

**HB**

**295**

**HFIN**

**FILE**

# Alaska State Legislature

## Representative Brian S. Porter

CHAIRMAN  
HOUSE JUDICIARY COMMITTEE

MEMBER  
HOUSE LABOR & COMMERCE COMMITTEE  
HOUSE STATE AFFAIRS COMMITTEE  
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**DISTRICT 20**

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### Sponsor Statement

#### HB 295, Property Held By Law Enforcement Agencies

Municipalities need the ability to process the large volume of tangible personal property, which comes into the possession of their police departments through various means, and return or otherwise dispose of that property without undue delay.

Currently, following the procedures outlined in AS 12.36 and AS 34.45, a municipal law enforcement agency coming into possession of property for which the owner is unknown must hold that property for up to two years. If the owner is known, the property must be held for one year.

If municipalities are required to follow these provisions, substantial storage burdens and property handling expenses would be created.

What this bill provides is that if a municipality furnishes itself with an ordinance dealing with the disposition of property that its law enforcement agency receives, that they may do so notwithstanding this obscure state law.

Revision Date: January 27, 1996 Dept. Affected: Revenue  
 Title: Property Held by Law Enforcement Agencies BRU: Audit Operations  
 Component: Income and Excise Audit  
 Sponsor: Rep. Porter  
 Requestor: (H) FIN **COMPONENT SERIAL NO.** 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL</b>						
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<b>REVENUE FUND SOURCE:</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current (FY96) impact \$ 0.0

**ANALYSIS: (Attach a separate page if necessary)**  
 This bill would exempt checks, drafts, currency and tangible property that are found and turned over to, or found and recovered by a law enforcement agency of a municipality from being subject to the state's unclaimed property statutes. In order to be exempt, a municipality would be required to adopt an ordinance providing for custody and disposition of the property. This bill would not impact Department of Revenue since property turned over to the state by law enforcement agencies is immaterial in comparison to all other properties reported under the unclaimed property program.

Prepared by: Robert N. Bartholomew, Deputy Director Phone: 465-2320  
 Division: Income and Excise Audit Date: 1/27/96  
 Approved by Commissioner: [Signature] Date: 1/27/96  
 Agency: Department of Revenue

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# FISCAL NOTE

STATE OF ALASKA

RB-1

CSHB 295 (JUD)

## 1996 LEGISLATIVE SESSION

Revision Date: January 29, 1996 Dept. Affected: Public Safety  
 Title: Property held by law enforcement agencies BRU: Fish and Wildlife Protection  
 Component: Enforcement & I.S.U.  
 Sponsor: Representative Porter  
 Requestor: (H) Finance COMPONENT SERIAL NO. 490

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL EXPENDITURES</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b>	-0-	-0-	-0-	-0-	-0-	-0-
Code      Revenue						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 96) impact: \$ 0.00

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: HB 295 if enacted would provide municipalities authority to enact ordinances for disposing of property seized by law enforcement agencies. Since this act would grant an exemption for municipalities only, it does not appear to impact the Division of Fish and Wildlife Protection.

This bill if enacted would not affect this Division's programs or budget.

Prepared By: Captain Richard Graham Phone: (907) 269-5509  
 Division: Fish and Wildlife Protection Date: January 29, 1996  
 Approved by Commissioner: *Ronald L. Otte* Date: 1/29/96  
 Agency: Ronald L. Otte, Dept. of Public Safety

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# FISCAL NOTE

**STATE OF ALASKA  
1996 LEGISLATIVE SESSION**

**BILL NO. CSHB 295 (JUD)**

Revision Date: 1/17/96 Dept. Affected: Department of Law  
 Title: "An Act relating to the custody and disposition of BRU: Criminal Division  
property in the custody of municipal law enforcement agencies." Component: Criminal Division  
 Sponsor: Representative Porter  
 Requester: Representative Porter COMPONENT SERIAL NO. 2085

**Expenditures/Revenues (Thousands of Dollars)**

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY96) cost: \$ 0.0

**POSITIONS**

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Richard F. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Division Date: 1/17/96  
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 1/17/96  
 Agency: Department of Law

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1996 LEGISLATIVE SESSION

Revision Date: 1/18/96  
 Title: Property held by law enforcement agencies  
 Sponsor: Representative Brian Porter  
 Requestor: (H) Judiciary

Dept. Affected: Public Safety  
 BRU: Alaska State Troopers  
 Component: Detachments  
 COMPONENT SERIAL NO. 0799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ( )	-0-	-0-	-0-	-0-	-0-	-0-
Code Revenue						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 96) impact: \$ -0-

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact is anticipated.

Prepared By: Francis C. Allan Phone: 269-5691  
 Division: Alaska State Troopers Date: 01/18/96  
 Approved by Commissioner: *Ronald L. Otte* Date: 01/18/96  
 Agency: Ronald L. Otte, Dept. of Public Safety

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130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

**MEMORANDUM**

January 30, 1996

**SUBJECT:** Sectional Summary of CSHB 295 (JUD)  
(Work Order No. 9-LS0950\F)

**TO:** Representative Brian Porter  
Attn: Patrick Lounsbury

**FROM:** *JB*  
Theresa Bannister  
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

**Section 1** conforms the section to the new provisions in sec. 2 of the bill.

**Section 2** exempts from AS 12.36 municipalities that have adopted ordinances providing for the custody and disposition of property that is held by the municipality's law enforcement agency, if the ordinances meet two conditions. The conditions require (1) certain evidentiary property to be held for a certain period of time, and (2) the municipality to make reasonable attempts to identify and locate the owner of unclaimed property.

**Section 3** conforms the section to the new provisions in sec. 4 of the bill.

**Section 4** provides that the provisions otherwise governing the disposition of certain abandoned property do not apply to the listed property turned over to or recovered by a municipality's law enforcement agency if the municipality has adopted an ordinance providing for the custody and disposition of the property.

If I may be of further assistance, please advise.

TLB:klb  
96-045.klb



April 19, 1995

TO: Representative Brian Porter

FROM: *Kevin Ritchie*  
Executive Director

RE: HB 295 - Custody and disposition of property in the custody of municipal law enforcement agencies

The Alaska Municipal League supports HB 295 - custody and disposition of property in the custody of municipal law enforcement agencies, which allows municipalities to establish a local ordinance to handle the disposition of property that is in the custody municipalities.

When property comes into the custody of a law enforcement agency of a municipality, they should have the ability to decide how to dispose of that property by local ordinance.

According to the 1995 AML Policy Statement, "the League supports legislation that promotes effective and independent local government in all organized and unorganized boroughs and cities and opposes any legislation that unduly restricts local government operations."

Municipality  
of  
Anchorage



P.O. Box 190650  
Anchorage, Alaska 99519-0650  
Telephone: (907) 343-4545

*Rick Mystrom, Mayor*

OFFICE OF THE MUNICIPAL ATTORNEY

April 13, 1995

**VIA FACSIMILE 465-3834**

Daniella Loper, Legislative Aide  
Representative Brian Porter  
State Capitol  
Juneau, Alaska 99808

Re: HB 295 Regarding Disposal of Property

Dear Ms. Loper:

The Municipality of Anchorage has requested that a bill along the lines of HB 295 be enacted to authorize municipalities which have specific code provisions regarding seizure and disposal of property by municipal law enforcement agencies to follow those ordinances rather than the state statutes in Titles 12 and 34.

Following the procedures outlined in AS 12.36 and AS 34.45 a municipal law enforcement agency coming into possession of property for which the owner is unknown must hold that property for up to two years. If the owner is known, the property must be held for one year. If the property was not seized as part of a criminal investigation (e.g. found property voluntarily turned in by citizens) the property is required to be held two years and is then turned over to the Commissioner of Revenue. Additionally, periodic reports listing all property in this category must be made to the Commissioner of Revenue.

Current Municipal Code provisions for disposal of abandoned, stolen, or found property are set forth in AMC 7.25, a copy of which is attached. The provisions in this section require notification to property owners and, if the property remains unclaimed 15 days after the last date of notice, the property may be sold, destroyed, auctioned, or retained for municipal use. AMC 7.25.040 sets out specific provisions authorizing dedication of abandoned, stolen or found bicycles for public use and donation to non-profit organizations. Pursuant to this section the Municipality has donated hundreds of bicycles per year to the local YMCA.

Daniella Loper  
April 13, 1995  
Page 2 of 2

HB 295 would authorize municipal law enforcement personnel to follow the provisions of the municipal code rather than the state statutes. If the Municipality of Anchorage is required to follow the provisions of the state statutes, it would create a substantial storage burden and property handling expense. The Anchorage Police Department has not previously incurred the expense of this burden. The Municipality of Anchorage, Anchorage Police Department, seeks relief from the state mandated holding of property for such a lengthy period.

Sincerely,



Scott A. Brandt-Erichsen  
Assistant Municipal Attorney

cc: Chief Kevin O'Leary  
Deputy Chief Duane Udland  
Tim Rogers

matter\legis\loper sbe/k.m

## Chapter 7.25

### DISPOSAL OF ABANDONED, STOLEN OR FOUND PROPERTY

#### Sections:

7.25.010	Disposable property.
7.25.020	Notice of possession.
7.25.030	Disposition.
7.25.040	Auction sale.
7.25.045	Dedication of abandoned, stolen or found bicycles for public use or benefit.
7.25.050	Publication and sale costs--Reimbursement.
7.25.060	Dangerous or perishable property--Immediate disposal.

#### 7.25.010 Disposable property.

Except as otherwise required by law, the following property in possession of the Police Department may be disposed of as provided in this chapter:

- A. Property collected as evidence and not claimed by the owner within 15 days after final disposition of the criminal case to which it pertains; or
- B. Property voluntarily tendered to the Police Department and not claimed by the owner within 15 days thereafter; or
- C. Property found and delivered to the Police Department and not claimed by the owner within 15 days thereafter; or
- D. Stolen property recovered by the Police Department and not claimed by the owner within 30 days after such recovery.

"Disposable property," as used in this chapter, does not include a vehicle which has been impounded for a violation of Title 9 of this code. "Disposable property" is any property in possession of the Police Department which cannot be identified to an owner. (Adapted from CAC 2.76.010, am AO 79-203, AO 88-79).

7.25.020 Notice of possession.

- A. The Chief of Police shall notify the Purchasing Officer that he is in possession of disposable property. The Purchasing Officer shall publish in a newspaper of general circulation in the municipality twice a week for two consecutive weeks a notice of possession of disposable property. At approximately the same time as the first publication, the Purchasing Officer shall send copies of the notice by certified mail (return receipt requested) to the last known owner and to the finder, if any, at their respective last known addresses if any,
- B. Every notice of possession mailed or published pursuant to this section shall contain:
1. a general description of the property;
  2. the date the Police Department first obtained possession of the property;
  3. the provision that unclaimed property will be sold at public auction and the proceeds will be forfeited to the Police Service Area Fund;
  4. the provision that unclaimed property, if money, will be paid into the municipal treasury for deposit to the Police Service Area Fund;
  5. the provision that the property must be claimed by the owner within 15 days after the last date on which the notice is published; and
  6. the provision that the finder will forfeit all of his right, title, interest and claim in and to found property or money unclaimed by the owner unless the finder files a written request with the Chief of Police for return of the unclaimed property within 15 days after the last date on which the notice is published. (CAC 2.76.020, am AO 79-203, AO 80-97, AO 88-79).

7.25.030 Disposition.

If the property is unclaimed by the owner after the publication and mailing of the notice of possession and the expiration of the time periods as required by section 7.25.020, the property shall be disposed of as follows:

- A. Found property, including money, shall be returned to the finder, if any, upon condition that a timely request for such has been received by the Police Department.
- B. All property, other than money, which is not addressed by subsection A of the section shall be subject to a claim by the Chief of Police that retention of such property for use by the Municipality of Anchorage will serve the public interest. In conjunction with the Purchasing Officer, weapons so claimed by the Chief of Police may be used for trading or bartering in order to acquire them for police use. If the Chief of Police does not make such a claim the Purchasing Officer shall sell and not destroy the property, that is legal for private ownership and not precluded by court order, at a public auction to be held pursuant to the notice required by Section 7.25.020. The proceeds from that sale, together with any unclaimed or unreturned money, shall be forfeited to the Police Service Area Fund, subject to the fee provisions of Section 7.25.050.
- C. The Municipal Auditor will certify the proper disposal under all above provisions.
- D. Notwithstanding any other provision of law, a finder of a motor vehicle shall have no right to possession or any ownership interest in that property except as may be acquired pursuant to a disposition method provided by the Purchasing Officer. (CAC 2.76.030, am AO 79-203, effective January 1, 1980, AO 88-79).

7.25.040 Auction sale.

The Purchasing Officer shall sell the property to be disposed of to the highest bidder at the public auction sale, for cash or upon such terms as the auctioneer shall announce. The auction sale may be continued by the auctioneer to another time or times. The Purchasing Officer shall certify as to the disposal of property and shall execute the bill of sale to the property sold. Upon acceptance of the highest bid, the sale shall be final and not subject to redemption. Property unsold shall become the property of the municipality and may be disposed of by the municipality according to law. (Adapted from CAC 2.76.040, am AO 79-203).

7.25.045 Dedication of abandoned, stolen or found bicycles for public use or benefit.

Notwithstanding any other provision of this chapter, any bicycle in the possession of the Police Department not claimed for 10 days, and for which the owner is not known, may be dedicated to public use or benefit in the following manner:

- A. The Assembly shall declare by resolution its desire to dedicate to public use or benefit abandoned, stolen or found bicycles which have been in the possession of the Police Department for more than 10 days.
- B. As soon as practicable after such declaration, the Purchasing Officer or his designee shall publish for two consecutive weeks, twice weekly, in a newspaper of general circulation, a notice describing the bicycles and stating the time, place and manner by which the bicycles may be identified and claimed by the owners. The notice shall include a statement that bicycles not so identified and claimed may be dedicated irrevocably to public use or benefit, or sold at auction.
- C. Within the first week of the two-week publication period, the purchasing officer or his designee shall also attempt to notify by certified letter the owners of the bicycles proposed for dedication who can be identified with reasonable certainty. The letter shall contain substantially the same information specified in subsection B for public notice.
- D. At the end of the first week following the two-week period of public notice, bicycles which have not been identified and claimed by the owners may be utilized for public purposes in any manner prescribed by the Assembly by resolution, or may be sold in accordance with the provisions of this chapter. If the bicycles have remained in the custody of the Police Department, the sale shall be conducted in accordance with AMC 7.25.030. If possession of the bicycles has been tendered to a third party pursuant to a contract, then that third party shall sell the bicycles at a public auction to be conducted pursuant to a notice which will contain the following information:

1. a general description of the bicycles;
2. the date on which the Police Department obtained possession of the bicycles;
3. that unclaimed bicycles will be sold at public auction or dedicated to public use or benefit and the proceeds forfeited to the Police Service Area Fund or otherwise used for the public benefit;
4. that the owners must claim the bicycles within 30 days after the last date of publication of the notice. (AO 77-210, am AO 79-203, AO 81-118, AO 88-79).

7.25.050 Notification and sale costs fee.

Before returning property to a finder or owner, and before delivering money to the treasury, the Chief of Police shall require a reasonable fee from the person receiving the property or money delivered for the costs of notice, publication and sale attributable to the property or money delivered. The proceeds from that fee shall be deposited into the Police Service Area Fund. The Chief may waive this requirement for a good cause. (CAC 2.76.050, am AO 79-203, AO 88-79).

7.25.060 Dangerous or perishable property--Immediate disposal.

Property in the possession of the Police Department and determined by the Chief of Police to be perishable or to constitute an immediate danger to the public may be disposed of immediately in any manner without notice of sale. Proceeds of any such disposition shall be subject to this chapter. (CAC 2.76.060 and new, am AO 79-203).



Rick Mystrum,  
Mayor

ANCHORAGE POLICE DEPARTMENT  
01 - Bureau - Anchorage, Alaska (907-550-1599)  
Telephone (907) 786-8500



Service since 1921

April 13, 1995

Daniella Loper, Legislative Aide  
Representative Brian Porter  
State Capitol  
Juneau, AK 99806

Re: HB 295 Regarding Disposal of Property

Dear Ms. Loper:

The Anchorage Police Department supports passage of HB 295 to authorize municipalities which have specific code provisions regarding disposal of property by municipal law enforcement agencies to follow those ordinances rather than the state statues in Titles 12 and 34.

Following the procedures outlined in AS 12.36 and AS 34.45, a municipal law enforcement agency coming into possession of property for which the owner is unknown must hold that property for up to two years. If the property was not seized as part of a criminal investigation (e.g. found property voluntarily turned in by citizens) the property is required to be held two years and is then turned over to the Commissioner of Revenue.

The Anchorage Police Department converted over 700 bicycles in 1994 to the YMCA for auction by the YMCA to raise funds for youth programs. Mandating the department store each bicycle for two years would result in an overwhelming storage problem for the department and deprive the YMCA of this funding source.

Bicycles are just one example of the property handled by the Anchorage Police Department, over 20,000 items of property were handled in 1994. Imposing a two year storage requirement would backlog our Property and Evidence Section and delay processing items of evidence vital to prosecuting criminals.

Sincerely,

Bruce H. Richter  
Captain, Technical Services

## **HB 295 - PROPERTY HELD BY LAW ENFORCEMENT AGENCIES**

Number 280

**CHAIRMAN PORTER** stated that Lieutenant Bachman from the Alaska State Troopers was present to answer questions. He stated that this bill deals with a statute that has been on the books for a long time unbeknownst to many. It requires that property coming in to possession of law enforcement agencies throughout the state, be held, different properties for different lengths of time, and then be returned to the state in some cases. In Anchorage there was a recent audit of the Anchorage Police Department's property room. Part of the problem was that they were failing to follow state law, unbeknownst to them and almost everybody else. When they tried to figure out what it was they were supposed to do, they called the department that administered the statute and the Department asked, "What statute?" So basically, this is something that needs fixing only because nobody is doing it. What this bill provides is that if a municipality provides itself with an ordinance dealing with the disposition of property that its law enforcement agency receives, that they may do so notwithstanding this obscure state law.

**JOHN NEWELL**, President, Alaska Chiefs Association, testified via teleconference. He agreed with Chairman Porter's opening comments. Sitka, as well as many other cities have existing laws or ordinances that provide for a local manner of dealing with the same property that is discussed in this statute. He totally supports HB 295, to make all of us on a more equal basis.

**REPRESENTATIVE FINKELSTEIN** asked Mr. Newell how it worked in Anchorage. Does it occur on a 15 day basis? If someone had a bicycle, and they were out of town for a couple of weeks, when they come back, the bicycle has been stolen. Under the municipal ordinance, could it have been disposed of already by the time they return home and report the theft?

**MR. NEWELL** answered that he saw that as a possibility with the 15 day holding period. He thought the period in Sitka was longer than that. We get into the due process issue when dealing with the Division of Motor Vehicles. They have other steps and hoops we have to jump through.

**CHAIRMAN PORTER** clarified that the 15 day requirement states that property be kept for at least 15 days after the final disposition

of a criminal case in which that property had been evidence.

**REPRESENTATIVE FINKELSTEIN** asked if the disposition of property not involved in a criminal case, as unclaimed property, is that governed by the state statute as well?

**CHAIRMAN PORTER** answered that it includes any property.

**REPRESENTATIVE FINKELSTEIN** asked if this is the same statute that governs bank accounts that people do not reclaim.

**CHAIRMAN PORTER** said no, that property is not turned over to law enforcement agencies.

Number 300

**MARGOT KNUTH**, Assistant Attorney General, Criminal Division, Department of Law, stated that the Department of Law supports the purpose of the bill and the concept, but they do have pretty serious concerns about the way it is done, which is simply to exempt municipalities from AS 12.36 and AS 34.45. We are concerned that this may do more than the purposes that law enforcement has identified, for example, the question that was just raised. The bill would require that municipalities adopt ordinances, but there is no specifications as to what these ordinances shall provide, and you could have communities setting up ordinances that have what we might consider too short of a time period. Within that, it seems to be dealing with more than simply the abandoned property such as bicycles, or property used in evidence. Section 4 proposed that checks, drafts, currency, and tangible property recovered by a law enforcement agency will go to municipalities now instead of to the State of Alaska. She was not sure what impact that might have but it could have a significant one. If there is any chance that this is interpreted as impacting forfeitures, then we have touched another whole gnarly mess of problems. There is not anything that says forfeitures are not brought up in this context. She felt that the time lines in AS 12.36.030 should simply be changed from one year to 30 days, and in AS 12.36.040 it would read six months instead of two years. She and a staff member of the committee as well as the municipal attorney in Anchorage, all felt much more comfortable just changing those time deadlines, and exempting municipalities from the mandatory reporting requirements. She felt the bill may have some unintended consequences, given its breadth.

**CHAIRMAN PORTER** mentioned that those suggestions were not incorporated because of the obstinacy of the sponsor. He sees

nothing in here that would indicate that forfeitures would be handled any differently. A forfeiture is a court order which law enforcement abides by. This is just property that is clogging every property room throughout the state, and now that we have found it, there is concern, but up until about a week ago, nobody in the state knew that anybody was supposed to be turning this property over to the state, nobody has received it. The Department of Revenue never heard of it until we pointed it out to them. The effect on the state is going to be taking them out of the loop they did not know they were in, and received nothing from in the first place. He did not think it was appropriate to have a statute on the books that everybody is violating. Nobody is turning any property over to the state. His obstinacy comes into effect by saying, "Why is the state involved in this in the first place, it seems this is a local matter, of local property being dealt with by local law enforcement, local government. Why should this function go through the state?"

Number 370

MS. KNUTH said that in terms of what happens to the property, the concern the state has is that it is property that is used as evidence in state prosecuting cases. That type of property is dealt with in AS 12.36.030 and it does require the property be kept as long as necessary for prosecution. The concern she would like to express is we need municipalities if they are going to handle this property through their ordinances, to require that the property be kept long enough for prosecution purposes.

CHAIRMAN PORTER argued that is why the bill states that property having been collected as evidence in children's court proceedings, criminal proceedings, or an official investigation, is to be held until at least 15 days after final disposition of the case to which the evidence pertains.

MARGOT KNUTH said the committee staff member has just provided her with a draft of the CS, which she had not seen.

CHAIRMAN PORTER apologized, and stated that it goes on to say that the municipality will make a reasonable attempt towards locating and identifying the owner of the property that is unclaimed. There are some standards.

Number 400

REPRESENTATIVE TOOHEY asked what would happen if a municipality

came into possession of a local drug deal, involving a house which is confiscated, and it is tried under state statute. Who gets the benefit when that house is sold?

CHAIRMAN PORTER answered that is under the forfeiture that the District Attorney's Office administers, and he believed any revenues from those forfeitures are divided.

MS. KNUTH stated there is a specific provision for divvying it up under federal forfeiture provisions.

REPRESENTATIVE GREEN moved to adopt the CS, Version F. Hearing no objection, the CS was adopted as the working draft.

REPRESENTATIVE BUNDE made motion to move CSHB 295(JUD) out of committee with individual recommendations and zero fiscal notes. Hearing no objection, the bill was moved

#### ADJOURNMENT

CHAIRMAN PORTER announced that the remaining scheduled bills would be heard the next day, Saturday, at 11:00 a.m. The House Judiciary Committee adjourned at 3:45 p.m.

B

HOUSE COMMITTEE REPORT

4/22/95

(7)

Date Referred: April 5, 1995

FURTHER REFERRALS:

Finance

Date of Committee Action: 4/21/95

4/24/95 additional  
FN  
HB 295

The JUDICIARY Committee considered:

HOUSE BILL NO. 295

PROPERTY HELD BY LAW ENFORCEMENT AGENCIES

"An Act relating to the custody and disposition of property in the custody of municipal law enforcement agencies."

recommends it be replaced with the following committee substitute

CS HB 295 (Jud)

[x] the same title  
[ ] a new title

[ ] additional referral to \_\_\_\_\_ Committee  
[ ] attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal note(s) \_\_\_\_\_ [ ] fiscal note(s) \_\_\_\_\_

(2) [x] zero fiscal note(s) Public Safety [ ] zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Brian Porter</i>	Porter	✓			
<i>Jan Finkelstein</i>	Finkelstein	✓			
<i>Green</i>	Green	✓			
<i>Van Bunde</i>	Bunde	✓			
<i>TOOhey</i>	TOOhey	✓			
		(5)			

CHAIR'S SIGNATURE *Brian Porter*  
Porter