

ALASKA STATE LEGISLATURE

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HB 23

Sponsor Statement

In 1992, the Legislature adopted a statute to allow the court to order a convicted defendant to pay restitution to the victims of their crime. The Legislature also gave the court discretion to require a convicted person to pay restitution as a condition of probation. The Legislature intended that a court would “ make full restitution available to all persons who have been injured as a result of criminal behavior to the greatest extent possible.”

Flash Forward...

In December of 2000, the former treasurer for the Alaska State Folk Festival was convicted of embezzling \$13,000 over a four-year period and he was ordered to pay restitution. In addition to the actual cash that was robbed, restitution included \$5,400, or an approximate value for the 200-hours of accounting costs expended by the six-member volunteer board to reconstruct and audit the books that the defendant had absconded with.

The defendant objected to the restitution award for the volunteer-accountants and appealed. In February, 2002, the Court of Appeals ruled that the victim, a non-profit organization, did not incur any actual damages or loss caused by crimes when its board members volunteered 200 hours of work auditing and reconstructing the organization's records, and thus was not entitled to restitution for that volunteer work. [Demers v. State, 42 P.3d. 1 \(Alaska App. 2002\)](#).

The undesirable implication of the [Demers](#) decision is that contrary to legislative intent, the tireless efforts of the volunteers laboring to mitigate damages ends up as a reward the perpetrator. Because the public, private or non-profit organization relied on volunteer labor, they weren't allowed to claim the value during the restitution determination.

[HB 23](#) clarifies the clear intent of the Legislature that a court may order restitution to a non-profit corporation (or any other victim, for that matter) as a part of a sentence or probation if the facts and the record support the restitution. This is an obvious fact considering that the Legislature intended for the court “ to make full restitution available to all persons who have been injured as a result of criminal behavior to the greatest extent possible.”

In the real world, HB 23 simply enables the court to consider documented volunteer labor as a factor in the process of determining restitution.

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