

**HOUSE BILL NO. 3007**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - THIRD SPECIAL SESSION

BY REPRESENTATIVES MCGUIRE, Samuels, Hawker, Gruenberg, Lynn

Introduced: 7/25/06

Referred: Judiciary

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to contempt of court and to temporary detention and identification of  
2 persons."

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

4 \* **Section 1.** AS 09.50.020(a) is amended to read:

5 (a) A person who is guilty of contempt

6 (1) may be punished [IS PUNISHABLE] by a fine of not more than  
7 \$300 or by imprisonment for not more than six months for a contempt under

8 (A) AS 09.50.010(1) or (2);

9 (B) AS 09.50.010(3) - (12) if [. HOWEVER, WHEN THE  
10 CONTEMPT IS ONE MENTIONED IN AS 09.50.010(3) - (12), OR IN AN  
11 ACTION BEFORE A MAGISTRATE, THE PERSON IS PUNISHABLE BY  
12 A FINE OF NOT MORE THAN \$100 UNLESS] it appears that a right or  
13 remedy of a party to an action or proceeding was defeated or prejudiced by the  
14 contempt; or

1                    (C) AS 09.50.010(5) or 09.50.010(10) if the conduct involves  
 2                    the failure to honor a subpoena or refusal to be sworn or answer as a  
 3                    witness in connection with a civil or criminal court proceeding or an  
 4                    appearance before the grand jury;

5                    (2) may be punished by a fine of not more than \$100 for a  
 6                    contempt under AS 09.50.010(3) - (12), except as otherwise provided in (1)(B) or  
 7                    (1)(C) of this subsection [, IN WHICH CASE THE PENALTY SHALL BE AS  
 8                    PRESCRIBED FOR CONTEMPTS DESCRIBED IN AS 09.50.010(1) AND (2)].

9                    \* **Sec. 2.** AS 12.50 is amended by adding a new section to read:

10                    **Article 3. Temporary Detention and Identification of Persons.**

11                    **Sec. 12.50.201. Temporary detention and identification of persons.** (a) A  
 12                    peace officer may temporarily detain a person under circumstances that give the  
 13                    officer reasonable suspicion that

14                    (1) the person

15                    (A) witnessed the commission of a crime against a person  
 16                    under AS 11.41 or a felony property crime under AS 11.46; or

17                    (B) was at the scene, or in the vicinity, during the commission  
 18                    of a crime against a person under AS 11.41 or a felony property crime under  
 19                    AS 11.46;

20                    (2) the person has information of material aid in the investigation of  
 21                    that crime; and

22                    (3) the temporary detention of the person is reasonably necessary to  
 23                    obtain or verify the identification of the person, to obtain an account of the crime, to  
 24                    protect a crime victim from imminent harm, or for other exigent circumstances.

25                    (b) A peace officer who temporarily detains a person under (a) of this section  
 26                    may

27                    (1) detain the person only as long as reasonably necessary to  
 28                    accomplish the purposes of that subsection;

29                    (2) take one or more photographs of the person, if photographs can be  
 30                    taken without unreasonably delaying the person or removing the person from the  
 31                    vicinity;

1 (3) serve a subpoena on the person to appear before the grand jury  
2 where the crime was committed, if the person fails to provide valid government-issued  
3 photographic identification; and

4 (4) take the person's fingerprint impressions if

5 (A) the person is detained in connection with the investigation  
6 of a murder, attempted murder, or misconduct involving weapons in the first  
7 degree under AS 11.61.190; and

8 (B) fingerprint impressions can be taken without unreasonably  
9 delaying the person or removing the person from the vicinity.

10 (c) A peace officer electing to serve a subpoena under (b) of this section may  
11 not require the person to sign the subpoena or another document. The officer or the  
12 subpoena must advise the person that failure to honor the subpoena is punishable as  
13 criminal contempt of court under AS 09.50.010. A person receiving a subpoena to  
14 testify under (b) of this section may request the district attorney to withdraw the  
15 subpoena if, before the grand jury proceeding for which the person has been served a  
16 subpoena to appear, the person provides the peace officer who served the subpoena  
17 with valid government-issued photographic identification.

18 (d) Photographs or fingerprints taken under (b) of this section

19 (1) may be used for identification purposes only, and not for criminal  
20 investigative purposes unless it is determined that the person is suspected of  
21 committing the crime under investigation; and

22 (2) must be destroyed upon the earlier of the following occurrences  
23 unless it is determined that the person is suspected of committing the crime under  
24 investigation:

25 (A) the person has testified in a grand jury or court proceeding  
26 in connection with the matter under investigation; or

27 (B) completion of the prosecution of the crime being  
28 investigated.

29 (e) A person who refuses or resists the taking of photographs or fingerprints  
30 under this section commits a class B misdemeanor, punishable as provided in  
31 AS 12.55, except that a sentence of imprisonment, if imposed, may not exceed 10

1 days.