

ALASKA STATE SENATE



SENATOR FRED DYSON

SECTION ANALYSIS – CS SB30 (2d JUD)

Section 1

1. Provides that a crime victim who is the owner of property in the custody of a law enforcement agency may request the agency for the return of their property through the Office of Victims' Rights (OVR).
2. OVR will file the request with the agency after conducting an investigation into the request to make an initial determination if the crime victim is entitled to return of the property being claimed under the requirements of proposed 12.36.070(c): the crime victim provides satisfactory proof of ownership, and the party that objects to the return of the property fails to prove that the property must be retained by the agency for evidentiary purposes.
3. Once OVR makes such a determination, they will request on behalf of the crime victim that the agency return the property.
4. Within 10 days after receipt of request and following reasonable notice to prosecution, defense and other interested parties, the agency will request a hearing before the court to determine if the property shall be released to the crime victim.
5. The court of jurisdiction is identified in cases involving a pending criminal case and in situations where no criminal case is pending.
6. Establishes the burden of proof to be a *preponderance of the evidence*, for both the crime victim showing ownership and the objecting party proving the property must be retained by the agency.
7. Establishes that if the court orders the return of the property to the crime victim, the court may impose reasonable conditions on the return to maintain the evidentiary integrity of the property.
8. Identifies the term *crime victim* as having the meaning given to *victim* in AS 12.55.185, the Code of Criminal Procedure.

Section 2

1. Establishes within Title 24, Chapter 65 *Office of Victims' Rights* the authority of OVR to request a law enforcement agency for return of property on behalf of a crime victim claiming property after conducting an investigation as proscribed in AS 12.36.070(c).
2. Provides that the victims' advocate may use any of the powers granted to the advocate under Title 24, Chapter 65.