



LAWS OF ALASKA

2002

Source
SCS CSHB 297(JUD)

Chapter No.
23

AN ACT

Relating to restitution and to aggravating factors at sentencing.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: May 18, 2002
Actual Effective Date: August 16, 2002

AN ACT

1 Relating to restitution and to aggravating factors at sentencing.

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3 * Section 1. AS 12.55.045(l) is amended to read:

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(l) An order by the court that the defendant pay restitution is a civil judgment for the amount of the restitution. An order by the court that the defendant pay restitution when the court suspends imposition of sentence under AS 12.55.085 is a civil judgment for the amount of the restitution and remains enforceable and is not discharged when a conviction is set aside under AS 12.55.085. The victim or the state on behalf of the victim may enforce the judgment through any procedure authorized by law for the enforcement of a civil judgment. If the victim enforces or collects restitution through civil process, collection costs and full reasonable attorney fees shall be awarded. If the state on the victim's behalf enforces or collects restitution through civil process, collection costs and full reasonable attorney fees shall be awarded, up to a maximum of twice the amount of restitution owing at the time the civil process was initiated. This section does not limit the authority of the court to

Chapter 23

1 enforce orders of restitution.

2 * Sec. 2. AS 12.55.155(c) is amended by adding a new paragraph to read:

3 (30) the defendant is convicted of an offense specified in AS 11.41.410
4 - 11.41.455, and the defendant knowingly supplied alcohol or a controlled substance to
5 the victim in furtherance of the offense with the intent to make the victim
6 incapacitated; in this paragraph, "incapacitated" has the meaning given in
7 AS 11.41.470.

8 * Sec. 3. AS 47.12.120(b)(4) is amended to read:

9 (4) order the minor and the minor's parent to make suitable restitution
10 in lieu of or in addition to the court's order under (1), (2), or (3) of this subsection;
11 under this paragraph,

12 (A) except as provided in (B) of this paragraph, the court may
13 not refuse to make an order of restitution to benefit the victim of the act of the
14 minor that is the basis of the delinquency adjudication; under this
15 subparagraph, the court may require the minor to use the services of a
16 community dispute resolution center that has been recognized by the
17 commissioner under AS 47.12.450(b) to resolve any dispute between the minor
18 and the victim of the minor's offense as to the amount of or manner of payment
19 of the restitution; [AND]

20 (B) the court may not order payment of restitution by the parent
21 of a minor who is a runaway or missing minor for an act of the minor that was
22 committed by the minor after the parent has made a report to a law
23 enforcement agency, as authorized by AS 47.10.141(a), that the minor has run
24 away or is missing; for purposes of this subparagraph, "runaway or missing
25 minor" means a minor who a parent reasonably believes is absent from the
26 minor's residence for the purpose of evading the parent or who is otherwise
27 missing from the minor's usual place of abode without the consent of the
28 parent; **and**

29 **(C) at the request of the department, the Department of**
30 **Law, the victims' advocate, or on its own motion, the court shall, at any**
31 **time, order the minor and the minor's parent, if applicable, to submit**

1 financial information on a form approved by the Alaska Court System to
2 the court, the department, and the Department of Law for the purpose of
3 establishing the amount of restitution or enforcing an order of restitution
4 under AS 47.12.170; the form must include a warning that submission of
5 incomplete or inaccurate information is punishable as unsworn
6 falsification under AS 11.56.210;

7 * Sec. 4. AS 47.12.170(a) is amended to read:

8 (a) An order by the court under AS 47.12.120 that a minor or the minor's
9 parent pay restitution is a civil judgment that remains enforceable after the
10 expiration of the court's jurisdiction over the minor under AS 47.12.160. A
11 [PERSON WHO IS A] recipient of a restitution order [INVOLVING A MINOR
12 FOUND DELINQUENT UNDER AS 47.12.120], or the state on behalf of the
13 restitution recipient, may enforce a restitution [AN] order [FOR RESTITUTION
14 UNDER AS 47.12.120] against the minor and the minor's parent by any procedure
15 authorized by law for enforcement of [UNDER AS 09.35 AS IF THE ORDER
16 WERE] a civil judgment [ENFORCEABLE BY EXECUTION]. If the restitution
17 recipient enforces or collects restitution through civil process, collection costs and full
18 reasonable attorney fees shall be awarded. If the state on the restitution recipient's
19 behalf enforces or collects restitution through civil process, collection costs and full
20 reasonable attorney fees shall be awarded, up to a maximum of twice the amount of
21 restitution owing at the time the civil process was initiated. This section does not limit
22 the authority of the court to otherwise enforce orders of payment for restitution. An
23 order of restitution enforced under this section does not limit under other law the civil
24 liability of the minor or the minor's parent as a result of the delinquent conduct.

25 * Sec. 5. AS 47.12.170(c) is amended to read:

26 (c) The court shall forward a copy of the [AN ORDER OF] restitution order
27 to the department when the order [JUDGMENT] is entered. [ALONG WITH THE
28 COPY OF THE ORDER, THE COURT SHALL PROVIDE THE NAME, DATE OF
29 BIRTH, SOCIAL SECURITY NUMBER, AND CURRENT ADDRESS OF THE
30 RECIPIENT OF THE RESTITUTION, THE MINOR, AND THE MINOR'S
31 PARENT, TO THE EXTENT THAT THE COURT HAS THAT INFORMATION IN

Chapter 23

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

17 * Sec. 6. AS 47.12.130(c) is repealed.