

**CS FOR SENATE BILL NO. 30(2d JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

**BY THE SENATE JUDICIARY COMMITTEE**

**Offered: 4/7/11**

**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) At the hearing, a party that objects to the return of the property shall state  
 7 the reason on the record. After a hearing, the court may order the return of the  
 8 property in the custody of a law enforcement agency to the crime victim if

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

11 (2) the party that objects to the return of the property fails to prove by  
 12 a preponderance of the evidence that the property must be retained by the agency for  
 13 evidentiary purposes under the provisions of this chapter or another law.

14 (d) If the court orders the return of the property to the crime victim, the court  
 15 may impose reasonable conditions on the return. Those conditions may include an  
 16 order that the crime victim retain and store the property so that the property is  
 17 available for future court hearings, requiring photographs of the property to be taken,  
 18 or any other condition the court considers necessary to maintain the evidentiary  
 19 integrity of the property.

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

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

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