



LAWS OF ALASKA

1966

Source:

HB 317

Chapter No.:

20

AN ACT

Relating to the release of persons in criminal actions by bail; and providing for an effective date.

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

* Section 1. AS 12.30 is repealed and re-enacted to read:

Sec. 12.30.010. BAIL BEFORE CONVICTION IS MATTER OF RIGHT. The defendant in a criminal proceeding is entitled to be admitted to bail before conviction as a matter of right.

Sec. 12.30.020. RELEASE BEFORE TRIAL. (a) A person charged with an offense shall, at his first appearance before a judicial officer, be ordered released pending trial on his personal recognizance or upon the execution of an unsecured appearance bond in an amount specified by the judicial officer unless the officer determines that the release of the person will not reasonably assure the appearance of the person as required.

(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, the judicial

officer may

(1) place the person in the custody of a designated person or organization agreeing to supervise him;

(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 per cent 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) impose any other condition considered reasonably necessary to assure the defendant's appearance as required.

(c) In determining the conditions of release under (b) of this section, the judicial officer shall take into account

(1) the nature and circumstances of the offense charged,

(2) the weight of the evidence against the person,

(3) the person's family ties,

(4) the person's employment,

(5) the person's financial resources,

(6) the person's character and mental condition,
(7) the length of the person's residence in the
community,

(8) the person's record of convictions,
(9) the person's record of appearance at
court proceedings,

(10) the flight of the accused to avoid prosecution or his failure to appear at court proceedings.

(d) A judicial officer authorizing the release of a person under this section shall issue an order containing a statement of the conditions imposed.

(e) The judicial officer shall inform the person of the penalties which may be imposed for a violation of the conditions of his release and advise him that a warrant for his arrest will be issued immediately upon a violation.

(f) A person who remains in custody 24 hours after his appearance before a judicial officer because of his inability to meet the conditions of release shall, upon application, be entitled to have the conditions reviewed by the judicial officer who imposed them. If the judicial officer who imposed the conditions of release is not available, any other judicial officer in the district may review the conditions. If the conditions are not amended and the person remains in custody, the judicial officer shall set out in writing the reasons for requiring the conditions imposed.

(g) A judicial officer who orders the release of a person on a condition specified in (b) of this section may at any time amend his order to impose additional or different

conditions of release, or to release the person under (a) of this section.

(h) Information offered or introduced at a hearing before a judicial officer to determine the conditions of release need not conform to the rules governing the admissibility of evidence in a court of law.

Sec. 12.30.030. APPEAL FROM CONDITIONS OF RELEASE.

(a) A person who remains in custody after a review provided for in sec. 20(f) of this chapter may move the court having original jurisdiction over the offense to amend the order. The motion shall be determined promptly.

(b) When a court denies a motion under (a) of this section or conditions of release have been imposed by the court having original jurisdiction over the offense, an appeal may be taken to the court having appellate jurisdiction over the court denying the motion or imposing the conditions subject to the rules of the Supreme Court of Alaska, and the Magistrate Rules of Criminal Procedure. The order of the lower court shall be affirmed unless it is found that the lower court abused its discretion. If it is held that the lower court did abuse its discretion, the appellate court may modify, vacate, set aside, reverse, remand the action for further proceeding, or remand the action directing entry of the appropriate order, which may include ordering the person to be released under sec. 20(a) of this chapter. The appeal shall be determined promptly.

Sec. 12.30.040. RELEASE AFTER CONVICTION. A person who has been convicted of an offense and is awaiting sentence, or who has filed an appeal shall be treated in

accordance with the provisions of sec. 20 of this chapter unless the court has reason to believe that no one or more conditions of release will reasonably assure the appearance of the person as required or prevent the person from posing a danger to other persons and the community. If that determination is made, the person may be remanded to custody. This section does not affect the right of a person appealing from a judgment of conviction from a magistrate court to the superior court to be released on bail pending appeal under Rule 2(c) of the Magistrate Rules of Criminal Procedure.

Sec. 12.30.050. RELEASE OF MATERIAL WITNESSES. If it appears by affidavit that the testimony of a person is material in a criminal proceeding, and it is shown that it may become impracticable to secure his presence by subpoena, a judicial officer shall impose conditions of release under sec. 20 of this chapter. No material witness shall be detained because of inability to comply with any condition of release if the testimony of the witness can adequately be secured by deposition. Release may be delayed for a reasonable period of time for the deposition of the witness to be taken.

Sec. 12.30.060. VIOLATION OF CONDITIONS. A person released under the provisions of this chapter who wilfully fails to appear before a court or judicial officer as required shall incur a forfeiture of any security which was given or pledged for his release and

(1) if he was released 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; or

(2) if he was released 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) if he was released 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. 12.30.070. CONTEMPT. Nothing in this chapter shall prevent a court from exercising its power to punish for contempt.

Sec. 12.30.080. DEFINITIONS. In secs. 10 - 70 of this chapter

(1) "judicial officer" means a person authorized to release a person pending trial, sentencing, or pending appeal;

(2) "offense" means any criminal offense.

* Sec. 2. AS 12.50.090 - 12.50.100 is repealed.

* Sec. 3. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.