

# ALASKA STATE SENATE



## SENATOR FRED DYSON

### CS SB30(2d JUD) - EXPLANATION OF CHANGES

The substantive changes to SB 30 since introduction on 01/19/11 are as follows:

1. The use of the term *owner* was changed to *crime victim* out of a concern that bill language would allow for defendants to misuse the *return of property hearing* process, and detract from the intention of the bill, to promote victims' rights by returning property to crime victims.
2. The introduction of the Office of Victims' Rights to the return of property process was done to alleviate a concern that bill language may inadvertently open the door to a significant number of requests for return of property hearings from crime victims, and that a required intermediary step be considered to vet the requests to make a pre-determination concerning eligibility of crime victims to have their property returned to them.
3. Original bill language permitted property owners to directly request from a law enforcement agency the return of their property. For reasons mentioned in #2, the current version provides that the Office of Victims' Rights files a request with the law enforcement agency on behalf of the crime victim for return of property.
4. Original bill language required the law enforcement agency to prove that the agency or another interested party is authorized to retain possession of the property. Judiciary committee members and the Office of Public Defender recommended that *the party that objects to the return of the property* should be the entity with the burden of proof that the property should be retained and not returned to the crime victim.
5. Dept of Law requested the following changes in cooperation with the bill sponsor –
  - a. Clarification of court jurisdiction when the property in question is part of a criminal case, and when it is not part of a criminal case.
  - b. An evidentiary standard of proof be established to guide the Court with decisions of whether the burden of proof is met by the parties. The standard is *a preponderance of the evidence*.
  - c. The party who objects to the return of property to a crime victim shall state the reason on the record.
  - d. Clarifies the *reasonable conditions* the court may impose on the return of property to crime victims to maintain the evidentiary integrity of the property.
6. The term *crime victim* is defined as the meaning given to *victim* in AS 12.55.185, Alaska Code of Criminal Procedure.
7. Consistent with the changes identified in #2, the current version of SB 30 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.

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