

SENATE CS FOR CS FOR HOUSE BILL NO. 368(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/29/00

Referred: Finance

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to release of persons before trial and before sentencing or
2 service of sentence; relating to when service of sentence shall begin; and relating
3 to custodians of persons released, to security posted on behalf of persons released,
4 and to the offense of violation of conditions of release."

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

6 * **Section 1.** AS 09.50.010 is amended to read:

7 **Sec. 09.50.010. Acts or omissions constituting contempt.** The following acts
8 or omissions with [IN] respect to a court of justice or court proceedings are contempts
9 of the authority of the court:

10 (1) disorderly, contemptuous, or insolent behavior toward the judge
11 while holding the court, tending to impair its authority or to interrupt the course of a
12 trial or other judicial proceeding;

13 (2) a breach of the peace, boisterous conduct, or violent disturbance,
14 tending to interrupt the course of a trial or other judicial proceeding;

(3) misbehavior in office, or other wilful neglect or violation of duty by an attorney, clerk, peace officer, or other person appointed or elected to perform a judicial or ministerial service;

(4) deceit or abuse of the process or proceedings of the court by a party to an action or **proceeding** [PROCEEDINGS];

(5) disobedience of a lawful judgment, order, or process of the court;

(6) falsely pretending to act under authority to an order or process of the court;

(7) rescuing a person or property in the custody of an officer by virtue of an order or process of the court;

(8) unlawfully detaining a witness or party to an action or proceeding while going to, remaining at, or returning from the court where the witness or party is for trial;

(9) any other unlawful interference with the process or proceedings of the court;

(10) disobedience of a subpoena duly served, or refusing to be sworn or answer as a witness;

(11) when summoned as a juror in a court, neglecting to attend or serve, or improperly conversing with a party to an action or proceeding to be tried at the court or with another person in relation to the merits of the action, or receiving a communication from a party or other person in respect to it without immediately disclosing it to the court;

(12) disobedience by an inferior court, judge, magistrate, referee, master, or officer of the lawful judgment, order, or process of a higher court, or proceeding in an action or proceeding contrary to law after the action or proceeding is removed from the jurisdiction of that inferior court, judge, magistrate, or officer;

(13) failure, when acting as a custodian appointed by the court for a released person under AS 12.30, to report immediately that the person released has violated a condition of release.

* **Sec. 2.** AS 09.50.020(a) is amended to read:

(a) A person who is guilty of contempt is punishable by fine of not more than

\$300 or by imprisonment for not more than six months. However, when the contempt is one mentioned in AS 09.50.010(3) - (12), or in an action before a magistrate, the person is punishable by a fine of not more than \$100 unless it appears that a right or remedy of a party to an action or proceeding was defeated or prejudiced by the contempt, in which case the penalty shall be as prescribed for contempts described in AS 09.50.010(1), [AND] (2), and (13).

* **Sec. 3.** AS 11.56 is amended by adding a new section to read:

Sec. 11.56.757. Violation of condition of release. (a) A person commits the crime of violation of condition of release if the person

(1) has been charged with a crime or convicted of a crime;

(2) has been released under AS 12.30; and

(3) violates a condition of release imposed by a judicial officer under AS 12.30, other than the requirement to appear as ordered by a judicial officer.

(b) Violation of condition of release is

(1) a class A misdemeanor if the person is released from a charge or conviction of a felony;

(2) a class B misdemeanor if the person is released from a charge or conviction of a misdemeanor.

(c) In this section, "conviction" means that an adult, or a juvenile charged as an adult under AS 47.12, has entered a plea of guilty, guilty but mentally ill, or nolo contendere, or has been found guilty or guilty but mentally ill by a court or jury.

* **Sec. 4.** AS 12.30.020(b) is amended to read:

(b) If a judicial officer determines under (a) of this section that the release of a person will not reasonably assure the appearance of the person, or will pose a danger to the alleged victim, other persons, or the community, the judicial officer may

(1) place the person in the custody of a designated person or organization agreeing as a custodian to supervise the person; the court shall, personally and in writing, inform the custodian about the duties required of a custodian, and that failure to report immediately in accordance with the terms of the order that the person released has violated a condition of release may result in the custodian's being held in contempt under AS 09.50.010;

(2) place restrictions on the travel, association, or place of abode of the person during the period of release;

(3) require the person to return to custody after daylight hours on designated conditions;

(4) require the execution of an appearance bond in a specified amount and the deposit in the registry of the court, in cash or other security, a sum not to exceed 10 percent of the amount of the bond; the deposit to be returned upon the performance of the condition of release;

(5) require the execution of a bail bond with sufficient solvent sureties or the deposit of cash; [OR]

(6) require the execution of a performance bond in a specified amount and the deposit in the registry of the court, in cash or other security; the performance bond must be imposed and enforced separately from any appearance bond, and the deposit to be returned upon the performance of the condition of release; or

(7) impose any other condition considered reasonably necessary to assure the defendant's appearance as required and the safety of the alleged victim, other persons, or the community.

* Sec. 5. AS 12.30.060 is amended to read:

Sec. 12.30.060. Penalties for failure to appear. A person released under the provisions of this chapter who knowingly [WILFULLY] fails to appear before a court or judicial officer as required shall incur a forfeiture of any security that was given or pledged for the person's release and, if the person was released

(1) in connection with a charge of felony, or while awaiting sentence or pending appeal after conviction of an offense, is guilty of a felony and upon conviction is punishable by a fine of not more than \$5,000 or by imprisonment for not more than five years, or by both;

(2) in connection with a charge of misdemeanor, is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than the maximum provided for the misdemeanor, or by imprisonment for not more than one year, or by both; or

(3) for appearance as a material witness, is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$1,000, or by imprisonment for not more than one year, or by both.

* **Sec. 6.** AS 12.55.025(c) is amended to read:

(c) Except as provided in (d) and (e) of this section, when a defendant is sentenced to imprisonment, the term of confinement commences on the date of imposition of sentence **unless the court specifically provides that the defendant must report to serve the sentence on another date. If the court provides another date to begin the term of confinement, the court shall provide the defendant with written notice of the date, time, and location of the correctional facility to which the defendant must report.** A defendant shall receive credit for time spent in custody pending trial, sentencing, or appeal, if the detention was in connection with the offense for which sentence was imposed. A defendant may not receive credit for more than the actual time spent in custody pending trial, sentencing, or appeal. The time during which a defendant is voluntarily absent from official detention after the defendant has been sentenced may not be credited toward service of the sentence.

* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. (a) Sections 1 - 3 and 5 of this Act apply to offenses committed on or after the effective date of this Act. However, the underlying offense for which a person is on release before trial, sentence, or service of sentence may occur before, on, or after the effective date of this Act.

(b) Section 4 of this Act applies to custodians appointed and performance bonds posted on or after the effective date of this Act. However, offenses that give rise to the appointment of a custodian or the posting of the performance bond may occur before, on, or after the effective date of this Act.

(c) Section 6 of this Act applies to actions occurring before, on, or after the effective date of this Act.