

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 33(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/30/99

Referred: Rules

Sponsor(s): REPRESENTATIVES DYSON, Green, James, Kott

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to arrests."

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

3 * **Section 1.** AS 12.25 is amended by adding a new section to read:

4 **Sec. 12.25.025. Grounds for arrest by private person.** A private person may
5 arrest a person without a warrant for a crime committed in this state or attempted in
6 this state in the presence of the person making the arrest. A private person may not
7 arrest a person for a crime not committed or attempted in the presence of the person
8 making the arrest.

9 * **Sec. 2.** AS 12.25.030(a) is amended to read:

10 (a) A [PRIVATE PERSON OR A] peace officer [WITHOUT A WARRANT]
11 may arrest a person **without a warrant**

12 (1) for a crime committed or attempted in the presence of the **officer**
13 [PERSON] making the arrest;

14 (2) when the person has committed a felony, although not in the
15 presence of the **officer** [PERSON] making the arrest;

1 (3) when a felony has in fact been committed, and the **officer**
 2 [PERSON] making the arrest has reasonable cause for believing the person to have
 3 committed it;

4 **(4) when the officer has probable cause to believe the person has,**
 5 **either in or outside the presence of the officer,**

6 **(A) committed a crime involving domestic violence, whether**
 7 **the crime is a felony or a misdemeanor; in this subparagraph, "crime**
 8 **involving domestic violence" has the meaning given in AS 18.66.990;**

9 **(B) committed the crime of violating a protective order in**
 10 **violation of AS 11.56.740; or**

11 **(C) violated a condition of release imposed under**
 12 **AS 12.30.025 or 12.30.027;**

13 **(5) when the peace officer has reasonable cause for believing that**
 14 **the person has**

15 **(A) committed a crime under or violated conditions imposed**
 16 **as part of the person's release before trial on misdemeanor charges**
 17 **brought under AS 11.41.270;**

18 **(B) violated AS 04.16.050 or an ordinance with similar**
 19 **elements; however, unless there is a lawful reason for further detention, a**
 20 **person who is under the age of 18 and who has been arrested for violating**
 21 **AS 04.16.050 or an ordinance with similar elements shall be cited for the**
 22 **offense and released to the person's parent, guardian, or legal custodian;**
 23 **or**

24 **(C) violated conditions imposed as part of the person's**
 25 **release before trial on felony charges brought under AS 11.41.410 -**
 26 **11.41.458.**

27 * Sec. 3. AS 12.25.030(b) is amended to read:

28 (b) In addition to the authority granted by (a) of this section, a peace officer
 29 [(1)] shall make an arrest under the circumstances described in
 30 AS 18.65.530 [;

31 (2) WITHOUT A WARRANT MAY ARREST A PERSON IF THE

1 OFFICER HAS PROBABLE CAUSE TO BELIEVE THE PERSON HAS, EITHER
2 IN OR OUTSIDE THE PRESENCE OF THE OFFICER,

3 (A) COMMITTED A CRIME INVOLVING DOMESTIC
4 VIOLENCE, WHETHER THE CRIME IS A FELONY OR A
5 MISDEMEANOR; IN THIS SUBPARAGRAPH, "CRIME INVOLVING
6 DOMESTIC VIOLENCE" HAS THE MEANING GIVEN IN AS 18.66.990;

7 (B) COMMITTED THE CRIME OF VIOLATING A
8 PROTECTIVE ORDER IN VIOLATION OF AS 11.56.740; OR

9 (C) VIOLATED A CONDITION OF RELEASE IMPOSED
10 UNDER AS 12.30.025 OR 12.30.027;

11 (3) WITHOUT A WARRANT MAY ARREST A PERSON WHEN
12 THE PEACE OFFICER HAS REASONABLE CAUSE FOR BELIEVING THAT THE
13 PERSON HAS

14 (A) COMMITTED A CRIME UNDER OR VIOLATED
15 CONDITIONS IMPOSED AS PART OF THE PERSON'S RELEASE BEFORE
16 TRIAL ON MISDEMEANOR CHARGES BROUGHT UNDER AS 11.41.270;

17 (B) VIOLATED AS 04.16.050 OR AN ORDINANCE WITH
18 SIMILAR ELEMENTS; HOWEVER, UNLESS THERE IS A LAWFUL
19 REASON FOR FURTHER DETENTION, A PERSON WHO IS UNDER THE
20 AGE OF 18 AND WHO HAS BEEN ARRESTED FOR VIOLATING
21 AS 04.16.050 OR AN ORDINANCE WITH SIMILAR ELEMENTS SHALL
22 BE CITED FOR THE OFFENSE AND RELEASED TO THE PERSON'S
23 PARENT, GUARDIAN, OR LEGAL CUSTODIAN; OR

24 (C) VIOLATED CONDITIONS IMPOSED AS PART OF THE
25 PERSON'S RELEASE BEFORE TRIAL ON FELONY CHARGES BROUGHT
26 UNDER AS 11.41.410 - 11.41.458].

27 * **Sec. 4.** AS 12.25.040 is amended to read:

28 **Sec. 12.25.040. Taking before judge or magistrate person arrested by**
29 **private person [BYSTANDER].** A peace officer may, without warrant, take before
30 a judge or magistrate a person who **has been** [, BEING ENGAGED IN A BREACH
31 OF THE PEACE, IS] arrested by a **private person** [BYSTANDER] and delivered to

1 the peace officer.

2 * **Sec. 5.** AS 12.30.020(e) is amended to read:

3 (e) The judicial officer shall inform the person of the penalties that may be
4 imposed for a violation of the conditions of release and advise the person that a
5 warrant for the person's arrest will be issued immediately upon a violation or that the
6 person may be arrested without a warrant for a violation of conditions of release as set
7 out in **AS 12.25.030** [AS 12.25.030(b)].

8 * **Sec. 6.** AS 12.70.130 is amended to read:

9 **Sec. 12.70.130. Arrest without warrant.** The arrest of a person may also be
10 lawfully made by a peace officer [OR A PRIVATE PERSON] without a warrant upon
11 reasonable information that the accused stands charged in the courts of another state
12 with a crime punishable by death or imprisonment for a term exceeding one year.
13 **When** [, BUT WHEN] arrested, the accused must be taken before a judge or
14 magistrate without unnecessary delay and, in any event, within 24 hours after arrest,
15 including Sundays and holidays. **A** [, AND] complaint shall be made against the
16 accused under oath setting out the ground for the arrest as in AS 12.70.120.
17 Thereafter, the answer of the accused shall be heard as if the accused had been
18 arrested on a warrant.