

**HOUSE CS FOR CS FOR SENATE BILL NO. 3005(JUD) am H**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - THIRD SPECIAL SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Amended: 8/6/06

Offered: 8/4/06

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4 **\* Section 1.** AS 09.50.020(a) is repealed and reenacted to read:

5 (a) A person who commits a criminal contempt is guilty of a class A  
6 misdemeanor. A person who commits a civil contempt is subject to damages, a civil  
7 penalty of \$5,000 or less for each violation, and other orders as the court finds  
8 appropriate.

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

1 of a felony crime against a person under AS 11.41, arson under AS 11.46.400 or  
2 11.46.410, criminal mischief under AS 11.46.475 or 11.46.480, or misconduct  
3 involving weapons under AS 11.61.190 or 11.61.195(a)(3);

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

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

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

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

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

16 (3) if the person does not provide valid government-issued  
17 photographic identification or other valid identification that the officer finds to be  
18 reliable to identify the person, or the officer has reasonable suspicion that the  
19 identification is not valid,

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

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

23 (i) the crime under investigation is murder, attempted  
24 murder, or misconduct involving weapons under AS 11.61.190 or  
25 11.61.195(a)(3); and

26 (ii) fingerprint impressions can be taken without  
27 unreasonably delaying the person or removing the person from the  
28 vicinity.

29 (c) A peace officer electing to serve a subpoena under (b) of this section may  
30 not require the person to sign the subpoena or another document. The officer or the  
31 subpoena must advise the person that failure to honor the subpoena may be punishable

1 as criminal contempt of court under AS 09.50.010. A person receiving a subpoena to  
 2 testify under (b) of this section may request the district attorney to withdraw the  
 3 subpoena if, before the grand jury proceeding for which the person has been served a  
 4 subpoena to appear, the person provides the peace officer who served the subpoena or  
 5 the lead investigator with valid government-issued photographic identification or other  
 6 valid identification that the officer or lead investigator finds to be reliable to identify  
 7 the person.

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

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

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

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

17 (B) completion of the prosecution of the crime being  
 18 investigated.

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

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

26 (g) Notwithstanding (f) of this section, if the person establishes that the person  
 27 does not have information of material aid in the investigation of the crime, it is within  
 28 the discretion of the court to determine that this is a civil matter punishable by a civil  
 29 fine of not more than \$1,000.

30 \* **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to  
 31 read:

1           REPORT. The state has an interest in protecting witnesses from violence or other  
2 danger. The Department of Public Safety shall provide a report to the legislature by  
3 February 1, 2007. The report must contain proposals for workable measures to protect a  
4 witness who must provide information under AS 12.50.201, as added in sec. 2 of this Act, and  
5 who might be endangered by providing identifying information to other persons, including  
6 gang members who might endanger the witness who provides the information.  
7       \* **Sec. 4.** This Act takes effect immediately under AS 01.10.070(c).