

CS FOR SENATE BILL NO. 30(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 2/21/11

Referred: Judiciary

Sponsor(s): SENATORS DYSON, Kookesh, Menard, Meyer, Giessel

A BILL

FOR AN ACT ENTITLED

1 **"An Act providing for the release of certain property in the custody of a law**
2 **enforcement agency to the owner under certain conditions and relating to requests for**
3 **that release by the office of victims' rights."**

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

5 *** Section 1.** AS 12.36 is amended by adding a new section to read:

6 **Sec. 12.36.070. Return of property by hearing.** (a) The owner of property
7 not belonging to a law enforcement agency that is in the custody of the agency under
8 this chapter may request that the office of victims' rights request that the agency return
9 the property to the owner. The request under this subsection shall be filed by the office
10 of victims' rights on behalf of the owner after the office has conducted an investigation
11 and has concluded that the owner is entitled to the return of the property under the
12 factors listed in (c) of this section.

13 (b) Within 10 days after receipt of a request under (a) of this section and
14 following reasonable notice to the prosecution, defense, and other interested parties,

1 the agency shall request a hearing before the court to determine if the property shall be
2 released to the owner. If the property is being held in connection with a criminal case,
3 the hearing shall be before the court with jurisdiction of the criminal case. If no
4 criminal case is pending regarding the property, the hearing shall be before a district or
5 superior court where the property is located.

6 (c) After a hearing, the court may order the return of the property in the
7 custody of a law enforcement agency to the owner if

8 (1) the owner by a preponderance of the evidence provides satisfactory
9 proof of ownership; and

10 (2) the law enforcement agency fails to prove by a preponderance of
11 the evidence that the agency or another interested party is authorized to retain
12 possession of the property.

13 (d) The court may impose reasonable conditions on an owner claiming
14 property under this section.

15 * **Sec. 2.** AS 24.65 is amended by adding a new section to read:

16 **Sec. 24.65.115. Authority to request return of property on behalf of**
17 **certain persons.** (a) Notwithstanding another provision of this chapter, the victims'
18 advocate may file a request under AS 12.36.070 with a law enforcement agency for
19 the return of property to an owner after having conducted an investigation and
20 determining that the owner is entitled to the return of the property under the factors
21 listed in AS 12.36.070(c). In fulfilling the requirements of this section, the victims'
22 advocate may use any of the powers granted to the advocate under this chapter.

23 (b) In this section, "crime victim" includes any person who is the owner of
24 property that is in the custody of a law enforcement agency.