

**HB**

**54**



# ALASKA STATE LEGISLATURE

Rep. Lesil McGuire, Chair  
Rep. Tom Anderson, Vice-Chair  
Rep. John Coghill  
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Rep. Pete Kott  
Rep. Les Gara  
Rep. Max Gruenberg



State Capitol, Room 120  
Juneau, AK 99801-1182  
(907) 465-4990  
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## House Judiciary Committee

### Memorandum

**To:** Leg. Legal  
**From:** Vanessa Tondini, Committee Aide  
House Judiciary Committee  
**Date:** April 1, 2005  
**Re:** CS Request

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Please create a final draft House Judiciary Committee Substitute for work order # 24-LS0271\Y, HB 54, incorporating the attached amendment, 24-LS0271\Y.2. The bill was passed out of committee today.

If you have any questions, please call me at 4990.  
Thank you!

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24-LS0271\Y  
Luckhaupt  
3/21/05

**CS FOR HOUSE BILL NO. 54( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVES SAMUELS AND STOLTZE, Hawker**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to bail review; relating to the introduction of the victim and the  
2 defendant or minor to the jury; amending Rule 27, Alaska Rules of Criminal  
3 Procedures; amending Rule 21, Alaska Delinquency Rules; and providing for an  
4 effective date."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 \* **Section 1.** AS 12.30.020 is amended by adding a new subsection to read:

7 (j) If a person remains in custody after review of conditions by a judicial  
8 officer under (f) of this section, a subsequent review of conditions may be held at the  
9 request of the person. Unless the prosecuting authority stipulates otherwise, a judicial  
10 officer may not schedule a bail review hearing under this subsection unless

11 (1) the person provides to the court and the prosecuting authority a  
12 written statement that information not considered at the previous review will be  
13 presented, and includes a description of the new information;

14 (2) the prosecuting authority has at least 48 hours' notice before the

1 time set for the review requested under this subsection; and

2 (3) at least 48 hours have elapsed between the previous review and the  
3 time set for the review requested under this subsection.

4 \* Sec. 2. AS 12.30.030(a) is amended to read:

5 (a) A person who remains in custody after a review provided for in  
6 AS 12.30.020(f) or (i) may move the court having original jurisdiction over the  
7 offense to amend the order. The motion shall be determined promptly.

8 \* Sec. 3. AS 12.45 is amended by adding a new section to article 1 to read:

9 **Sec. 12.45.015. Introduction of victim and defendant to jury.** (a) During  
10 jury selection or as part of an opening statement at trial, the prosecuting attorney may  
11 introduce the victim to the jury, and the attorney for the defendant may introduce the  
12 defendant to the jury.

13 (b) In this section, "victim" has the meaning given in AS 12.55.185.

14 \* Sec. 4. AS 47.12.110 is amended by adding a new subsection to read:

15 (f) During jury selection or as part of an opening statement at the hearing, the  
16 attorney representing the department may introduce the victim to the jury, and the  
17 attorney for the minor may introduce the minor to the jury.

18 \* Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to  
19 read:

20 **INDIRECT COURT RULE AMENDMENT.** Section 3 of this Act has the effect of  
21 amending Rule 27, Alaska Rules of Criminal Procedure, by changing the order of proceedings  
22 of a trial before a jury.

23 \* Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to  
24 read:

25 **INDIRECT COURT RULE AMENDMENT.** Section 4 of this Act has the effect of  
26 amending Rule 21, Alaska Delinquency Rules, by allowing the introduction of the victim and  
27 the minor at an adjudication hearing.

28 \* Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

AMENDMENT - PASSED

OFFERED IN THE HOUSE

BY REPRESENTATIVE GRUENBERG

TO: CSHB 54( ), Draft Version "Y"

1 Page 2, following line 27:

2 Insert a new bill section to read:

3 **\*\* Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to  
4 read:

5 **CONDITIONAL EFFECT.** AS 12.45.015, added by sec. 3 of this Act, takes effect  
6 only if sec. 5 of this Act receives the two-thirds majority vote of each house required by art.  
7 IV, sec. 15, Constitution of the State of Alaska.

8 **\* Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to  
9 read:

10 **CONDITIONAL EFFECT.** AS 47.12.110(f), added by sec. 4 of this Act, takes effect  
11 only if sec. 6 of this Act receives the two-thirds majority vote of each house required by art.  
12 IV, sec. 15, Constitution of the State of Alaska."

13

14 ~~Remember~~ the following bill section accordingly.



# REPRESENTATIVE RALPH SAMUELS

HOUSE DISTRICT 29

## CS HB 54 Sponsor Statement

**“An Act relating to bail review; relating to the introduction of the victim and the defendant or minor to the jury; amending Rule 27, Alaska Rules of Criminal Procedures; amending Rule 21, Alaska Delinquency Rules; and providing for an effective date.”**

Current Alaska law says that a person charged with an unclassified crime or a class A felony may make an application to the court to review the bail conditions and argue for reductions for the amount of bail every 24 hours without limitation. This poses logistical problems for all parties involved, given the short amount of time to prepare for each new bail hearing.

HB 54 establishes three requirements designed to alleviate calendaring strain on the court system and the district attorney's office while also protecting crime victims' rights and reducing same day notice of hearings. First, in order to calendar a subsequent bail hearing, the accused must submit in writing, that there exists new information for the court's consideration that was not considered at prior bail hearings. Second, the district attorney is given 48 hours notice in which to notify the victim of the hearing. Finally, hearings may not be set everyday; rather there will be a 48-hour period between calendared bail hearings. These provisions balance the rights of the accused with the rights of crime victims and accommodate for the schedules of both the district attorney's office and the court system.

HB 54 also outlines by statute that a victim may be introduced to a jury during the opening statement at a trial or during the jury selection process. This is to ensure that the courts recognize the right of the prosecution to introduce the victim at the appropriate time. The bill, if passed, would cause indirect court rule changes to Rule 27, Criminal Procedure and Rule 21, Delinquency Rules.

Email: [Representative\\_Ralph\\_Samuels@legis.state.ak.us](mailto:Representative_Ralph_Samuels@legis.state.ak.us)

Session: Alaska State Capitol, Juneau, Alaska 99801-1182 • Phone: (907) 465-2095 Fax: (907) 465-3810

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STATE OFFICE  
**ALASKA PEACE OFFICERS ASSOCIATION**

P.O. Box 240106 Anchorage, Alaska 99524-0106 Phone (907) 277-0515 Fax (907) 272-5355



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February 11, 2005

Representative Ralph Samuels  
House of Representatives  
State Capitol  
Juneau AK 99801-1182

Dear Representative Samuels:

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for introducing House Bill 54, relating to bail review.

The APOA State Board and Legislative Committee recently reviewed this proposed legislation and decided to unanimously support this bill.

The proposed bill closes a loophole and helps to stem frivolous bail hearings. The courts are already under tremendous pressure in trying to schedule the ever-burgeoning case load. This legislation is a step toward easing the court calendar.

Thank you for addressing this issue. Please contact the APOA office in Anchorage at 277-0515 if there is anything our organization can do to assist in the passage of this bill.

Sincerely

  
Angella Long  
State President

cc: Rep. Bill Stoltze

*RWA's  
bill packet -*

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 54  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: \_\_\_\_\_  
 Title Bail Review BRU Alaska Court System  
 Component Trial Courts  
 Sponsor Representatives Samuels and Stoltz  
 Requester \_\_\_\_\_ Component No. 768

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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>						
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<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						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<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 (FY2005) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

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 54.

Prepared by: Douglas Wooliver, Administrative Attorney Phone 463-4750  
 Division Alaska Court System Date/Time 3/24/05 9:08 AM  
 Approved by: Doug Wooliver for Stephanie Cole, Administrative Director Date 3/24/2005  
 Agency Alaska Court System

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 54  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Corrections  
 Title "An act relating to bail review." RDU Institutional Facilities  
 Component Institution Director's Office  
 Sponsor Representatives Samuels, Stoltze, Hawker  
 Requester Judiciary, Finance Component No. 524

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<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>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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<b>CHANGE IN REVENUES ( )</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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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
<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 (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**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)

The Department of Corrections does not anticipate a significant fiscal impact with the passage of this legislation.

Prepared by: Sharleen Griffin, Acting Director Phone 465-4641  
 Division: Administrative Services Date/Time 3/26/05 9:49 AM  
 Approved by: Portia C.K. Parker, Deputy Commissioner Date 3/26/2005  
 Agency: Department of Corrections

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB54-LAW-CDCO-3-29-1  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: LAW  
 Title "An Act relating to bail review." RDU CRIMINAL  
 Component Criminal Justice Litigation  
 Sponsor Representative Samuels and Stoltze  
 Requester House Judiciary Component No. \_\_\_\_\_

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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>						
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<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						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<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 (FY2005) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
 This bill adds a new subsection under AS 12.30.020 (Code of Criminal Procedures - Bail - Release before trial.) relating to review of bail conditions. The proposal would adopt requirements regarding the notice and timing before a subsequent bail hearing could be scheduled. It also requires the person in custody to provide a written statement that information not considered in the previous review will be presented, including a description of the new information.

Passage of this legislation will have no fiscal impact on the Department of Law.

Prepared by: Kathryn Daughhete, Director Phone 465-3673  
 Division Administrative Services Division Date/Time 3/29/05 4:16 PM  
 Approved by: K. Daughhete for Scott Nordstrand, Acting Attorney General Date 3/29/2005  
 Agency Department of Law