

**Information concerning FTA and VCOR violations effective
July 12, 2016 pursuant to SB 91**

Effective July 12, 2016, the offense of **AS 11.56.730** Failure to Appear (**FTA**) can be charged under the following subsections as follows:

AS 11.56.730(d)(1): Class C felony if the person was released in connection with a charge of a felony, or while awaiting sentence or appeal after conviction of a felony, and the person

- (A) Does not make contact with the court or a judicial officer within 30 days after the person does not appear at the time and place of a scheduled hearing; or
- (B) Does not appear at the time and place of a scheduled hearing to avoid prosecution.

AS 11.56.730(d)(2): Class A misdemeanor if the person was released in connection with a charge of a misdemeanor, while awaiting sentence or appeal after conviction of a misdemeanor, or in connection with a requirement to appear as a material witness in a criminal proceeding, and the person

- (A) Does not make contact with the court or a judicial officer within 30 days after the person does not appear at the time and place of a scheduled hearing; or
- (B) Does not appear at the time and place of a scheduled hearing to avoid prosecution.

AS 11.56.730(d)(3): Violation punishable by a fine of up to \$1,000 and is a mandatory court appearance.

Officers may issue a citation for the FTA violation or prosecutors may file an amended charging document that includes the FTA offense with a new CTN in the underlying criminal case.

Citation process for filing as a FTA minor offense violation:

The officer issues the defendant a citation and files the citation with the court as follows:

1. The citation lists the offense as a mandatory court appearance violation;
2. The officer enters the arraignment appearance date and time for a minor offense for the court location;
3. **Important:** In the space provided for the essential facts on the citation, the officer must include the essential facts of the offense **and list the underlying criminal case number.**

Effective July 12, 2016, the offense of **AS 11.56.757(a) Violation of Conditions of Release (VCOR)** is reduced from a misdemeanor or felony to a violation. The maximum penalty for this minor offense is \$1,000.00. This minor offense is a mandatory court appearance offense.

Officers may issue a citation for the VCOR offense or prosecutors may file an amended charging document that includes the VCOR offense with a new CTN in the underlying criminal case.

Citation Process:

The officer issues the defendant a citation and files the citation with the court as follows:

1. The citation lists the offense as a mandatory court appearance violation;
2. The officer enters the arraignment appearance date and time for minor offenses for the court location;
3. **Important:** In the space provided for the essential facts on the citation, the officer must include the essential facts of the offense and **list the underlying criminal case number**.

Additional Information:

If the defendant is arrested for a new offense that violates the conditions of release, the officer may also issue a citation for the VCOR offense.

If the defendant fails to appear, the clerk follows the normal default judgment process (including issuance of a warning notice).

Prosecutors who wish to be notified of citations issued for a VCOR violation should advise their police agency to send them a copy of the citation.

Municipal Cases: If the underlying case is a municipal case and the municipality has its own VCOR ordinance, the defendant may be charged under the municipal offense. However, if the municipality does not have its own VCOR ordinance, the defendant may only be charged under AS 12.25.180. Because this is a state offense, it must be charged as a separate case listing the State of Alaska as the plaintiff.

Arrests Under AS 12.25.030(b)(3)(C):

SB 91 did not amend AS 12.25.030(b)(3)(C) which provides that a peace officer may arrest the defendant without a warrant **on the underlying criminal case.**

Note: The officer may **not** remand on the VCOR charge. The officer can **only** remand the defendant on the underlying criminal charge pursuant to this provision if the officer has probable cause to believe the person "violated conditions imposed as part of the person's release under the provisions of AS 12.30".

Process:

1. The defendant is released OR:

- a. Jail gives defendant Form CR-766 (Order and Conditions of Release - Own Recognizance Per Schedule) which must include the next court appearance date and time. The underlying case number **must** be listed on the form.
- b. The jail forwards the form to the court and prosecutor.
- c. The court will schedule the underlying case for arraignment on the date and time listed on the form.

2. If defendant is not released OR:

- a. The jail sends the court the Remand Slip (or other form) with the defendant information **including** the underlying **criminal** case number.
- b. The court will schedule the underlying case for arraignment on the date and time listed on the remand slip within 24 hours.
- c. Prosecutors will be notified in the same manner as they are currently notified of daily arrests.

Note: AS 12.25.180 was amended to allow officers to **arrest** defendants for VCOR violations beginning on **January 1, 2017**. Additional information will be distributed prior to January 1.