

CS FOR SENATE BILL NO. 30(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 3/22/11

Referred: Finance

Sponsor(s): SENATORS DYSON, Kookesh, Menard, Meyer, Giessel

A BILL

FOR AN ACT ENTITLED

1 **"An Act providing for the release of certain property in the custody of a law**
2 **enforcement agency to a crime victim under certain conditions and relating to requests**
3 **for that release by the office of victims' rights."**

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

5 *** Section 1.** AS 12.36 is amended by adding a new section to read:

6 **Sec. 12.36.070. Return of property by hearing.** (a) A crime victim who is the
7 owner of property not belonging to a law enforcement agency that is in the custody of
8 the agency under this chapter may request that the office of victims' rights request that
9 the agency return the property to the crime victim. The request under this subsection
10 shall be filed by the office of victims' rights on behalf of the crime victim after the
11 office has conducted an investigation and has concluded that the crime victim is
12 entitled to the return of the property under the factors listed in (c) of this section.

13 (b) Within 10 days after receipt of a request under (a) of this section and
14 following reasonable notice to the prosecution, defense, and other interested parties,

1 the agency shall request a hearing before the court to determine if the property shall be
2 released to the crime victim. If the property is being held in connection with a criminal
3 case, the hearing shall be before the court with jurisdiction of the criminal case. If no
4 criminal case is pending regarding the property, the hearing shall be before a district or
5 superior court where the property is located.

6 (c) After a hearing, the court may order the return of the property in the
7 custody of a law enforcement agency to the crime victim if

8 (1) the crime victim by a preponderance of the evidence provides
9 satisfactory proof of ownership; and

10 (2) the law enforcement agency fails to prove by a preponderance of
11 the evidence that the agency or another interested party is authorized to retain
12 possession of the property.

13 (d) The court may impose reasonable conditions on a crime victim claiming
14 property under this section. If the court orders the return of the property to the crime
15 victim, the court shall impose conditions to ensure that the property is available for
16 future court proceedings. If the court cannot assure the availability of the property, the
17 court shall establish the chain of custody up to the date of the property return and the
18 admissibility of the property at future court proceedings.

19 (e) In this section, "crime victim" has the meaning given to "victim" in
20 AS 12.55.185.

21 * **Sec. 2.** AS 24.65 is amended by adding a new section to read:

22 **Sec. 24.65.115. Authority to request return of property on behalf of**
23 **certain persons.** Notwithstanding another provision of this chapter, the victims'
24 advocate may file a request under AS 12.36.070 with a law enforcement agency for
25 the return of property to a crime victim after having conducted an investigation and
26 determining that the crime victim is entitled to the return of the property under the
27 factors listed in AS 12.36.070(c). In fulfilling the requirements of this section, the
28 victims' advocate may use any of the powers granted to the advocate under this
29 chapter.