

**SB 33 – ARREST; RELEASE; SENTENCING; PROBATION  
SECTIONAL ANALYSIS**

April 29, 2019

**Summary:** This bill requires that a person be arraigned within 48 hours after arrest, eliminates the use of the risk assessment tool as a factor when determination bail and conditions of release; and allows judges to use third-party custodians more freely. It also eliminates the requirement that a judge find by clear and convincing evidence that no less restrictive means will reasonably ensure the person's appearance in court or the safety of the victim or community *before* imposing monetary bail. The bill moves the supervision functions of the pretrial services program under the probation statutes rather than having a separate program in statute. Finally, the bill encourages the Alaska Court System to use videoconferencing for all pretrial hearings.

**Section 1** Legislative intent. Expressing intent that the Alaska Court System, Department of Corrections, and Department of Public Safety continue to make efforts to find efficiencies in the criminal justice system and use contemporaneous two-way video conferencing for pretrial hearings wherever possible.

**Section 2** Increases the amount of time available for an arraignment to happen from 24 hours to 48 hours from the time of arrest. Eliminates language related to proceeding with an arraignment regardless of the availability of a risk assessment conducted by a pretrial services officer.

**Section 3** Eliminates language related to a risk assessment conducted by a pretrial services officer.

**Section 4** Eliminates language requiring a judicial officer to review any condition of release that has prevented the defendant from being released. Also eliminates language requiring a judicial officer to find by clear and convincing evidence that a less restrictive condition cannot reasonably ensure the defendant's appearance or the safety of the victim.

**Section 5** Eliminates inability to pay as a reason for a judicial officer to conduct subsequent bail hearings and a review of the person's conditions of release.

**Section 6** Conforming amendment. Eliminates reference to AS 33.07.

**Section 7** Largely reenacts the bail statute as it was prior to January 1, 2018. Eliminates the requirement that the release decision be tied to a person's risk assessment score. Eliminates the presumptions of release and the requirement that a judicial officer find by clear and convincing

evidence that no less restrictive condition can ensure the appearance of the defendant or safety of the community or victim before a judicial officer can impose monetary bail.

**Section 8** Eliminates the requirement that a pretrial services officer not be available in the area before a third-party custodian can be appointed.

**Section 9** Reenacts the prohibition on appointing individuals who may be called as a witness in the case from being appointed as third-party custodians. Establishes that a person cannot be appointed as a third party custodian if the person has been unconditionally discharged within the previous five years from a felony or a crime against a person.

**Section 10** Requires the court to state orally on the record the terms of a person's sentence including the minimum term the defendant must serve before becoming eligible for discretionary parole.

**Section 11** Prohibits the court from granting jail credit for time spent on electronic monitoring before trial.

**Section 12** Conforming amendment to the changes made by section 11.

**Section 13** Adds prosecuting authority to the list of entities that can be notified if a person is discharged from a treatment program for noncompliance.

**Section 14** Limits the amount of jail credit that can be granted for time spent in a treatment program to 180 days.

**Section 15** Requires the prosecutor to notify the victim if the defendant has been discharged from a treatment program for noncompliance before trial.

**Section 16** Conforming amendment. Conforms to the change made in section 2.

**Section 17** Adds authority for the commissioner of the department of corrections to supervise pretrial defendants.

**Section 18** Requires the commissioner of the department of corrections to make officers available to the courts for pretrial supervision. Also allows the commissioner to contract with private entities for electronic monitoring services.

**Section 19** Clarifies that probation officers may be made available to district courts.

**Section 20** Adds pretrial supervision to the list of duties which a probation officer may perform and clarifies that when performing those duties probation officers are pretrial services officers.

**Section 21** Lays out the duties of a probation officer when acting as a pretrial services officer. These duties include arresting defendants and filing criminal complaints for violations of conditions of release.

**Section 22** Conforming amendment. Eliminates the reference to AS 33.07, which is where the pretrial services program is currently located. AS 33.07 is repealed in the bill.

**Section 23** Eliminates the requirement that the Department of Corrections report to the Alaska Criminal Justice Commission on pretrial defendant risk levels and charges and pretrial recommendations made by pretrial services officers.

**Section 24** Conforming amendment to the changes made in section 25.

**Section 25** Requires the use of contemporaneous two-way video conferencing at all arraignments, pleas, and non-evidentiary bail hearings in misdemeanor cases and initial appearances and non-evidentiary bail reviews and arraignments in felony cases. Also allows the court to order the defendant to appear by contemporaneous two-way video conferencing at any other hearing.

**Section 26** Allows a defendant or the defendant's counsel to consent to a continuance of trial.

**Section 27** Repealer section.

**Section 28** Applicability section.

**Section 29** Transition section. Ensures that the Department of Corrections can still monitor any defendant that is currently on pretrial release and under the supervision of the Department of Corrections despite the transfer of that authority from the pretrial services program to probation Conditional effect due to the direct court rule change.

**Section 30** Conditional effect section.

**Section 31** Effective Date. This Act takes effect on July 1, 2019.