

HOUSE CS FOR CS FOR SENATE BILL NO. 3005(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - THIRD SPECIAL SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 8/4/06

Referred: Rules

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4 *** Section 1.** AS 09.50.020(a) is repealed and reenacted to read:

5 (a) A person who commits a contempt is guilty of a class A misdemeanor.

6 *** Sec. 2.** AS 09.50.020(b) is amended to read:

7 (b) In addition to the penalty **for a class A misdemeanor** [SPECIFIED IN (a)
8 OF THIS SECTION], the court may suspend, restrict, or revoke, for a period not to
9 exceed six months, a driver's license as defined in AS 28.40.100, a license as defined
10 in AS 25.27.244(s), or a recreational license, or any combination of these licenses, or
11 the person's ability to obtain the licenses, if

12 (1) the person is a natural person;

13 (2) the contempt is one under AS 09.50.010(4) - (10); and

14 (3) the court, sitting without a jury, finds by a preponderance of

1 evidence that the contempt related to failure to pay money in connection with a child
 2 support action or proceeding or failure to comply with a subpoena or warrant relating
 3 to a paternity or child support proceeding.

4 * **Sec. 3.** AS 12.50 is amended by adding a new section to read:

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

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

9 (1) the person witnessed or was at or near the scene of the commission
 10 of a felony crime against a person under AS 11.41, arson under AS 11.46.400 or
 11 11.46.410, criminal mischief under AS 11.46.475 or 11.46.480, or misconduct
 12 involving weapons under AS 11.61.190 or 11.61.195(a)(3);

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

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

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

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

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

25 (3) if the person does not provide valid government-issued
 26 photographic identification or other valid identification that the officer finds to be
 27 reliable to identify the person, or the officer has reasonable suspicion that the
 28 identification is not valid,

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

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

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

4 (ii) fingerprint impressions can be taken without
5 unreasonably delaying the person or removing the person from the
6 vicinity.

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

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

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

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

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

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

28 (e) This section does not limit the authority of peace officers to investigate
29 crimes, to collect evidence, to photograph crime scenes, evidence, or bystanders, to
30 issue lawful court process, or to ensure the welfare of crime victims or other persons.

31 (f) A person who refuses or resists the taking of photographs or fingerprints

1 under this section commits a class B misdemeanor, punishable as provided in
2 AS 12.55, except that a sentence of imprisonment, if imposed, may not exceed 10
3 days.

4 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 REPORT. The state has an interest in protecting witnesses from violence or other
7 danger. The Department of Public Safety shall provide a report to the legislature by
8 February 1, 2007. The report must contain proposals for workable measures to protect a
9 witness who must provide information under AS 12.50.201, as added in sec. 3 of this Act, and
10 who might be endangered by providing identifying information to other persons, including
11 gang members who might endanger the witness who provides the information.

12 * **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).