

HB

329

ALASKA STATE LEGISLATURE

Vice Chair:
House Finance Committee

Chair:
House Finance Subcommittees for,
Department of Public Safety
Department of Law



Session:
Alaska State Capitol
Juneau, AK 99801-1182
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BILL STOLTZE **State Representative**

Representative_Bill_Stoltze@legis.state.ak.us

House Bill 329

Bail Restrictions

"An Act relating to bail and unlawful evasion."

If a defendant fails to meet the court's conditions to meet bail until trial, then the defendant should not be allowed to leave temporarily based on the "softening" of those conditions. Not only does it create problems for the prisons to have them come and go, but just because they are on temporary release for a funeral or birth does not mean that they are any less of a danger to the public or flight risk.

The provisions of HB 329:

- Increases the penalty for unlawful evasion from a class A misdemeanor to a class C felony.
- Prohibits the court from allowing a defendant to be released temporarily or periodically before or after conviction.

I ask for your consideration and support of HB 329 to strengthen our current bail restriction laws.

DISTRICT 16

BIRCHWOOD • BUTTE • CHUGIAK • EKLUTNA • FAIRVIEW LOOP
KNIK RIVER ROAD • LAZY MOUNTAIN • PALMER • PETERS CREEK

5 of 9 DOCUMENTS

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The Associated Press State & Local Wire

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October 22, 2005, Saturday, BC cycle

SECTION: State and Regional

LENGTH: 281 words

HEADLINE: Troopers arrest Palmer fugitive

DATELINE: ANCHORAGE, Alaska

BODY:

A 19-year-old state prisoner on the lam after being allowed to attend his father's funeral was recaptured.

The Alaska Fugitive Task Force arrested John Pearl Smith II of Palmer Friday night at a Wasilla home.

Smith was wanted on six felony warrants for violating conditions of his release. Smith escaped Oct. 14.

He had been awaiting trial on charges that include kidnapping, assault, arson and robbery. He was charged with the September, 2004 armed robbery of a 45-year-old man at his home.

Troopers said Smith and two other men stole guns, cash and jewelry and took the man's pickup truck to a bank to steal money using his automatic teller card. The pickup truck was found torched.

Smith's father, John "Junkman John" Smith, died Oct. 8 at age 62. The younger Smith's lawyer asked the state to allow the teenager to leave Mat-Su Pre-Trial to attend the funeral.

Judge Beverly Cutler did not require a court officer to accompany Smith. Instead, she appointed Smith's mother as his third-party custodian and required him to wear an electronic monitor, an ankle bracelet with a global positioning unit attached.

Smith read a tribute to his father at a memorial service. His mother, Christine Ace, told authorities she stepped into the bathroom after the service and Smith fled. Troopers said he cut the ankle bracelet off.

Smith had not been convicted of crimes as an adult. Authorities said the teenager had escaped from confinement as a juvenile one other time and has a record of charges involving violent crimes.

Troopers warned that he would be considered armed and dangerous.

Smith was jailed with bail set at \$275,000, troopers said.

LOAD-DATE: October 13, 2005

8 of 9 DOCUMENTS

Copyright 2005 Anchorage Daily News
Anchorage Daily News (Alaska)

October 16, 2005 Sunday, FINAL EDITION

SECTION: MAIN; Pg. A1

LENGTH: 892 words

HEADLINE: Inmate flees after attending father's funeral;
JOHN PEARL SMITH: Released to the custody of his mother, man cuts ankle bracelet, escapes near Butte

BYLINE: By KYLE HOPKINS, Anchorage Daily News

DATELINE: PALMER -

BODY:

About 6:30 p.m. Friday, John Pearl Smith stood and read a tribute to his father at a memorial service in the Butte, saying he wished he could have been there when his dad died, or at least been able to spend more time with him.

"Everybody was very proud of him," said Smith's mother, Christine Ace.

A 19-year-old inmate at Mat-Su Pre-Trial facing a slew of charges, Smith hadn't seen his family much lately. But a Palmer judge allowed him a few hours away from jail wearing a tracking device and in the custody of his mother to say goodbye to his father, who died days before.

Then after the funeral, when his mother says she stepped into the bathroom, Smith fled.

According to Alaska State Troopers, he cut the ankle bracelet authorities used to keep up with him while he attended his father's service and disappeared. As of Saturday night, the teenager -- whom authorities say has escaped from confinement one other time and has a record of charges involving violent crimes -- was still at large and considered armed and dangerous by troopers.

The current charges pending against Smith include first-degree burglary, robbery, vehicle theft, weapons misconduct and felony assault, among others. He had been confined more than year awaiting disposition of those charges.

"He's not a nice kid," said Sgt. Jay Barnhardt, a shift supervisor working at Mat-Su Pre-Trial on Saturday. Barnhardt wouldn't go into detail, but said, "He's been in our lockdown unit (for problem inmates) for quite some time."

Smith entered McLaughlin Youth Center before reaching his teens, his mother said, and has fallen in and out of trouble ever since.

Ace described her son as a highly intelligent, charismatic young man who despite past gun and assault charges, "wouldn't hurt a flea." She stood on her porch in Palmer Saturday afternoon looking under the hood of a pickup and then pausing to smoke a cigarette as she described the previous 24 hours.

The family is stunned, she said. "His dad died and he does this at that time? That was really ... How can I say this without saying a cussword?"

Smith's father, John "Junkman John" Smith, died Oct. 8 at age 62, according to his obituary. The younger Smith's lawyer asked the state to allow the teenager to leave Mat-Su Pre-Trial to attend the funeral, assistant district attorney Richard Payne said.

Corrections officers sometimes escort inmates when they go on this type of temporary leave, Barnhardt said.

But the court didn't make that requirement in Smith's case. In authorizing the leave, the judge appointed Smith's mother as his third-party custodian and restricted his absence to just a few hours. Smith would also have to wear an electronic monitor - a kind of rubber ankle bracelet with a GPS unit attached.

Inmate flees after attending father's funeral; JOHN PEARL SMITH: Rel

The judge who signed the order, Beverly Cutler, couldn't be reached for comment Saturday. Payne said it's common to allow inmates to attend family members' funerals.

And despite the escape, Payne said, allowing an inmate to attend his father's memorial service was the right decision.

"The court did a very fine job in narrowing what he could do, and showing the level of mercy that I think the average citizen wants our court system to show," he said.

Payne said he didn't know why the court didn't have a corrections officer, rather than a family member, escort Smith, although someone would have had to pay for the officer's time.

Ace said she took custody of her son around 4 p.m. on Friday. Smith changed clothes and the family drove in a small, borrowed car to the Butte Community Center for the memorial service.

Afterward, Ace said, she and Smith went to a family member's house in the Butte about 8:30 p.m., half an hour before he was due back at jail. When Smith went into his brother's room to change, Ace says she ducked into the bathroom.

When she came out, Smith had vanished, she said. "I go out and say, 'Where's John? And everybody went, 'In the garage,' and I go, 'No he's not.' "

Later, someone discovered the ankle bracelet inside the borrowed car, Ace said. It could not be learned precisely how he shed the device.

Friday's episode is not the first time Smith has been involved in an escape.

At age 14 in 2000, troopers claimed he and another boy beat up the youth counselor who was guarding them, and ran away after a court hearing in Palmer, according to Daily News archives. At the time, Smith faced charges of breaking into homes and stealing firearms.

Troopers didn't catch the boys for three days.

Then in July of 2004, a month after he turned 18, troopers said, Smith crashed a stolen pickup while racing with another teen in the Butte. Later that summer, authorities again arrested Smith, this time in connection with the armed robbery of a 45-year-old man.

At the time, troopers said Smith and two other men were accused of stealing guns, cash and jewelry, then taking the victim's Ford pickup to a nearby ATM to use his stolen bank card. They later doused the truck in gasoline and set it on fire, troopers said.

Payne, who prosecuted many of the cases against Smith, said Saturday that Smith hasn't been convicted of any of the charges levied against him as an adult.

Troopers asked that anyone who has seen Smith call 745-2131, or their local police department.

Contact reporter Kyle Hopkins at khopkins@adn.com or call 352-6710.

GRAPHIC: Alaska State Troopers: Smith

LOAD-DATE: October 17, 2005

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See TRAILS, Page A3

Accused robber didn't make it back to jail

Judge gave man charged with kidnapping, theft permission to attend father's funeral

MARY AMES
Frontiersman reporter

PALMER — A Wasilla man charged with a kidnapping at gunpoint and a string of burglaries and vehicle thefts in the Valley and Soldotna remained at large Saturday, a day after failing to return to jail from a court-approved trip to the Butte to attend his father's funeral, according to Alaska State Troopers.

Palmer Superior Court Judge Beverly Cutler on Thursday gave John Pearl Smith II, 19, permission to venture outside the jail between 3:30-9 p.m. Friday for the funeral of John Pearl Smith.

Cutler refused a request by

Smith's mother, Christine Ace, however, to allow her son 12 hours of freedom so they could buy clothes for him at Wal-Mart and pick up his brother and sister.

"No judge in Alaska would let him have that much freedom, with his history," Cutler said at Thursday's hearing, at which Smith was scheduled to — but did not — enter a change of plea. "What does he have to lose if he tries to crawl in a ceiling tile at Wal-Mart? I've been dealing with

him since he was 13. The reason for incarceration is the cost of what you've done."



Courtesy Alaska State Troopers
John P. Smith II

Cutler settled on Smith being released with monitoring by Alaska Monitoring Systems, including a global-positioning system device.

She ordered Smith not to consume alcohol or medication, not to be in public places, not to be around firearms and required him to be in the custody of his mother at the Butte Community Center from his release at 3:30 p.m.

Saturday until his required return to Mat-Su Pre-Trial Facility at 9 p.m.

Despite her expressed misgivings, Cutler did not order any law-enforcement officers to escort Smith to and from the funeral.

Smith reportedly made it to the funeral but then left and, according to Alaska Monitoring Systems, sliced through a rubber ankle monitor about 20 minutes before he was supposed to

return to Mat-Su Pre-Trial Facility.



John P. Smith II, at a hearing Thursday.

Trooper spokesman Greg Wilkinson on Saturday said troopers had not received any information about where Smith might be, and no reports that he had committed any criminal offenses beyond failing to return to jail as scheduled.

Smith had appeared in court Thursday so his attorney, Shelley Chaffin of Anchorage, could enter a

See SMITH, Page A2

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INDUSTRIAL DEVELOPMENT

Continued from Page A1

Industrial Development and Export Authority officials about terms for securing a \$15-million loan backed by AJDEA and a \$9-million bank loan, with which AJDEA will participate.

The assembly was primed, at its Sept. 20 meeting, to authorize Borough Manager John Duffy to begin negotiations with JL Properties for the \$41.25-million ski area and residential resort, but called for public hearings on the plan at the urging of members Bill Allen and Talis Colberg. Colberg and Allen insisted

with the plan to rush into negotiations without allowing the public to have some input.

Allen also questioned ties between assembly member Jim Colver and AJDEA board chair Mike Barry.

The assembly held a work session Thursday to address Allen's concerns about Colver and Barry, as well as other main points of the plan.

Also on the agenda is a public hearing regarding the Meadow Lakes Comprehensive Plan, another topic some feel they have so far been denied an opportunity to address.

Contact Darrell L. Brees at 352-2267.

SMITH

Continued from Page A1

change of plea for her client to two counts of first-degree burglary, one count of first-degree robbery, two counts of first-degree vehicle theft, one count of second-degree theft one count of third-degree weapons misconduct and one count of reckless driving and go to trial on several other charges.

Smith had second thoughts, however, and opted for a trial after Cutler said he could receive a possible sentence of 66 years on the 10 charges against him.

"Don't do anything if you don't know what you're doing," Ace told her son, while sitting behind him at Thursday's hearing. Smith's first trial date was set for Oct. 24.

According to court documents, Smith and two accomplices, Kasey Malay and Yancey McDaniel, waited in William Fuger's home Sept. 13, 2004, for him to get home and, when Fuger arrived, Smith pointed a gun at him and told him to freeze. They allegedly tied up Fuger, put a pillowcase on his head and forced him at gunpoint to give up keys to his safe, money from his wallet, his ATM card and personal identification number.

Fuger's captors grabbed \$500 from Fuger's wallet, \$2,500 from his safe, \$3,500 worth of jewelry, a video

They drove away in Fuger's 2003 Ford F-250 crew-cab pickup truck, leaving him bound at the wrists with phone cord, fists wrapped in packing tape and feet lashed with a belt.

The fire-gutted Ford was found on the next day on Maud Road near Mud Lake outside Palmer.

Twelve minutes after Fuger reported the robbery to troopers, a security camera at Wells Fargo

in Wasilla recorded two people withdrawing money from the ATM. Palmer police investigator Dwayne Shelton, who has had many

contacts with Smith over the previous six years, identified one of the men as Smith.

Palmer police arrested Smith, then 18, six days later during a traffic stop. Officer Donna Anthony found a 9mm Witness handgun and several empty bottles of Mike's Hard Lemonade in the car.

The 9mm handgun turned out to be one that was stolen from Fuger.

Before the Fuger robbery, on Aug. 25, Smith and another accomplice allegedly stole a 1999 Oldsmobile Bravada from a Palmer residence, drove it to Soldotna

there. The loot from that heist included five firearms, two Mag-Lite flashlights and a backpack. On the way back to Palmer, Smith reportedly fell asleep at the wheel and crashed the Bravada.

Smith fled, according to troopers, and his alleged accomplice, Brent LaFave, gave the troopers who responded to the wreck a false name for Smith.

Troopers found several stolen firearms in the back seat of the Bravada that were later linked to burglaries in Soldotna and Wasilla.

On Sept. 16, LaFave told troopers Smith was driving the Bravada and confessed to the Soldotna burglary.


Kasey Malay pleaded no contest Oct. 7, 2004 to charges of kidnapping, first-degree burglary, first-degree robbery, third-degree assault, four counts of second-degree firearm theft, first-degree vehicle theft and one count of criminal mischief.

Yancey McDaniel faced the same charges, but prosecutors dismissed them Oct. 20, 2004.

Troopers say Smith should be considered armed and dangerous and that people should not try to detain him. Anyone who sees Smith is asked to call troopers, 745-2131, or local police.

"No judge in Alaska would let him have that much freedom, with his history."

— Superior Court Judge Beverly Cutler, before allowing John Smith to attend his father's funeral.

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Around the Valley

Big Lake Chamber meeting Wednesday

BIG LAKE — The next membership meeting of the Big Lake Chamber of Commerce will be Wednesday at noon at Mahoney's in the East Lake Mall.

The scheduled guest speaker is Carolyn Johnson, from Alaska Dog and Puppy Rescue.

Interested people may contact Randi Perlman at

892-6109 for additional information.

Public hearing slated on Knik River access

MAT-SU — Sen. Charlie Huggins and Rep. Bill Stoitze are hosting a public meeting Thursday on their Knik River Public Use Area legislation. The meeting, which is scheduled from 7-9 p.m. at Butte Elementary School, will give the public another chance to provide their comments and

opinions on the proposed bill before the Legislature's upcoming session.

People who signed up to speak at the last meeting will have first priority to testify at this meeting.

Acupuncture seminar scheduled

MAT-SU — The Alaska Club in Wasilla will host an acupuncture seminar Thursday from 7-8 p.m. at the facility in the Creekside Plaza in Wasilla.

Participants will learn Asian-oriented health and fitness strategies, with a focus on wellness, prevention and potential.

Kevin Meddleton and Samantha Berg, licensed acupuncturists with the Alaska Center for Acupuncture, based in Palmer, will provide instruction at the seminar.

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STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB329-Courts-2-21-06
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Bail Restrictions RDU Alaska Court System
 Component Trial Courts
 Sponsor Representatives Stoltze and Lynn
 Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

| OPERATING EXPENDITURES | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

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| CAPITAL EXPENDITURES | | | | | | |
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FUND SOURCE (Thousands of Dollars)

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| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type—Do not abbreviate) | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2006) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

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|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

The court system does not anticipate any fiscal impact from the passage of HB 329.

Prepared by: Doug Wooliver, Administrative Attorney Phone 483-4750
 Division Alaska Court System Date/Time 2/21/06 @ 2:30 pm
 Approved by: Doug Wooliver for Stephanie Cole, Administrative Director Date 2/21/2006
 Agency Alaska Court System