



# LAWS OF ALASKA

2000

**Source**

SCS CSHB 368(JUD)

**Chapter No.**

124

**AN ACT**

Relating to release of persons before trial and before sentencing or service of sentence; relating to when service of sentence shall begin; and relating to custodians of persons released, to security posted on behalf of persons released, and to the offense of violation of conditions of release.

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

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**Approved by the Governor:** June 6, 2000

**Actual Effective Date:** September 4, 2000

AN ACT

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

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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;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (2) has been released under AS 12.30; and

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

14 (b) Violation of condition of release is

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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