

Introduced: 1/25/85
Referred: State Affairs
and Judiciary

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 97

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to forfeiture of weapons used to
7 commit a crime."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 12.55.015(a) is amended to read:

10 (a) Except as limited by AS 12.55.125 -- 12.55.175, the court,
11 in imposing sentence on a defendant convicted of an offense, may
12 singly or in combination

13 (1) impose a fine when authorized by law and as provided in
14 AS 12.55.035;

15 (2) order the defendant to be placed on probation under
16 conditions specified by the court which may include provision for
17 active supervision;

18 (3) impose a definite term of periodic imprisonment;

19 (4) impose a definite term of continuous imprisonment;

20 (5) order the defendant to make restitution as provided in
21 AS 12.55.045;

22 (6) order the defendant to carry out a continuous or peri-
23 odic program of community work as provided in AS 12.55.055;

24 (7) suspend execution of all or a portion of the sentence
25 imposed as provided in AS 12.55.080;

26 (8) suspend imposition of sentence as provided in AS 12.-
27 55.085;

28 (9) order the forfeiture to the Department of Public Safety
29 of any deadly weapon possessed or used by the defendant during the

1 commission of the offense; as used in this paragraph, deadly weapon
2 means the same as in AS 11.81.900.

3 * Sec. 2. AS 33.30 is amended by adding new sections to read:

4 Sec. 33.30.295. REMISSION OF FORFEITED PROPERTY. (a) A claim-
5 ant seeking remission of or remittance of the value of the claimant's
6 interest in a weapon ordered forfeited under AS 12.55.015(a)(9) must
7 prove to the court by a preponderance of evidence that the claimant

8 (1) has a valid interest in the weapon, acquired in good
9 faith;

10 (2) did not knowingly participate in the commission of the
11 crime in which the weapon was used; and

12 (3) did not know or have reasonable cause to believe that
13 the weapon has been or would be used to commit a crime.

14 (b) Upon a showing that a claimant is entitled to relief under
15 (a) of this section, the order of the court must provide that

16 (1) if the claimant is entitled to the weapon, it must be
17 delivered to the claimant immediately; or

18 (2) if the claimant is entitled to remittance of some value
19 less than the total value of the weapon, the claimant is entitled, at
20 the claimant's choice, to receive either the value of the claimant's
21 interest or, upon payment by the claimant of the difference in value,
22 the weapon.

23 Sec. 33.30.297. DISPOSAL OF FORFEITED DEADLY WEAPONS. A deadly
24 weapon forfeited under AS 12.55.015(a)(9), unless remitted under
25 AS 33.30.295, must be disposed of at the discretion of the commission-
26 er of public safety. The commissioner of public safety may destroy
27 the weapon or use the weapon for law enforcement, ballistics testing,
28 or training purposes.