

BY SEN. COGHILL

1 IN THE SENATE

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SENATE BILL NO. 457

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the return of property in the
7 custody of law enforcement agencies."

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

9 * Section 1. AS 12.36.020 is amended by adding new subsections to read:

10 (d) Except as provided in AS 12.36.070, a law enforcement agency
11 shall return unforfeited property in its custody to the owner of the
12 property or to the agent of the owner if the return is authorized
13 under (a) of this section and the owner or agent of the owner makes a
14 written demand for return of the property under AS 12.36.070 and
15 delivers the demand to the agency having custody of the property.

16 (e) For the purposes of (a)(1) of this section

17 (1) property is no longer "in custody in connection with a
18 children's court proceeding or a criminal proceeding" when there has
19 been a final disposition of the case;

20 (2) property is no longer "in custody in connection with an
21 official investigation of a crime" when the investigation is complete
22 and the investigation report has been filed with the appropriate
23 authority, except that custody is considered to have ended if the
24 report has not been filed within 30 days of the completion of the
25 investigation.

26 * Sec. 2. AS 12.36 is amended by adding a new section to read:

27 Sec. 12.36.070. PROCEDURE FOR CLAIMING UNFORFEITED PROPERTY.

28 (a) A person claiming unforfeited property under this chapter shall
29 file a notice of claim with the law enforcement agency having custody

1 of the property. The notice must include a list of the items of
2 property whose return is sought, the basis for the claimant's claim of
3 ownership, the case numbers of all judicial proceedings involving the
4 items, and the date of final termination of the proceedings. The
5 notice may not be filed until 30 days after the final disposition of
6 the criminal proceeding, children's court proceeding, or official
7 investigation of a crime that resulted in the agency's custody of the
8 property.

9 (b) The law enforcement agency having custody of the property
10 that is the subject of a claim under this section shall return the
11 property within 30 days of the receipt of the claim unless

12 (1) the claim does not meet the requirements of (a) of this
13 section;

14 (2) the property is not subject to return under this chap-
15 ter; or

16 (3) the law enforcement agency reasonably believes that the
17 claimant is not the owner of the property or that there is more than
18 one owner; if the agency so believes, it shall, within 30 days of the
19 receipt of the claim, notify the claimant in writing of its intention
20 not to return the property and the reasons behind the decision not to
21 return it.

22 (c) If a law enforcement agency fails to return claimed property
23 in a timely manner under this section or refuses to return claimed
24 property, the claimant may file a civil action against the state if
25 the law enforcement agency is a state agency, or against a political
26 subdivision, if the law enforcement agency is a municipal agency.

27 * Sec. 3. AS 12.36.020(c) is repealed.