

LEGAL SERVICES

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MEMORANDUM

December 14, 2011

SUBJECT: Sectional Analysis of 27-LS0966\A

TO: Senator Hollis French
Attn: Lila Hobbs

FROM: Doug Gardner
Director

You requested a sectional analysis of the above referenced bill. Preliminarily, please note that a sectional analysis should not be considered an authoritative interpretation of a bill -- the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it relates to a particular set of circumstances, please advise.

Overview of the Bill

As an overview, the bill has the primary purpose of amending statute and court rule to provide a right to victims of crime defined by AS 12.55.185, to notice from the prosecuting attorney of any request for a continuance that will substantially delay trial. The bill also provides that the prosecuting attorney must inform the court of the victim's position on the motion. The bill requires that prior to ruling on the motion, the court must consider the victim's position on a motion to continue that may substantially delay the prosecution. The bill provides that the court must consider the effect such a continuance will have on the victim. With that overview, a brief sectional analysis follows.

Section one of the bill amends AS 12.61.010(a)(2), by adding a provision to the enumerated rights of crime victims providing that a victim has a right to be notified by the appropriate law enforcement agency, or the prosecuting attorney, of any request for a continuance that may substantially delay the prosecution

Section two of the bill amends AS 12.61.015(a), the duties of a prosecuting attorney, to include the duty to inform the victim, as defined in AS 12.55.185, of a pending motion that may substantially delay the prosecution, and inform the court of the victim's position on the motion.

Section three of the bill amends Criminal Rule 45(d)(2), which is the criminal rule that provides the court with the authority to grant a continuance in a criminal case. This section adds a provision that requires that a court, when considering a motion to grant a continuance, may do so only after considering the victim's interest in a ruling by the court

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on the motion to continue. This section references the new section of Criminal Rule 45 added in section four of the bill.

Section four of the bill amends Criminal Rule 45, by adding a new section (h), entitled "Victim's Interest on Ruling on Motion to Continue." Section (h) provides that before ruling on a motion to continue in a case involving a victim of crime as defined in AS 12.55.185, that the court must consider the victim's position on the motion to continue, and the effect that a continuance will have on the victim.

DDG:ljw

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