Sec. 2. AS 09.35.010 is amended to read:

10 Sec. 09.35.010. Judgments enforceable by execution. A writ of execution
11 may be issued in favor of

12 (1) a [THE] party in whose favor a judgment is given that requires the
13 payment of money or the delivery of real or personal property or either of them;

14 (2) the state on behalf of a victim of a crime or a delinquent act in
15 whose favor a judgment of restitution is ordered [MAY HAVE A WRIT OF
16 EXECUTION ISSUED FOR ITS ENFORCEMENT].

17 * Sec. 3. AS 09.38.030(f) is amended to read:

18 (f) The state may execute on a judgment awarded to the state or on a
19 judgment of restitution on behalf of a victim of a crime or a delinquent act, and
20 an officer or agent of the state or a state employee, or a former officer, agent, or
21 employee of the state may execute on a judgment to that person against a party to an
22 action who is incarcerated for a criminal conviction by sending a notice of levy to the
23 correctional facility in which the person is incarcerated. All money in an incarcerated
24 person's account at a correctional facility is available for disbursement under a notice
25 of levy under this subsection, in the following order of priority:

26 (1) to support the dependents of the incarcerated person and to provide
27 child support payments as required by AS 25.27;

28 (2) to satisfy restitution or fines ordered by a [SENTENCING] court to
29 be paid by the incarcerated person;

30 (3) to pay a civil judgment entered against the incarcerated person as a

1 result of that person's criminal conduct;

2 (4) to reimburse the state for an award made for violent crimes
3 compensation under AS 18.67 as a result of the incarcerated person's criminal
4 conduct;

5 (5) to satisfy other judgments entered against a prisoner in litigation
6 against the state; in this paragraph, "litigation against the state" has the meaning given
7 in AS 09.19.100.

8 * Sec. 4. AS 09.38.065(a) is amended to read:

9 (a) Notwithstanding other provisions of this chapter,

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

12 (A) child support;

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

16 (C) state or local taxes;

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

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

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

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

26 (3) a creditor may make a levy against exempt property of any kind to
27 enforce the claim of a [CRIME] victim, including a judgment of restitution on
28 behalf of a victim of a crime or a delinquent act, if the claim arises from
29 [CRIMINAL] conduct of the debtor that results in a [FELONY] conviction of a crime
30 or an adjudication of delinquency, except that the debtor is entitled to an exemption
31 in property

1 (A) not to exceed an aggregate value of \$3,000 chosen by the
2 debtor from the following categories of property:

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

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

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

9 (B) not to exceed an aggregate value of \$2,800 of the debtor's
10 implements, professional books, and tools of the trade.

11 * Sec. 5. AS 09.38.500 is amended by adding new paragraphs to read:

12 (16) "creditor" includes the state on behalf of a victim of a crime or a
13 delinquent act;

14 (17) "judgment of restitution"

15 (A) includes restitution ordered

16 (i) under AS 47.12.120 that is considered as a civil
17 judgment enforceable by execution under AS 47.12.170; and

18 (ii) as part of a sentence under AS 12.55.025(f) that is
19 considered as a judgment for money entered in a civil action;

20 (B) does not include a judgment for

21 (i) civil damages for torts under state law; or

22 (ii) restitution as a result of a violation of state law that
23 is not a felony or misdemeanor;

24 (18) "victim" has the meaning given in AS 12.55.185;

25 (19) "victim of a crime or a delinquent act" means a victim of a crime
26 or a delinquent act committed in violation of state law; "victim of a crime or a
27 delinquent act" does not include a victim of a violator of an ordinance of a political
28 subdivision of the state.

29 * Sec. 6. AS 12.30 is amended by adding a new section to read:

30 **Sec. 12.30.075. Forfeited cash and other securities.** Cash or other security
31 posted as bail or as security under AS 12.30.020 for an appearance bond or a

1 performance bond that has been forfeited by a court for a failure to appear or for
2 violation of conditions of release shall be held by the court in trust for the benefit of
3 the victim if, within 30 days after the forfeiture, the prosecuting authority gives notice
4 that restitution may be requested as part of the sentence if the defendant is convicted.
5 If the cash or other security is not returned to the defendant or other person under the
6 provisions of this chapter or under court rules, the court shall apply the cash or other
7 security to an order that the defendant pay restitution to the victim under AS 12.55. If
8 the cash or other security is applied to an order of restitution, a separate judgment in
9 favor of the state in that amount ~~forfeited and applied~~ shall be entered, and the
10 defendant shall be ordered to pay that separate judgment. If the court does not enter
11 an order or judgment of restitution, the cash or other security forfeited under this
12 section shall be disposed of as otherwise provided by law or court rule.

13 * Sec. 7. AS 12.55.023(b) is amended to read:

14 (b) A victim may submit to the sentencing court a written statement that the
15 victim believes is relevant to the sentencing decision [,] and may give sworn testimony
16 or make an unsworn oral presentation to the court at the sentencing hearing. If there
17 are numerous victims, the court may reasonably limit the number of victims who may
18 give sworn testimony or make an unsworn oral presentation during the hearing.
19 When requested by the victim of a felony or a class A misdemeanor, if the class A
20 misdemeanor is a crime involving domestic violence or a crime against a person
21 under AS 11.41, when the victim does not submit a statement, give testimony, or
22 make an oral presentation, the victims' advocate may submit a written statement
23 or make an unsworn oral presentation at the sentencing hearing on behalf of the
24 victim.

25 * Sec. 8. AS 12.55.045(c) is amended to read:

26 (c) If a defendant is sentenced to pay restitution, the court may grant
27 permission for the payment to be made within a specified period of time or in
28 specified installments. If the defendant fails to make one or more payments
29 required under this section, the victim or the state on the victim's behalf may
30 enforce the total amount remaining under the order of restitution as provided in
31 (l) of this section.

1 * **Sec. 9.** AS 12.55.045 is amended by adding new subsections to read:

2 (j) A defendant who is convicted of an offense for which restitution is ordered
3 shall submit financial information as ordered by the court. The Alaska Court System
4 shall prepare a form, in consultation with the Department of Law, for the submission
5 of the information; the form must include a warning that submission of incomplete or
6 inaccurate information is punishable as unsworn falsification under AS 11.56.210.
7 The defendant shall file the form with the court within 30 days after conviction of a
8 felony and within five days after conviction of a misdemeanor. A copy of the
9 completed form shall be provided to the prosecuting authority.

10 (k) The court, on its own motion or at the request of the prosecuting authority
11 or probation officer, may order a defendant on probation who has been ordered to pay
12 restitution to submit financial information to the court using the form specified in (j)
13 of this section. The defendant shall file the completed form with the court within five
14 days after the court's order. The defendant shall provide a copy of the completed form
15 to the prosecuting authority and the person's probation officer, if any.

16 (l) An order by the court that the defendant pay restitution is a civil judgment
17 for the amount of the restitution. The victim or the state on behalf of the victim may
18 enforce the judgment through any procedure authorized by law for the enforcement of
19 a civil judgment. If the victim or the state on the victim's behalf enforces or collects
20 restitution through civil process, collection costs and full reasonable attorney fees shall
21 be awarded. This section does not limit the authority of the court to enforce orders of
22 restitution.

23 (m) In this section, "conviction" means that the defendant has entered a plea of
24 guilty, guilty but mentally ill, or nolo contendere, or has been found guilty or guilty
25 but mentally ill by a court or jury.

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

27 (d) The state may enforce payment of a fine [AND THE RESTITUTION
28 RECIPIENT MAY ENFORCE PAYMENT OF A RESTITUTION ORDER] against a
29 defendant under AS 09.35 as if the order were a civil judgment enforceable by
30 execution. This subsection does not limit the authority of the court to enforce fines
31 [AND ORDERS OF RESTITUTION TO VICTIMS].

1 * **Sec. 11.** AS 12.55.051 is amended by adding new subsections to read:

2 (e) The Department of Law is authorized to collect restitution ordered on
3 behalf of a recipient unless

4 (1) the recipient elects as provided in (f) of this section to proceed
5 without the assistance of the Department of Law; or

6 (2) the court orders restitution in a form other than a specific dollar
7 amount.

8 (f) The court shall forward a copy of an order of restitution to the Department
9 of Law when the judgment is entered. The Department of Law may not begin
10 collection procedures until the recipient has been given notice and has been given
11 days after receipt of notice to inform the Department of Law of an election to collect
12 restitution without the assistance of the Department of Law. A recipient may inform
13 the Department of Law at a later time of an election to collect restitution without the
14 assistance of the Department of Law; upon receipt of the information, the Department
15 of Law may no longer proceed with collection efforts on behalf of the recipient. A
16 recipient who has informed the Department of Law of an election under this
17 subsection may not later request the services of the Department of Law to collect the
18 restitution.

19 (g) When the court forwards a copy of an order of restitution to the
20 Department of Law under (f) of this section, the court also shall provide the name,
21 date of birth, social security number, and current address of the recipient of the
22 restitution and the defendant, to the extent that the court has that information in its
23 possession. The information provided under this subsection is confidential and is not
24 open to inspection as a public record under AS 40.25.110. The Department of Law or
25 its agents may not disclose the information except as necessary to collect on the
26 restitution.

27 (h) If the Department of Law or its agents proceed to collect restitution on
28 behalf of a recipient under (f) of this section, the actions of the Department of Law or
29 an agent of the Department of Law on behalf of the recipient do not create an attorney-
30 client relationship between the Department of Law and the recipient. The Department
31 of Law or its agent may not settle a judgment for restitution without the consent of the

1 recipient of the restitution.

2 (i) An action for damages may not be brought against the state or any of its
3 agents, officers, or employees based on an action or omission under this section.

4 (j) The Department of Law may enter into contracts on behalf of the state to
5 carry out the collection procedures of this section. The Department of Law may adopt
6 regulations necessary to carry out the collection procedures of this section.

7 * Sec. 12. AS 12.61 is amended by adding a new section to article 2 to read:

8 **Sec. 12.61.200. Comment not permitted.** (a) The decision of the crime
9 victim to testify or appear at a criminal case is not a proper subject of comment by
10 judge or counsel.

11 (b) Upon request, a party against whom the jury might draw an adverse
12 inference from the failure of a crime victim to appear or testify is entitled to an
13 instruction that no inference may be drawn therefrom.

14 * Sec. 13. AS 18.67.130(c) is amended to read:

15 (c) Compensation may not be awarded under this chapter in an amount in
16 excess of \$40,000 [\$25,000] per victim per incident. However, in the case of the death
17 of

18 (1) a victim who has more than one dependent eligible for
19 compensation, the total compensation that may be awarded as a result of that death
20 may not exceed \$80,000; the [\$40,000. THE] board may prorate the total awarded
21 among those dependents according to relative need; or

22 (2) two or more victims in the same incident who jointly have a
23 dependent eligible for compensation, the total compensation that may be
24 awarded as a result of those deaths may not exceed \$80,000.

25 * Sec. 14. AS 23.20.110(l) is amended to read:

26 (l) The department may provide information obtained under this chapter to an
27 agency of this state or to a person under contract with the state to

28 (1) verify the eligibility of an applicant for a public benefit or a
29 publicly financed payment;

30 (2) assist the state in the collection of fines, penalties, judgments of
31 restitution on behalf of victims of crimes or delinquent acts, or other payments

1 ordered by a court or an administrative agency; or

2 (3) collect money owed to the fund under this chapter.

3 * **Sec. 15.** AS 23.20.110 is amended by adding a new subsection to read:

4 (p) In this section, "judgment of restitution" has the meaning given in
5 AS 09.38.500.

6 * **Sec. 16.** AS 24.60.990(a)(9) is amended to read:

7 (9) "legislative director" means the director of the legislative finance
8 division, the legislative auditor, the director of the legislative research agency, the
9 ombudsman, the victims' advocate, the executive director of the Legislative Affairs
10 Agency, and the directors of the divisions within the Legislative Affairs Agency;

11 * **Sec. 17.** AS 24 is amended by adding a new chapter to read:

12 **Chapter 65. Office of Victims' Rights.**

13 **Sec. 24.65.010. Office of victims' rights.** There is created in the legislative
14 branch of the state the office of victims' rights. The victims' advocate is the director of
15 the office of victims' rights.

16 **Sec. 24.65.020. Appointment of the victims' advocate.** (a) A candidate for
17 appointment as the victims' advocate shall be nominated by the victims' advocate
18 selection committee composed of three members of the senate appointed by the
19 president of the senate and three members of the house of representatives appointed by
20 the speaker of the house. One member of a minority party caucus in each house shall
21 be appointed to the selection committee.

22 (b) The victims' advocate selection committee shall examine persons to serve
23 as victims' advocate regarding their qualifications and ability and shall place the name
24 of the person selected in nomination. The appointment is effective if the nomination is
25 approved by a roll call vote of two-thirds of the members of the legislature in joint
26 session. The vote on the appointment shall be entered in the journals of both houses.

27 **Sec. 24.65.030. Qualifications.** A person may not serve as victims' advocate

28 (1) unless the person has been a resident of the state for the three years
29 immediately preceding the person's appointment;

30 (2) unless the person has been engaged in the active practice of law for
31 the three years immediately preceding the person's appointment;

- 1 (3) unless the person has significant experience in criminal law;
2 (4) unless the person is an attorney licensed to practice law in this
3 state;
4 (5) within one year of the last day on which the person served as a
5 member of the legislature;
6 (6) while the person is a candidate for or holds another national, state,
7 or municipal office; the victims' advocate may not become a candidate for national,
8 state, or municipal office until one year has elapsed from the date the victims'
9 advocate vacates the office of victims' advocate;
10 (7) while the person is engaged in another occupation for which the
11 person receives compensation;
12 (8) unless the person is at least 21 years of age and is a qualified voter.

13 **Sec. 24.65.040. Term of office.** (a) The term of office of the victims'
14 advocate is five years. A victims' advocate may be reappointed but may not serve for
15 more than three terms.

16 (b) If the term of a victims' advocate expires without the appointment of a
17 successor under this chapter, the incumbent victims' advocate may continue in office
18 until a successor is appointed. If the victims' advocate dies, resigns, becomes
19 ineligible to serve, or is removed or suspended from office, the person appointed as
20 acting victims' advocate under AS 24.65.070(a) serves until a new victims' advocate is
21 appointed for a full term.

22 **Sec. 24.65.050. Removal.** The legislature, by a concurrent resolution adopted
23 by a roll call vote of two-thirds of the members of each house entered in the journal,
24 may remove or suspend the victims' advocate from office, but only for neglect of duty,
25 misconduct, or disability.

26 **Sec. 24.65.060. Compensation.** The victims' advocate is entitled to receive
27 an annual salary equal to Step A, Range 26, on the salary schedule set out in
28 AS 39.27.011(a) for Juneau.

29 **Sec. 24.65.070. Staff and delegation.** (a) The victims' advocate shall appoint
30 a person to serve as acting victims' advocate in the absence of the victims' advocate.
31 The victims' advocate shall also appoint assistants and clerical personnel necessary to

1 carry out the provisions of this chapter. Subject to AS 36.30.020, the victims'
2 advocate may enter into personal services and other contracts the victims' advocate
3 finds necessary to carry out the provisions of this chapter. The victims' advocate shall,
4 to the maximum extent practicable, conduct the duties and work of the office by
5 entering into personal services and other contracts the victims' advocate finds
6 necessary to carry out the provisions of this chapter.

7 (b) The victims' advocate may delegate to the assistants any of the victims'
8 advocate's duties except those specified in AS 24.65.150 and 24.65.160; however,
9 during the victims' advocate's absence from the principal business offices, the victims'
10 advocate may delegate the duties specified in AS 24.65.150 and 24.65.160 to the
11 acting victims' advocate for the duration of the absence. The duties specified in
12 AS 24.65.150 and 24.65.160 shall be performed by the acting victims' advocate when
13 serving under AS 24.65.040(b).

14 (c) The victims' advocate and the staff appointed by the victims' advocate are
15 in the exempt service under AS 39.25.110 and are not subject to the employment
16 policies under AS 24.10 or AS 24.20.

17 **Sec. 24.65.080. Office facilities and administration.** (a) Subject to
18 restrictions and limitations imposed by the executive director of the Legislative Affairs
19 Agency, the administrative facilities and services of the Legislative Affairs Agency,
20 including computer, data processing, and teleconference facilities, may be made
21 available to the victims' advocate to be used in the management of the office of
22 victims' rights and to carry out the purposes of this chapter.

23 (b) The salary and benefits of the victims' advocate and the permanent staff of
24 the victims' advocate shall be paid through the same procedures used for payment of
25 the salaries and benefits of other permanent legislative employees.

26 (c) The victims' advocate shall submit a budget for each fiscal year to the
27 Alaska Legislative Council, and the council shall annually submit an estimated budget
28 to the governor for information purposes in the preparation of the executive budget.
29 After reviewing and approving, with or without modifications, the budget submitted
30 by the victims' advocate, the council shall submit the approved budget to the finance
31 committees of the legislature.

1 **Sec. 24.65.090. Procedure.** (a) The victims' advocate shall, by regulations
2 adopted under AS 44.62 (Administrative Procedure Act), establish procedures for
3 advocacy on behalf of crime victims, receiving and processing complaints, conducting
4 investigations, reporting findings, and ensuring that confidential information obtained
5 by the victims' advocate in the course of advocacy on behalf of a crime victim or in
6 the course of an investigation will not be improperly disclosed. The victims' advocate
7 may establish procedures so that advocacy and investigations on behalf of crime
8 victims in felony cases take a priority over advocacy and investigations on behalf of
9 crime victims in misdemeanor cases.

10 (b) The office of victims' rights may not charge fees for the submission or
11 investigation of complaints.

12 **Sec. 24.65.100. Jurisdiction; duties.** (a) The victims' advocate has
13 jurisdiction to advocate on behalf of crime victims of felony offenses or class A
14 misdemeanors, if the class A misdemeanor is a crime involving domestic violence or a
15 crime against a person under AS 11.41, in the courts of the state and to investigate the
16 complaints of crime victims of felony offenses or class A misdemeanors, if the class A
17 misdemeanor is a crime involving domestic violence or a crime against a person under
18 AS 11.41, that they have been denied their rights under the constitution and the laws
19 of the state. In this subsection, "crime involving domestic violence" has the meaning
20 given in AS 18.66.990.

21 (b) The victims' advocate shall exercise reasonable care to

22 (1) ensure that the victims' advocate's exercise of jurisdiction granted
23 under this section does not interfere with an ongoing criminal investigation or with a
24 criminal prosecution;

25 (2) prevent employees of the office of victims' rights from making
26 extrajudicial statements that the victims' advocate is prohibited from making under the
27 Alaska Rules of Professional Conduct.

28 (c) The victims' advocate may not advise, counsel, or advocate on behalf of a
29 victim in a way that would

30 (1) prevent or discourage a victim from cooperating in a criminal
31 investigation;

1 (2) encourage a victim to withhold evidence in a criminal
2 investigation; or

3 (3) prevent or discourage a victim from testifying in a criminal
4 proceeding.

5 **Sec. 24.65.110. Advocacy on behalf of crime victims; records.** (a) The
6 victims' advocate shall assist crime victims in obtaining the rights crime victims are
7 guaranteed under the constitution and laws of the state with regard to the contacts
8 crime victims have with the justice agencies of the state.

9 (b) The victims' advocate may make the statement a crime victim is authorized
10 to make under art. I, sec. 24, Constitution of the State of Alaska, and AS 12.55.023, in
11 a court of the state when requested by the crime victim and when the crime victim
12 does not personally make a statement.

13 (c) When advocating on behalf of a crime victim in an ongoing criminal case
14 or juvenile adjudication, the victims' advocate is entitled to all information available to
15 the defendant or juvenile.

16 (d) Records obtained by the victims' advocate shall remain in the exclusive
17 custody of the victims' advocate. The victims' advocate may not disclose confidential
18 information to any person.

19 **Sec. 24.65.120. Investigations.** (a) The victims' advocate may investigate
20 complaints from crime victims that they have been denied the rights they are
21 guaranteed under the constitution and laws of this state.

22 (b) In an investigation, the victims' advocate may

23 (1) make inquiries and obtain information considered necessary;

24 (2) hold private hearings; and

25 (3) notwithstanding other provisions of law, have access at all times to
26 records of justice agencies, including court records of criminal prosecutions and
27 juvenile adjudications, necessary to ensure that the rights of crime victims are not
28 being denied; with regard to court and prosecution records, the victims' advocate is
29 entitled to obtain access to every record that the defendant is entitled to access or
30 receive.

31 (c) The victims' advocate shall maintain confidentiality with respect to all

1 matters and the identities of the complainants or witnesses coming before the victims'
 2 advocate except insofar as disclosures may be necessary to enable the victims'
 3 advocate to carry out duties and to support recommendations. However, the victims'
 4 advocate may not disclose a confidential record obtained from a court or justice
 5 agency.

6 *rule and* Sec. 24.65.130. Powers. (a) Subject to the privileges *recognized by court* ~~that witnesses have in~~
 7 ~~the courts of this state~~, the victims' advocate may compel by subpoena, at a specified

8 time and place, the

9 (1) appearance and sworn testimony of a person who the victims'
 10 advocate reasonably believes may be able to give information relating to a matter
 11 under investigation under AS 24.65.120; and

12 (2) production by a person of a record or object that the victims'
 13 advocate reasonably believes may relate to the matter under investigation under
 14 AS 24.65.120.

15 (b) If a person refuses to comply with a subpoena issued under (a) of this
 16 section, the superior court may, on application of the victims' advocate, compel
 17 obedience by proceedings for contempt in the same manner as in the case of
 18 disobedience to the requirements of a subpoena issued by the court or refusal to testify
 19 in the court.

20 (c) This section does not authorize the victims' advocate to issue a subpoena to

21 (1) a justice, judge, magistrate, or a law clerk acting under the
 22 direction of a justice, judge, or magistrate, concerning a judicial action or nonaction
 23 taken by, or under the direction of, the justice, judge, or magistrate;

24 (2) a person acting under the direction of a justice, judge, or
 25 magistrate, other than a law clerk, concerning a judicial action or nonaction taken by,
 26 or under the direction of, a justice, judge, or magistrate except to establish the
 27 occurrence or nonoccurrence of the action or nonaction or the person's own actions or
 28 nonactions; this paragraph does not authorize the victims' advocate to inquire into the
 29 decision-making or thought process of the justice, judge, or magistrate;

30 (3) a member of a jury concerning a matter that was considered by the
 31 jury; or

1 (4) the person accused or convicted of committing the crime that is the
2 basis for the complaint, and investigation under AS 24.65.120, concerning a denial of
3 rights.

4 **Sec. 24.65.140. Consultation.** Before giving an opinion or recommendation
5 that is critical of a justice agency or person as a result of an investigation under
6 AS 24.65.120, the victims' advocate shall consult with that agency or person. The
7 victims' advocate may make a preliminary opinion or recommendation available to the
8 agency or person for review, but the preliminary opinion or recommendation is
9 confidential and may not be disclosed to the public by the agency or person.

10 **Sec. 24.65.150. Procedure after investigation.** (a) The victims' advocate
11 shall report the advocate's opinion and recommendations to a justice agency if the
12 victims' advocate finds, after investigation under AS 24.65.120, that the agency has
13 denied a crime victim rights the crime victim is guaranteed under the constitution and
14 laws of this state.

15 (b) The victims' advocate may request the justice agency to notify the victims'
16 advocate, within a specified time, of any action taken on the recommendations.

17 (c) The report provided under (a) of this section is confidential and may not be
18 disclosed to the public by the justice agency. The victims' advocate may disclose the
19 report under AS 24.65.160 only after providing notice that the investigation has been
20 concluded to the agency and after receiving the written approval of the complainant to
21 release the report.

22 **Sec. 24.65.160. Publication of recommendations.** Except as provided in
23 AS 24.65.150(c), within a reasonable amount of time after the victims' advocate
24 reports the advocate's opinion and recommendations to a justice agency, the victims'
25 advocate may present the opinion and recommendations to the governor, the
26 legislature, a grand jury, the public, or any of these. The victims' advocate shall
27 include with the opinion any reply made by the agency.

28 **Sec. 24.65.170. Annual report.** The victims' advocate shall make available to
29 the public an annual report of the victims' advocate's activities under this chapter and
30 notify the legislature that the report is available.

31 **Sec. 24.65.180. Judicial review.** A proceeding or decision of the victims'

1 advocate may be reviewed in superior court only to determine if it is contrary to the
2 provisions of this chapter.

3 **Sec. 24.65.190. Immunity of the victims' advocate.** A civil action may not
4 be brought against the victims' advocate or a member of the victims' advocate's staff
5 for anything done, said, or omitted in performing the victims' advocate's duties or
6 responsibilities under this chapter.

7 **Sec. 24.65.200. Victims' advocate's privilege not to testify or produce**
8 **documents or other evidence.** The victims' advocate and the staff of the victims'
9 advocate may not be compelled to testify or produce documents or other evidence in a
10 court regarding matters coming to their attention in the exercise or purported exercise
11 of their official duties except as may be necessary to enforce the provisions of this
12 chapter.

13 **Sec. 24.65.210. Penalty.** A person who knowingly hinders the lawful actions
14 of the victims' advocate or the staff of the victims' advocate, or who knowingly refuses
15 to comply with their lawful demands, is guilty of a misdemeanor and upon conviction
16 may be punished by a fine of not more than \$1,000. In this section, "knowingly" has
17 the meaning given in AS 11.81.900.

18 **Sec. 24.65.250. Definitions.** In this chapter,

19 (1) "justice agency" means a department, office, institution,
20 corporation, authority, organization, commission, committee, council, court, or board
21 in the executive or judicial branches of the state government that is, in any manner,
22 involved with or responsible for the apprehension, prosecution, incarceration, or
23 supervision of criminal or juvenile offenders; it also includes an officer, employee, or
24 member of an agency acting or purporting to act in the exercise of official duties,
25 including the governor and lieutenant governor, when acting with regard to executive
26 clemency, judges, and magistrates;

27 (2) "victim" has the meaning given in AS 12.55.185.

28 * **Sec. 18.** AS 39.25.110 is amended by adding a new paragraph to read:

29 (34) the victims' advocate established under AS 24.65.010 and the
30 advocate's staff.

31 * **Sec. 19.** AS 39.27.022(d) is amended to read:

1 (d) This section applies to employees of the legislature only if the committee
2 responsible for adopting employment policies concerning the employee adopts a
3 written policy that the section applies. This section applies to the employees of the
4 office of the ombudsman only if the ombudsman adopts a policy that the section
5 applies. This section applies to the employees of the office of victims' rights only
6 if the victims' advocate adopts a policy that the section applies.

7 * Sec. 20. AS 39.35.385(f) is amended to read:

8 (f) Subject to AS 39.35.450, an employee is eligible for a normal retirement
9 benefit at age 60 or an early retirement benefit at age 55 if the employee was first
10 hired as a legislative employee before May 30, 1987, and has at least 60 days of
11 credited service as an employee of the legislature, other than as an employee of the
12 Office of the Ombudsman or the office of victims' rights, during each of five
13 legislative sessions. An employee who was first hired as a legislative employee on or
14 after May 30, 1987, and is otherwise eligible under this subsection must have at least
15 80 days of credited service during each of five legislative sessions to receive benefits
16 under this subsection.

17 * Sec. 21. AS 43.23.005(d) is amended to read:

18 (d) Notwithstanding the provisions of (a) - (c) of this section, an individual is
19 not eligible for a permanent fund dividend for a dividend year when

20 (1) during the qualifying year, the individual was sentenced as a result
21 of conviction in this state of a felony;

22 (2) during all or part of the qualifying year, the individual was
23 incarcerated as a result of the conviction in this state of a

24 (A) felony; or

25 (B) misdemeanor if the individual has been convicted of

26 (i) a prior felony as defined in AS 11.81.900; or

27 (ii) two or more prior misdemeanors [CRIMES] as

28 defined in AS 11.81.900.

29 * Sec. 22. AS 43.23.028 is amended to read:

30 **Sec. 43.23.028. Public notice.** (a) By October 1 of each year, the
31 commissioner shall give public notice of the value of each permanent fund dividend

1 for that year and notice of the information required to be disclosed under (3) of this
2 subsection. In addition, the stub attached to each individual dividend check and direct
3 deposit advice must

4 (1) disclose the amount of each dividend attributable to income earned
5 by the permanent fund from deposits to that fund required under art. IX, sec. 15,
6 Constitution of the State of Alaska;

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

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

14 (4) include a statement that an individual is not eligible for a dividend
15 when

16 (A) during the qualifying year, the individual was convicted of
17 a felony;

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

20 (i) felony; or

21 (ii) misdemeanor if the individual has been convicted of

22 a prior felony or two or more prior misdemeanors [CRIMES];

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

25 (A) obtain reimbursement for some of the costs imposed on the
26 state criminal justice system related to incarceration or probation of those
27 individuals;

28 (B) provide funds for services for and payments to crime
29 victims and for grants for the operation of domestic violence and sexual assault
30 programs;

31 (6) disclose the total amount that would have been paid during the

1 previous fiscal year to individuals who were ineligible to receive dividends under
2 AS 43.23.005(d) if they had been eligible;

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

5 (b) To the extent that amounts appropriated for a fiscal year do not exceed the
6 total amount that would have been paid during the previous fiscal year to individuals
7 who were ineligible to receive dividends under AS 43.23.005(d) if they had been
8 eligible, the notice requirements of (a)(3) of this section do not apply to appropriations
9 from the dividend fund to [THE]

10 (1) the crime victim compensation fund established under
11 AS 18.67.162 for payments to crime victims;

12 (2) the council on domestic violence and sexual assault established
13 under AS 18.66.010 for grants for the operation of domestic violence and sexual
14 assault programs; [OR]

15 (3) the Department of Corrections for incarceration and probation
16 programs;

17 (4) the office of victims' rights; or

18 (5) nonprofit victims' rights organizations for grants for services to
19 crime victims.

20 * Sec. 23. AS 44.62.040(c) is amended to read:

21 (c) Before submitting the regulations and orders of repeal to the lieutenant
22 governor under (a) of this section, every state agency that by statute possesses
23 regulation making authority, except boards and commissions, the office of victims'
24 rights, and the office of the ombudsman, shall submit to the governor for review a
25 copy of every regulation or order of repeal adopted by the agency, except regulations
26 and orders of repeal identified in (a)(1) - (2) of this section. The governor may review
27 the regulations and orders of repeal received under this subsection. The governor may
28 return the regulations and orders of repeal to the adopting agency before they are
29 submitted to the lieutenant governor for filing under (a) of this section [,] (1) if they
30 are inconsistent with the faithful execution of the laws, or (2) to enable the adopting
31 agency to respond to specific issues raised by the Administrative Regulation Review

1 Committee. The governor may not delegate the governor's review authority under this
2 subsection to a person other than the lieutenant governor.

3 * Sec. 24. AS 44.62.215 is amended to read:

4 **Sec. 44.62.215. Record of public comment.** In the drafting, review, or other
5 preparation of a proposed regulation, amendment, or order of repeal, an agency, other
6 than a board or commission, the office of victims' rights, and the office of the
7 ombudsman, shall keep a record of its use or rejection of factual or other substantive
8 information that is submitted in writing as public comment and that is relevant to the
9 accuracy, coverage, or other aspect of the proposed regulatory action.

10 * Sec. 25. AS 44.66.050(c) is amended to read:

11 (c) A determination as to whether a board or commission or agency program
12 has demonstrated a public need for its continued existence must take into
13 consideration the following factors:

14 (i) the extent to which the board, commission, or program has
15 operated in the public interest;

16 (2) the extent to which the operation of the board, commission, or
17 agency program has been impeded or enhanced by existing statutes, procedures, and
18 practices that it has adopted, and any other matter, including budgetary, resource, and
19 personnel matters;

20 (3) the extent to which the board, commission, or agency has
21 recommended statutory changes that are generally of benefit to the public interest;

22 (4) the extent to which the board, commission, or agency has
23 encouraged interested persons to report to it concerning the effect of its regulations
24 and decisions on the effectiveness of service, economy of service, and availability of
25 service that it has provided;

26 (5) the extent to which the board, commission, or agency has
27 encouraged public participation in the making of its regulations and decisions;

28 (6) the efficiency with which public inquiries or complaints regarding
29 the activities of the board, commission, or agency filed with it, with the department to
30 which a board or commission is administratively assigned, or with the office of
31 victims' rights or the office of the ombudsman have been processed and resolved;

1 (7) the extent to which a board or commission that regulates entry into
2 an occupation or profession has presented qualified applicants to serve the public;

3 (8) the extent to which state personnel practices, including affirmative
4 action requirements, have been complied with by the board, commission, or agency to
5 its own activities and the area of activity or interest; and

6 (9) the extent to which statutory, regulatory, budgeting, or other
7 changes are necessary to enable the agency, board, or commission to better serve the
8 interests of the public and to comply with the factors enumerated in this subsection.

9 * **Sec. 26.** AS 44.99.240(2) is amended to read:

10 (2) "state agency" means

11 (A) a department, institution, board, commission, division,
12 authority, public corporation, or other administrative unit of the executive
13 branch, including the University of Alaska and the Alaska Railroad
14 Corporation;

15 (B) a committee, division, or administrative unit of the
16 legislative branch, including the Alaska Legislative Council, the leadership of
17 each house, the office of victims' rights, and the office of the ombudsman;

18 (C) an administrative unit of the judicial branch, including the
19 Alaska Judicial Council and the Commission on Judicial Conduct.

20 * **Sec. 27.** AS 47.12.130 is amended by adding a new subsection to read:

21 (d) For purposes of restitution under AS 47.12.120(b), the court shall order the
22 minor, and the minor's parent if applicable, to submit financial information, on a
23 specified form, to the court, the department, and the Department of Law. The Alaska
24 Court System shall prepare the form in consultation with the department and the
25 Department of Law; the form must include a warning that submission of incomplete or
26 inaccurate information is punishable as unsworn falsification under AS 11.56.210.
27 The persons required to submit information under this subsection shall comply within
28 five days after the entry of the dispositional order under AS 47.12.120.

29 * **Sec. 28.** AS 47.12.155(b) is amended to read:

30 (b) If a minor is found to be a delinquent under AS 47.12.120, the court may
31 order that the minor's parent or guardian

1 (1) personally participate in treatment reasonably available in the
2 parent's or guardian's location as specified in a plan set out in the court order;

3 (2) notify the department if the minor violates a term or condition of
4 the court order; and

5 (3) comply with any other conditions set out in the court order,
6 including a condition in an order requiring a parent to pay restitution ordered on
7 behalf of a victim of a delinquent act.

8 * Sec. 29. AS 47.12.170 is amended to read:

9 Sec. 47.12.170. **Enforcement of restitution.** A person who is a recipient of a
10 restitution order involving a minor found delinquent under AS 47.12.120, or the state
11 on behalf of the restitution recipient, may enforce an order for restitution under
12 AS 47.12.120 against the minor and the minor's parent under AS 09.35 as if the order
13 were a civil judgment enforceable by execution. If the recipient or the state on the
14 recipient's behalf enforces or collects restitution through civil process, collection
15 costs and full reasonable attorney fees shall be awarded. This section does not
16 limit the authority of the court to otherwise enforce orders of payment for restitution.
17 An order of restitution enforced under this section does not limit under other law the
18 civil liability of the minor or the minor's parent as a result of the delinquent conduct.

19 * Sec. 30. AS 47.12.170 is amended by adding new subsections to read:

20 (b) The Department of Law is authorized to collect restitution on behalf of the
21 recipient unless

22 (1) the recipient elects as provided in (c) of this section to enforce the
23 order of restitution without the assistance of the Department of Law; or

24 (2) the order requires restitution to be made in a form other than
25 payment of a specific dollar amount.

26 (c) The court shall forward a copy of an order of restitution to the department
27 when the order is entered. Along with the copy of the order, the court shall provide
28 the name, date of birth, social security number, and current address of the recipient of
29 the restitution, the minor, and the minor's parent, to the extent that the court has that
30 information in its possession. Upon receipt of the order and other information from
31 the court, the department shall send a notice to the recipient regarding the recipient's

1 rights under this section, including the right to elect to enforce the order of restitution
2 without the assistance of the Department of Law. When 30 days have passed since the
3 recipient received the notice, or when the department receives the recipient's response
4 to the notice, whichever is earlier, the department shall send to the Department of Law
5 a copy of the order of restitution; the name, date of birth, social security number, and
6 current address of the recipient, the minor, and the minor's parent; the notice sent to
7 the recipient under this subsection; and the recipient's response, if any. If a response
8 from the recipient reaches the department after the department has sent the order of
9 restitution and other information to the Department of Law under this subsection, the
10 department shall immediately send the response to the Department of Law. The
11 information provided to the Department of Law under this subsection is confidential
12 and is not open to inspection as a public record under AS 40.25.110. The Department
13 of Law or its agents may not disclose the information except as necessary to collect on
14 the restitution.

15 (d) The Department of Law may not begin collection procedures on the order
16 of restitution until the recipient has been given notice under (c) of this section and has
17 been given 30 days after receipt of notice to elect to collect the restitution without the
18 assistance of the Department of Law. A recipient may inform the Department of Law
19 at a later time of the recipient's election to inform the Department of Law of an
20 election to collect the restitution without the assistance of the Department of Law;
21 upon receipt of the information, the Department of Law may no longer proceed with
22 collection efforts on behalf of the recipient. A recipient who has elected under this
23 section to collect restitution without the assistance of the Department of Law may not
24 later request the services of that department to collect the restitution.

25 (e) If the Department of Law or its agents proceed to collect restitution on
26 behalf of a recipient under (c) of this section, the actions of the Department of Law or
27 an agent of the Department of Law on behalf of the recipient do not create an attorney-
28 client relationship between the Department of Law and the recipient. The Department
29 of Law or its agent may not settle an order of restitution without the consent of the
30 recipient of the restitution.

31 (f) An action for damages may not be brought against the state or any of its

1 agents, officers, or employees based on an action or omission under this section.

2 (g) The Department of Law may enter into contracts on behalf of the state to
3 carry out the collection procedures of this section. The Department of Law may adopt
4 regulations necessary to carry out the collection procedures of this section, including
5 the reimbursement of attorney fees and costs in appropriate cases.

6 * **Sec. 31.** AS 47.12.310(b) is amended to read:

7 (b) A state or municipal agency or employee shall disclose

8 (1) [SHALL DISCLOSE] information regarding a case to a federal,
9 state, or municipal law enforcement agency for a specific investigation being
10 conducted by that agency; and

11 (2) [SHALL DISCLOSE] appropriate information regarding a case to

12 (A) a guardian ad litem appointed by the court;

13 (B) a person or an agency requested by the department or the
14 minor's legal custodian to provide consultation or services for a minor who is
15 subject to the jurisdiction of the court under this chapter as necessary to enable
16 the provision of the consultation or services;

17 (C) school officials as may be necessary to protect the safety of
18 the minor who is the subject of the case and the safety of school students and
19 staff or to enable the school to provide appropriate counseling and supportive
20 services to meet the needs of a minor about whom information is disclosed;

21 (D) a governmental agency as may be necessary to obtain that
22 agency's assistance for the department in its investigation or to obtain physical
23 custody of a minor;

24 (E) a law enforcement agency of this state or another
25 jurisdiction as may be necessary for the protection, rehabilitation, or
26 supervision of any minor or for actions by that agency to protect the public
27 safety;

28 (F) a victim or to the victim's insurance company as may be
29 necessary to inform the victim or the insurance company about the arrest of the
30 minor, including the minor's name and the names of the minor's parents, copies
31 of reports, or the disposition or resolution of a case involving a minor;

1 (G) the state medical examiner under AS 12.65 as may be
2 necessary to perform the duties of the state medical examiner; [AND]

3 (H) foster parents or relatives with whom the child is placed by
4 the department as may be necessary to enable the foster parents or relatives to
5 provide appropriate care for the child who is the subject of the case, to protect
6 the safety of the child who is the subject of the case, and to protect the safety
7 and property of family members and visitors of the foster parents or relatives;

8 (I) the Department of Law or its agent for use and
9 subsequent release if necessary for collection of an order of restitution on
10 behalf of the recipient; and

11 (J) the Violent Crimes Compensation Board established in
12 AS 18.67.020 for use in awarding compensation under AS 18.67.080.

13 * Sec. 32. AS 09.38.065(d) is repealed.

14 * Sec. 33. The uncodified law of the State of Alaska is amended by adding a new section to
15 read:

16 INDIRECT COURT RULE AMENDMENT. (a) The provisions of AS 12.55.045(l),
17 enacted by sec. 9 of this Act, and the provisions of AS 47.12.170, as amended by sec. 29 of
18 this Act, have the effect of amending Rule 82, Alaska Rules of Civil Procedure, by
19 authorizing full reasonable attorney fees for certain cases of victim restitution.

20 (b) The provisions of AS 12.55.045(l), enacted by sec. 9 of this Act, and
21 AS 47.12.170, as amended by sec. 29 of this Act, that authorize full reasonable attorney fees
22 take effect only if (a) of this section receives the two-thirds majority vote of each house
23 required by art. IV, sec. 15, Constitution of the State of Alaska. Otherwise, the provisions
24 shall require an award of collection costs and reasonable attorney fees.

25 * Sec. 34. The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 INDIRECT COURT RULE AMENDMENT. AS 12.61.200, added by sec. 12 of this
28 Act, has the effect of amending Rule 30, Alaska Rules of Criminal Procedure, relating to
29 instructions to the jury.

30 * Sec. 35. The uncodified law of the State of Alaska is amended by adding a new section to
31 read:

1 INDIRECT COURT RULE AMENDMENT. AS 24.65.110 and 24.65.120, added by
2 sec. 17 of this Act, have the effect of amending Rule 16, Alaska Rules of Criminal Procedure,
3 and Rule 9, Alaska Delinquency Rules, by allowing the victims' advocate a right of access to
4 information in criminal prosecutions and juvenile adjudications that is equal to that available
5 to criminal defendants or juveniles when the advocate is engaging in advocacy or that is
6 unlimited when the advocate is engaging in investigations concerning victims' rights.

7 * **Sec. 36.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 INDIRECT COURT RULE AMENDMENT. AS 24.65.200, added by sec. 17 of this
10 Act, amends Rule 501, Alaska Rules of Evidence, by creating a new privilege from being
11 compelled to testify in a court.

12 * **Sec. 37.** The uncodified law of the State of Alaska is amended by adding a new section to
13 read:

14 APPLICABILITY. AS 12.61.200, added by sec. 12 of this Act, is not intended to
15 interfere with any constitutional rights and applies only to the extent permitted by the United
16 States Constitution and the Constitution of the State of Alaska.

17 * **Sec. 38.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 APPLICABILITY. Sections 2 - 6, 8 - 11, 14, 15, and 27 - 32 of this Act apply to
20 judgments or orders of restitution entered in adjudications of delinquency of minors or in
21 criminal cases before, on, or after the effective date of secs. 2 - 6, 8 - 11, 14, 15, and 27 - 32
22 of this Act.

23 * **Sec. 39.** The uncodified law of the State of Alaska is amended by adding a new section to
24 read:

25 TRANSITION: REGULATIONS. The state agencies affected by this Act may
26 immediately proceed to adopt regulations necessary to implement the changes made by this
27 Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not
28 before the effective date of the applicable statutory change.

29 * **Sec. 40.** The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 TRANSITION. Notwithstanding the effective date of secs. 1, 7, 12, 13, 16 - 20, 23 -

1 26, and 34 - 37 of this Act, to the extent that there are appropriations for the purpose, the
2 executive director of the Legislative Affairs Agency may purchase supplies and equipment,
3 obtain office space, and employ clerical staff so that the office of victims' rights, created in
4 sec. 17 of this Act, is able to begin work on July 1, 2002.

5 * **Sec. 41.** Sections 21, 22, 39, and 40 of this Act take effect immediately under
6 AS 01.10.070(c).

7 * **Sec. 42.** Sections 1, 7, 12, 13, 16 - 20, 23 - 26, and 34 - 37 of this Act take effect July 1,
8 2002.

9 * **Sec. 43.** Sections 2 - 6, 8 - 11, 14, 15, 27 - 33, and 38 of this Act take effect January 1,
10 2002.

Sectional Analysis

HCS CS Senate Bill 105 (JUD) "Office of Victims Rights"

Section 1: provides a short title.

Section 2: allows the state, on behalf of a victim for restitution, to get a writ of execution.

Section 3: allows the state, on behalf of a victim for restitution, to execute a judgement against an incarcerated person's correctional facility account.

Section 4: expands the language in the existing statute allowing creditors to make a levy against exempt property to a person convicted of a crime or a delinquent. Current statute only allows the judgements against convicted felons.

Section 5: adds definitions to the Alaska Exemption Act.

Section 6: allows forfeited bond to be paid to the victim.

Section 7: allows the victims' advocate, when requested by the victim, to make a statement on the victim's behalf at time of sentencing.

Section 8: provides direction to the penalty for missed restitution payments.

Section 9: Adds new sections to the statutes regarding restitution:

(j) Requires a convict who is ordered to pay restitution to provide financial information to the courts and requires the court to share the information with the prosecutor.

(k) Allows the court to order a defendant on probation that is ordered to pay restitution to provide financial information and requires the defendant to share the information with their probation officer and the prosecutor.

(l) Specifies that an order for restitution is a civil judgement and can be enforced through the procedures already specified in law. Allows victims, or state on their behalf, to get collection costs and reasonable attorney fees.

(m) defines "conviction" for this section.

Section 10: removes references to restitution in 12.55.051.

Section 11: adds new sections to the statutes regarding enforcement of fines and restitution.

(e) Allows the Department of Law to collect restitution unless the victim doesn't want their assistance or the restitution is not a specific dollar amount.

(f) Requires the court to forward a copy of the order of restitution to DOL. Provides guidelines to DOL about when they can assist a victim in collecting restitution. Specifies that a victim that has rejected DOL's assistance to collect restitution cannot later request their assistance.

(g) Requires the court to provide certain identification information to DOL with the restitution order. Specifies that the information is confidential and cannot be disclosed except for collection purposes.

(h) Specifies that DOL does not have an attorney-client relationship with the recipient and that

DOL cannot settle a judgement for restitution without the recipient's consent.

(i) Gives the state immunity from civil action for carrying out these duties.

(j) Gives DOL the authority to contract out to collection agencies and adopt regulations.

Section 12: prohibits a judge or counsel from commenting on a victim choosing not to testify in a criminal case. Entitles the affected party to ask for a jury instruction that no inference be drawn from a victim not testifying.

Section 13: increases the compensation available to victims of crime by the Violent Crimes Compensation Board.

Section 14: specifies that the Department of Labor can share information in order to assist the state in the collection of restitution.

Section 15: adds a definition to the Alaska Employment Security Act.

Section 16: adds the victims' advocate to the definition of "legislative director" in the legislative ethics code.

Section 17: amends AS 24 by creating a new chapter establishing the Office of the Victims' Rights in the legislative branch. The following sections are created:

AS 24.65.010 creates the Office of Victims' Rights.

AS 24.65.020 establishes appointment procedures.

AS 24.65.030 establishes qualifications.

AS 24.65.040 defines the term of office.

AS 24.65.050 provides for removal of the victims' advocate.

AS 24.65.060 lists the salary for the victims' advocate.

AS 24.65.070 allows employment of staff and establishes their duties.

AS 24.65.080 office space and administration for the Office of Victims' Rights.

AS 24.65.090 requires advocate to adopt regulations.

AS 24.65.100 establishes when the victims' advocate can act.

AS 24.65.110 defines duties of the victims' advocate and access to records.

AS 24.65.120 specifies how and when the victims' advocate may investigate complaints of denial of crime victims' rights.

AS 24.65.130 provides subpoena power to the victims' advocate.

AS 24.65.140 requires the victims' advocate to consult with a justice agency before publishing a report.

AS 24.65.150 specifies the victims' advocate's duties upon completion of investigation.

AS 24.65.160 permits the victim's advocate to publish opinions and recommendations.

AS 24.65.170 requires the victims' advocate to publish an annual report.

AS 24.65.180 limits judicial challenge of the victims' advocate's actions.

AS 24.65.190 provides immunity against civil action to the victims' advocate and staff.

AS 24.65.200 provides evidentiary privilege against being compelled to testify to the victims' advocate and staff.

AS 24.65.210 sets out a criminal penalty for obstruction of the victims' advocate's duties.

AS 24.65.250 contains definitions applicable to this chapter.

Section 18: specifies that the Victims' Advocate and staff are in the exempt category.

Section 19: provides option of adopting longevity pay provisions to the Victims' Advocate.

Section 20: excepts OVR employees from using the conditional service retirement benefit for legislative employees.

Section 21: expands PFD ineligibility to a person who has been convicted of a misdemeanor and has one prior felony conviction.

Section 22: amends the public notice statute to conform with the changes in Section 9 and provides that the proceeds of the PFD forfeiture may be used to fund the Office of Victims' Rights and for grants to nonprofit victims' rights organizations.

Section 23: exempts regulations promulgated by the OVR from gubernatorial review.

Section 24: exempts the victims' advocate from record keeping requirements.

Section 25: requires that sunset review of agencies consider interaction with OVR.

Section 26: names OVR as state agency for purposes of state publications.

Section 27: requires the minor and minor's parent, if applicable, to provide financial information if ordered to pay restitution in a delinquent minor proceeding.

Section 28: allows the court to require that a parent or guardian pay restitution ordered in a delinquent minor proceeding.

Section 29: expands the language in the existing section of the delinquent minor law dealing with restitution to include the state on behalf of a recipient. Allows victims, or state on their behalf, to get collection costs and reasonable attorney fees.

Section 30: adds new sections to the statutes regarding enforcement of restitution for delinquent minors.

(b) Allows the Department of Law to collect restitution unless the victim doesn't want their assistance or the restitution is not a specific dollar amount.

(c) Specifies the procedure for the courts and HESS to notify DOL and the victim of the restitution order and what information must be provided to DOL. Specifies that the information is confidential and cannot be disclosed except for collection purposes

(d) Provides guidelines to DOL about when they can assist a victim in collecting restitution. Specifies that a victim that has rejected DOL's assistance to collect restitution cannot later request their assistance.

(e) Specifies that DOL does not have an attorney-client relationship with the recipient and that DOL cannot settle a judgement for restitution without the recipient's consent.

(f) Gives the state immunity from civil action for carrying out these duties.

(g) Gives DOL the authority to contract out to collection agencies and adopt regulations.

Section 32: removes the definition of "victim" from 09.38.065. It is now in 09.38.500, which is the definition section for that chapter.

Sections 33 -36: provide notice of court rule changes.

Section 37: specifies that section 12 is not intended to interfere with any constitutional rights.

Section 38: applicability of the restitution order sections of the bill.

Section 39: allows state agencies to immediately adopt necessary regulations.

Section 40: allows the Director of LAA to purchase supplies and equipment and establish office space for the new OVR in FY 01 to allow for the opening of the office in FY 02.

Section 41: immediate effective date for the PFD collection and transition sections.

Section 42: delayed effective date for the Office of Victims' Rights.

Section 43: delayed effective date for the sections enabling DOL to collect restitution.



ALASKA STATE LEGISLATURE

Senator Rick Halford

President of the Senate

Sponsor Statement Senate Bill 105

While in Session:
State Capitol
Juneau, AK 99801-1182
907-465-4958

While in Interim:
P.O. Box 670190
Chugiak, AK 99567
907-694-4958

"The Crime Victims' Rights and Advocacy Act of 2001"

On November 8, 1994, the voters of Alaska ratified an amendment to the Constitution of the State of Alaska, which provides specific rights to victims of crime. The overwhelming approval rate -- 86.6% in favor -- was testament of Alaskans' belief that:

"Crime victims, as defined by law, shall have the following rights as provided by law; the right to be reasonably protected from the accused through the imposition of appropriate bail or conditions of release by the court; the right to confer with the prosecution; the right to be treated with dignity, respect, and fairness during all phases of the criminal and juvenile justice process; the right to timely disposition of the case following the arrest of the accused; the right to obtain information about and be allowed to be present at all criminal or juvenile proceedings where the accused has the right to be present; the right to be allowed to be heard, upon request, at sentencing, before or after conviction or juvenile adjudication, and at any proceeding where the accused's release from custody is considered; the right to restitution from the accused; and the right to be informed, upon request, of the accused's escape or release from custody before or after conviction or juvenile adjudication."

---- ARTICLE I, SECTION 24, ALASKA CONSTITUTION

Passage of SB 105 will put in place a mechanism to guarantee the practical application of this very important Constitutional Amendment. It is time for victims to have advocacy when dealing with a judicial system so heavily weighted to the benefit of criminals, and based on a process replete with technicalities and legal jargon, rendering it virtually indecipherable to anyone other than the attorneys.

As was brought out in testimony on similar legislation last session, "While the criminals and the prosecution have their attorneys, the victims are too often left to sit alone in the shadow of justice." I urge your support for this legislation.



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Sponsor Statement

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907-465-4958

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Sectional Analysis

Senate Bill 105

"Office of Victims Rights"

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Section 2 of the bill allows the victims' advocate, when requested by the victim, to make a statement on the victim's behalf at time of sentencing.

Section 3 of the bill prohibits a judge or counsel from commenting on a victim choosing not to testify in a criminal case. Entitles the affected party to ask for a jury instruction that no inference be drawn from a victim not testifying.

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Section 5 of the bill adds the victims' advocate to the definition of "legislative director" in the legislative ethics code.

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