

CS FOR SENATE BILL NO. 3005(JUD) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - THIRD SPECIAL SESSION

BY THE SENATE JUDICIARY COMMITTEE

Amended: 8/3/06

Offered: 8/2/06

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to contempt of court and to temporary detention and identification of**
2 **persons; and providing for an effective date."**

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 (10) if the conduct involves the**
 2 **failure to honor a subpoena or refusal to be sworn or answer as a witness**
 3 **in connection with a civil or criminal court proceeding or an appearance**
 4 **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 witnessed or was at or near the scene of the commission
 15 of a felony crime against a person under AS 11.41, arson under AS 11.46.400 or
 16 11.46.410, criminal mischief under AS 11.46.475 or 11.46.480, or misconduct
 17 involving weapons under AS 11.61.190 or 11.61.195(a)(3);

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

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

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

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

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

30 (3) if the person does not provide valid government-issued
 31 photographic identification or the officer has reasonable suspicion that the

1 identification is not valid,

2 (A) serve a subpoena on the person to appear before the grand
3 jury where the crime was committed; and

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

5 (i) the crime under investigation is murder, attempted
6 murder, or misconduct involving weapons under AS 11.61.190 or
7 11.61.195(a)(3); and

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

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

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

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

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

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

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

30 (e) This section does not limit the authority of peace officers to investigate
31 crimes, to collect evidence, to photograph crime scenes, evidence, or bystanders, to

1 issue lawful court process, or to ensure the welfare of crime victims or other persons.

2 (f) A person who refuses or resists the taking of photographs or fingerprints
3 under this section commits a class B misdemeanor, punishable as provided in
4 AS 12.55, except that a sentence of imprisonment, if imposed, may not exceed 10
5 days.

6 * **Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).