

AMENDMENT # 37

OFFERED IN THE HOUSE  
TO: HCS CSSB 54(FIN)

BY REPRESENTATIVE REINBOLD

1 Page 13, line 8, through page 14, line 5:

2 Delete all material and insert:

3 **\*\* Sec. 23.** AS 12.30.006(b), as amended by sec. 55, ch. 36, SLA 2016, is amended to read:

4 (b) At the first appearance before a judicial officer, a person who is charged  
5 with a felony [, OTHER THAN A CLASS C FELONY AND THE PERSON HAS  
6 BEEN ASSESSED AS LOW RISK UNDER AS 12.30.011(c)(1),] may be detained up  
7 to 48 hours for the prosecuting authority to demonstrate that release of the person  
8 under AS 12.30.011(a) [AS 12.30.011] would not reasonably ensure the appearance of  
9 the person or will pose a danger to the victim, other persons, or the community.

10 **\* Sec. 24.** AS 12.30.006(c), as amended by sec. 56, ch. 36, SLA 2016, is amended to read:

11 (c) A person who remains in custody 48 hours after appearing before a judicial  
12 officer because of inability to meet the conditions of release shall, upon application, be  
13 entitled to have the conditions reviewed by the judicial officer who imposed them. If  
14 the judicial officer who imposed the conditions of release is not available, any judicial  
15 officer in the judicial district may review the conditions. [UPON REVIEW OF THE  
16 CONDITIONS, THE JUDICIAL OFFICER SHALL REVISE ANY CONDITIONS  
17 OF RELEASE THAT HAVE PREVENTED THE DEFENDANT FROM BEING  
18 RELEASED UNLESS THE JUDICIAL OFFICER FINDS ON THE RECORD THAT  
19 THERE IS CLEAR AND CONVINCING EVIDENCE THAT LESS RESTRICTIVE  
20 RELEASE CONDITIONS CANNOT REASONABLY ENSURE THE

21 (1) APPEARANCE OF THE PERSON IN COURT; AND

22 (2) SAFETY OF THE VICTIM, OTHER PERSONS, AND THE  
23 COMMUNITY.]

1 \* **Sec. 25.** AS 12.30.006(d), as amended by sec. 57, ch. 36, SLA 2016, is amended to read:

2 (d) If a person remains in custody after review of conditions by a judicial  
3 officer under (c) of this section, the person may request a subsequent review of  
4 conditions. Unless the prosecuting authority stipulates otherwise or the person has  
5 been incarcerated for a period equal to the maximum sentence for the most serious  
6 charge for which the person is being held, a judicial officer may not schedule a bail  
7 review hearing under this subsection unless

8 (1) the person provides to the court and the prosecuting authority a  
9 written statement that new information not considered at the previous review will be  
10 presented at the hearing; the statement must include a description of the information  
11 and the reason the information was not presented at a previous hearing; in this  
12 paragraph, "new information" **does not include** [INCLUDES] the [PERSON'S]  
13 inability to post the required bail;

14 (2) the prosecuting authority and any surety, if applicable, have at least  
15 48 hours' written notice before the time set for the review requested under this  
16 subsection; the defendant shall notify the surety; and

17 (3) at least seven days have elapsed between the previous review and  
18 the time set for the requested review [; HOWEVER, A PERSON MAY RECEIVE  
19 ONLY ONE BAIL REVIEW HEARING SOLELY FOR INABILITY TO PAY].

20 \* **Sec. 26.** AS 12.30.011, as repealed and reenacted by sec. 59, ch. 36, SLA 2016, is  
21 repealed and reenacted to read:

22 **Sec. 12.30.011. Release before trial.** (a) Except as otherwise provided in this  
23 chapter, a judicial officer shall order a person charged with an offense to be released  
24 on the person's personal recognizance or upon execution of an unsecured appearance  
25 bond, on the condition that the person

26 (1) obey all court orders and all federal, state, and local laws;

27 (2) appear in court when ordered;

28 (3) if represented, maintain contact with the person's lawyer; and

29 (4) notify the person's lawyer, who shall notify the prosecuting  
30 authority and the court, not more than 24 hours after the person changes residence.

31 (b) If a judicial officer determines that the release under (a) of this section will

1 not reasonably ensure the appearance of the person or will pose a danger to the victim,  
2 other persons, or the community, the officer shall impose the least restrictive condition  
3 or conditions that will reasonably ensure the person's appearance and protect the  
4 victim, other persons, and the community. In addition to conditions under (a) of this  
5 section, the judicial officer may, singly or in combination,

6 (1) require the execution of an appearance bond in a specified amount  
7 of cash to be deposited into the registry of the court, in a sum not to exceed 10 percent  
8 of the amount of the bond;

9 (2) require the execution of a bail bond with sufficient solvent sureties  
10 or the deposit of cash;

11 (3) require the execution of a performance bond in a specified amount  
12 of cash to be deposited in the registry of the court;

13 (4) place restrictions on the person's travel, association, or residence;

14 (5) order the person to refrain from possessing a deadly weapon on the  
15 person or in the person's vehicle or residence;

16 (6) require the person to maintain employment or, if unemployed,  
17 actively seek employment;

18 (7) require the person to notify the person's lawyer and the prosecuting  
19 authority within two business days after any change in employment;

20 (8) require the person to avoid all contact with a victim, a potential  
21 witness, or a codefendant;

22 (9) require the person to refrain from the consumption and possession  
23 of alcoholic beverages;

24 (10) require the person to refrain from the use of a controlled substance  
25 as defined by AS 11.71, unless prescribed by a licensed health care provider with  
26 prescriptive authority;

27 (11) require the person to be physically inside the person's residence,  
28 or in the residence of the person's third-party custodian, at time periods set by the  
29 court;

30 (12) require the person to keep regular contact with a law enforcement  
31 officer or agency;

1 (13) order the person to refrain from entering or remaining in premises  
2 licensed under AS 04;

3 (14) place the person in the custody of an individual who agrees to  
4 serve as a third-party custodian of the person as provided in AS 12.30.021;

5 (15) if the person is under the treatment of a licensed health care  
6 provider, order the person to follow the provider's treatment recommendations;

7 (16) order the person to take medication that has been prescribed for  
8 the person by a licensed health care provider with prescriptive authority;

9 (17) order the person to comply with any other condition that is  
10 reasonably necessary to ensure the appearance of the person and to ensure the safety  
11 of the victim, other persons, and the community.

12 (c) In determining the conditions of release under this chapter, the court shall  
13 consider the following:

14 (1) the nature and circumstances of the offense charged;

15 (2) the weight of the evidence against the person;

16 (3) the nature and extent of the person's family ties and relationships;

17 (4) the person's employment status and history;

18 (5) the length and character of the person's past and present residence;

19 (6) the person's record of convictions;

20 (7) the person's record of appearance at court proceedings;

21 (8) assets available to the person to meet monetary conditions of  
22 release;

23 (9) the person's reputation, character, and mental condition;

24 (10) the effect of the offense on the victim, any threats made to the  
25 victim, and the danger that the person poses to the victim;

26 (11) any other facts that are relevant to the person's appearance or the  
27 person's danger to the victim, other persons, or the community.

28 (d) In making a finding regarding the release of a person under this chapter,

29 (1) except as otherwise provided in this chapter, the burden of proof is  
30 on the prosecuting authority that a person charged with an offense should be detained  
31 or released with conditions described in (b) of this section or AS 12.30.016;

1 (2) there is a rebuttable presumption that no condition or combination  
2 of conditions will reasonably ensure the appearance of the person or the safety of the  
3 victim, other persons, or the community, if the person is

4 (A) charged with an unclassified felony, a class A felony, a  
5 sexual felony, or a felony under AS 28.35.030 or 28.35.032;

6 (B) charged with a felony crime against a person under  
7 AS 11.41, was previously convicted of a felony crime against a person under  
8 AS 11.41 in this state or a similar offense in another jurisdiction, and less than  
9 five years have elapsed between the date of the person's unconditional  
10 discharge on the immediately preceding offense and the commission of the  
11 present offense;

12 (C) charged with a felony offense committed while the person  
13 was on release under this chapter for a charge or conviction of another offense;

14 (D) charged with a crime involving domestic violence, and has  
15 been convicted in the previous five years of a crime involving domestic  
16 violence in this state or a similar offense in another jurisdiction;

17 (E) arrested in connection with an accusation that the person  
18 committed a felony outside the state or is a fugitive from justice from another  
19 jurisdiction, and the court is considering release under AS 12.70.

20 \* **Sec. 27.** AS 12.30.016(b), as amended by sec. 60, ch. 36, SLA 2016, is amended to read:

21 (b) In a prosecution charging a violation of AS 04.11.010, 04.11.499,  
22 AS 28.35.030, or 28.35.032, a judicial officer may order the person

23 (1) to refrain from

24 (A) consuming alcoholic beverages; or

25 (B) possessing on the person, in the person's residence, or in  
26 any vehicle or other property over which the person has control, alcoholic  
27 beverages;

28 (2) to submit to a search without a warrant of the person, the person's  
29 personal property, the person's residence, or any vehicle or other property over which  
30 the person has control, for the presence of alcoholic beverages by a peace officer or  
31 pretrial services officer who has reasonable suspicion that the person is violating the

1 conditions of the person's release by possessing alcoholic beverages;

2 (3) to submit to a breath test when requested by a law enforcement  
3 officer or pretrial services officer;

4 (4) to provide a sample for a urinalysis or blood test when requested by  
5 a law enforcement officer or pretrial services officer;

6 (5) to take a drug or combination of drugs intended to prevent  
7 substance abuse;

8 (6) to follow any treatment plan imposed by the court under  
9 AS 28.35.028 [;

10 (7) TO COMPLY WITH A PROGRAM ESTABLISHED UNDER  
11 AS 47.38.020].

12 \* Sec. 28. AS 12.30.016(c), as amended by sec. 61, ch. 36, SLA 2016, is amended to read:

13 (c) In a prosecution charging a violation of AS 11.71 or AS 11.73, a judicial  
14 officer may order the person

15 (1) to refrain from

16 (A) consuming a controlled substance; or

17 (B) possessing on the person, in the person's residence, or in  
18 any vehicle or other property over which the person has control, a controlled  
19 substance or drug paraphernalia;

20 (2) to submit to a search without a warrant of the person, the person's  
21 personal property, the person's residence, or any vehicle or other property over which  
22 the person has control, for the presence of a controlled substance or drug paraphernalia  
23 by a peace officer or pretrial services officer who has reasonable suspicion that the  
24 person is violating the terms of the person's release by possessing controlled  
25 substances or drug paraphernalia;

26 (3) to enroll in a random drug testing program, at the person's expense,  
27 [WITH TESTING TO OCCUR NOT LESS THAN ONCE A WEEK, OR TO  
28 SUBMIT TO RANDOM DRUG TESTING BY THE PRETRIAL SERVICES  
29 OFFICE IN THE DEPARTMENT OF CORRECTIONS] to detect the presence of a  
30 controlled substance, **with testing to occur not less than once a week, and** with the  
31 results being submitted to the court and the prosecuting authority;

1 (4) to refrain from entering or remaining in a place where a controlled  
2 substance is being used, manufactured, grown, or distributed;

3 (5) to refrain from being physically present at, within a two-block area  
4 of, or within a designated area near, the location where the alleged offense occurred or  
5 at other designated places, unless the person actually resides within that area; or

6 (6) to refrain from the use or possession of an inhalant [; OR

7 (7) TO COMPLY WITH A PROGRAM ESTABLISHED UNDER  
8 AS 47.38.020].

9 \* **Sec. 29.** AS 12.30.016 is amended by adding a new subsection to read:

10 (g) In a prosecution charging misconduct involving a controlled substance  
11 under AS 11.71.030(a)(4) for the manufacture of methamphetamine, or its salts,  
12 isomers, or salts of isomers, if the person has been previously convicted in this or  
13 another jurisdiction of a crime involving the manufacturing, delivering, or possessing  
14 of methamphetamine, or its salts, isomers, or salts of isomers, a judicial officer shall  
15 require the posting of a minimum of \$250,000 cash bond before the person may be  
16 released. The judicial officer may reduce this requirement if the person proves to the  
17 satisfaction of the officer that the person's only role in the offense was as an aider or  
18 abettor and that the person did not stand to benefit financially from the manufacturing.

19 \* **Sec. 30.** AS 12.30.021(a), as amended by sec. 62, ch. 36, SLA 2016, is amended to read:

20 (a) In addition to other conditions imposed under AS 12.30.011 or 12.30.016,  
21 a judicial officer may appoint a third-party custodian if the officer finds [, ON THE  
22 RECORD,] that the appointment will, singly or in combination with other  
23 conditions,

24 [(1) PRETRIAL SUPERVISION UNDER AS 33.07 IS NOT  
25 AVAILABLE IN THE PERSON'S LOCATION;

26 (2) NO SECURED APPEARANCE OR PERFORMANCE BONDS  
27 HAVE BEEN ORDERED; AND

28 (3) NO OTHER CONDITIONS OF RELEASE OR COMBINATION  
29 OF CONDITIONS CAN] reasonably ensure the person's appearance and the safety of  
30 the victim, other persons, and the community.

31 \* **Sec. 31.** AS 12.30.021(c), as amended by sec. 63, ch. 36, SLA 2016, is amended to read:

1 (c) A judicial officer may not appoint a person as a third-party custodian if

2 (1) the proposed custodian is acting as a third-party custodian for  
3 another person;

4 (2) the proposed custodian has been convicted in the previous three  
5 years of a crime under AS 11.41 or a similar crime in this or another jurisdiction;

6 (3) criminal charges are pending in this state or another jurisdiction  
7 against the proposed custodian;

8 (4) the proposed custodian is on probation in this state or another  
9 jurisdiction for an offense;

10 (5) [THERE IS A REASONABLE PROBABILITY THAT THE  
11 STATE WILL CALL] the proposed custodian may be called as a witness in the  
12 prosecution of the person;

13 (6) the proposed custodian resides out of state; however, a nonresident  
14 may serve as a custodian if the nonresident resides in the state while serving as  
15 custodian."  
16

17 Renumber the following bill sections accordingly.

18  
19 Page 42, line 3, following "11.66.135(b);":

20 Insert "AS 12.30.055(b);"

21  
22 Page 42, following line 29:

23 Insert new paragraphs to read:

24 "(20) AS 12.30.006(c), as amended by sec. 24 of this Act;

25 (21) AS 12.30.006(d), as amended by sec. 25 of this Act;

26 (22) AS 12.30.011, as repealed and reenacted by sec. 26 of this Act;

27 (23) AS 12.30.016(b), as amended by sec. 27 of this Act;

28 (24) AS 12.30.016(c), as amended by sec. 28 of this Act;

29 (25) AS 12.30.016(g), enacted by sec. 29 of this Act;

30 (26) AS 12.30.021(a), as amended by sec. 30 of this Act;

31 (27) AS 12.30.021(c), as amended by sec. 31 of this Act;"

1

2 **Renumber the following paragraphs accordingly.**

3

4 **Page 42, line 30:**

5 **Delete "sec. 38"**

6 **Insert "sec. 45"**

7

8 **Page 42, line 31:**

9 **Delete "sec. 39"**

10 **Insert "sec. 46"**

11

12 **Page 43, line 1:**

13 **Delete "sec. 59"**

14 **Insert "sec. 66"**

15

16 **Page 43, line 4:**

17 **Delete all material.**

18

19 **Renumber the following paragraphs accordingly.**

20

21 **Page 43, line 5:**

22 **Delete "sec. 27"**

23 **Insert "sec. 34"**

24

25 **Page 43, line 6:**

26 **Delete "sec. 28"**

27 **Insert "sec. 35"**

28

29 **Page 43, line 7:**

30 **Delete "sec. 29"**

31 **Insert "sec. 36"**

- 1
- 2 Page 43, line 8:
  - 3 Delete "sec. 30"
  - 4 Insert "sec. 37"
  - 5
- 6 Page 43, line 9:
  - 7 Delete "sec. 31"
  - 8 Insert "sec. 38"
  - 9
- 10 Page 43, line 10:
  - 11 Delete "sec. 32"
  - 12 Insert "sec. 39"
  - 13
- 14 Page 43, line 11:
  - 15 Delete "sec. 33"
  - 16 Insert "sec. 40"
  - 17
- 18 Page 43, line 12:
  - 19 Delete "sec. 34"
  - 20 Insert "sec. 41"
  - 21
- 22 Page 43, line 13:
  - 23 Delete "sec. 49"
  - 24 Insert "sec. 56"
  - 25
- 26 Page 43, line 14:
  - 27 Delete "sec. 49"
  - 28 Insert "sec. 56"
  - 29
- 30 Page 43, line 17:
  - 31 Delete "SECS. 37 AND 69"

1           Insert "SECS. 44 AND 76"

2

3   Page 43, lines 17 - 18:

4           Delete "sec. 37"

5           Insert "sec. 44"

6

7   Page 43, line 20:

8           Delete "Section 69"

9           Insert "Section 76"

10          Delete "sec. 37"

11          Insert "sec. 44"

12

13   Page 43, line 24:

14          Delete "SEC. 66"

15          Insert "SEC. 73"

16

17   Page 43, line 25:

18          Delete "Section 66"

19          Insert "Section 73"

20

21   Page 44, line 4:

22          Delete "Sections 23, 24, and 41"

23          Insert "Sections 23 - 31 and 48"

24

25   Page 44, line 5:

26          Delete "sec. 72"

27          Insert "sec. 79"

28          Delete "sec. 66"

29          Insert "sec. 73"

30

31   Page 44, line 7:

1 Delete "Section 40"

2 Insert "Section 47"

3

4 Page 44, line 8:

5 Delete "sec. 37"

6 Insert "sec. 44"

7 Delete "sec. 71(a)"

8 Insert "sec. 78(a)"

9

10 Page 44, line 10:

11 Delete "sec. 69"

12 Insert "sec. 76"

13 Delete "sec. 71(b)"

14 Insert "sec. 78(b)"

15

16 Page 44, line 12:

17 Delete "Section 68"

18 Insert "Section 75"

19

20 Page 44, line 13:

21 Delete "sec. 37"

22 Insert "sec. 44"

23 Delete "sec. 76"

24 Insert "sec. 83"

25

26 Page 44, line 15:

27 Delete "secs. 73 - 78"

28 Insert "secs. 80 - 85"