



**STATE OF ALASKA
OFFICE OF VICTIMS' RIGHTS**

February 4, 2014

Senator Fred Dyson
State Capitol, Room 121
Juneau, AK 99801

RE: SB 110 – Return of Seized Property

Dear Senator Dyson:

As the director of the Alaska Office of Victims' Rights (OVR), I write in support of SB 110, Return of Seized Property, which you introduced on January 22, 2014.

The amended language offered in SB 110, which the OVR supports, reads as follows:

"An Act relating to the authority of the victims' advocate to request a hearing for the release to a crime victim under certain conditions of certain property in the custody of a law enforcement agency."

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

* Section 1. AS 12.36.070 is amended by adding a new subsection to read:

(f) If the agency fails to act on a request under (a) of this section within the deadline set in (b) of this section, the victims' advocate may request a hearing under (b) of this section.

* Sec. 2. AS 24.65.115 is amended to read:

Sec. 24.65.115. Authority to request return of property on behalf of certain persons. (a) Notwithstanding another provision of this chapter, the victims' advocate may

(1) file a request under AS 12.36.070 with a law enforcement agency for the return of property to a crime victim after having conducted an investigation and determining that the crime victim is entitled to the return of the property under the factors listed in AS 12.36.070(c);

(2) request a hearing under AS 12.36.070(f).

(b) In fulfilling the requirements of this section, the victims' advocate may use any of the powers granted to the advocate under this chapter.

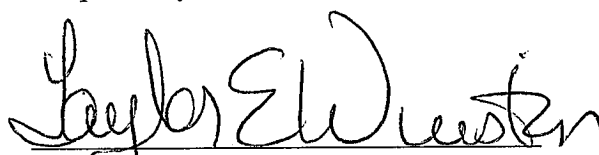
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As the victims' advocate, I have concerns about the functionality of the current statute A.S. 12.36.070 Return of Property by Hearing for victims. The current statute attempts to provide an avenue for crime victims to pursue the return of their property from law enforcement agencies when the property is held in connection with a criminal matter. The current statute, however, allows no recourse for a crime victim if the law enforcement agency fails to return the property or fails to request a hearing, as is required in the current statute. The likelihood that police officers or troopers in law enforcement agencies will file requests for a hearing with the court over evidence they hold and the victim wishes returned is low for several reasons.

The proposed amendment would allow for the OVR to request a hearing before the court when the law enforcement agency has failed to act in accordance with the statute. This is not an option with the current language of the statute because the Alaska Court System will not accept filings from the OVR requesting such a hearing on the behalf of a crime victim. Hence, if a crime victim and the OVR follow the procedure in the current statute, and the law enforcement agency does not do as required by the statute, the victim will be no better off than if the current statute was never enacted. Moreover, in the current statute, there is no consequence or ramification for the law enforcement agency, which fails to follow the requirement of the statute. As it stands now, it is as if the crime victim is saying "Law enforcement agency, please return my property" and when that request falls on deaf ears of the agency, by it neither returning the property or requesting a hearing, the victim is denied their property and denied an opportunity to be heard on the matter before the court. Therefore, the OVR strongly supports SB 110 on behalf of the crime victims in our state.

Respectfully,

A handwritten signature in black ink, appearing to read "Taylor E. Winston". The signature is written in a cursive style with a large initial "T" and "W".

Taylor E. Winston, Director
Alaska Office of Victims' Rights