

SENATE BILL NO. 136

IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTIETH LEGISLATURE - SECOND SESSION

BY SENATOR MACKINNON

Introduced: 1/16/18
Referred: Prefiled

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to bail; relating to restitution; relating to forfeitures of undertakings;**
2 **and amending Rule 41, Alaska Rules of Criminal Procedure."**

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

4 * **Section 1.** AS 12.30.075 is amended to read:

5 **Sec. 12.30.075. Cash [FORFEITED CASH] and other securities.** (a) Cash
6 or other security posted by a person under **this chapter** [AS 12.30.011 THAT
7 WOULD OTHERWISE BE FORFEITED] shall be held by the court in trust for the
8 benefit of the victim [IF, WITHIN 30 DAYS AFTER AN ORDER OF THE COURT
9 ESTABLISHING A FAILURE TO APPEAR OR A VIOLATION OF CONDITIONS
10 OF RELEASE, THE PROSECUTING AUTHORITY GIVES NOTICE THAT
11 RESTITUTION MAY BE REQUESTED AS PART OF THE SENTENCE IF THE
12 PERSON IS CONVICTED].

13 (b) If a restitution order is not entered, the court shall order the cash or other
14 security being held in trust to be **applied to any fines or costs. If the court finds a**

1 **failure to appear or a violation of a condition of release, the court shall order any**
 2 **remaining cash or other security to be** forfeited to the state.

3 (c) If a restitution order is entered, the court shall apply the cash or other
 4 security to the satisfaction of the order. If the cash or other security held in trust is
 5 applied to an order of restitution **and the court finds a failure to appear or a**
 6 **violation of a condition of release**, the court shall issue a separate judgment against
 7 the defendant in favor of the state in the amount that would have otherwise been
 8 forfeited, and any cash or other security remaining after payment of the restitution
 9 shall be applied against that judgment. Any cash or other security remaining shall be
 10 forfeited to the state.

11 * **Sec. 2.** AS 12.30.075 is amended by adding a new subsection to read:

12 (d) The court shall return to the defendant any cash or other security that is not
 13 otherwise forfeited if

14 (1) no restitution order is entered;

15 (2) the defendant is found not guilty; or

16 (3) the cash or other security exceeds the amount of restitution ordered
 17 and any fines, surcharges, or fees owed by the defendant.

18 * **Sec. 3.** AS 12.55.045 is amended by adding a new subsection to read:

19 (p) A court may not stay an order of restitution pending appeal. The court
 20 shall hold the payments of restitution in trust for the benefit of the victim pending
 21 outcome of the appeal.

22 * **Sec. 4.** AS 12.60.140 is amended to read:

23 **Sec. 12.60.140. Forfeiture of undertaking.** The undertaking **shall be held by**
 24 **the court in trust for the benefit of the victim and shall be disposed of as provided**
 25 **in AS 12.30.075** [IS FORFEITED] upon the person complained of being convicted of
 26 a breach of the peace.

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

29 DIRECT COURT RULE AMENDMENT. Rule 41(h)(5), Alaska Rules of
 30 Criminal Procedure, is amended to read:

31 (5) Exoneration. When the condition of the bond has been satisfied or

1 the forfeiture thereof has been remitted, the court shall **hold the bail in trust for the**
 2 **benefit of the victim in accordance with AS 12.30.075** [EXONERATE THE
 3 OBLIGORS AND RELEASE ANY BAIL. A SURETY MAY BE EXONERATED
 4 BY A DEPOSIT OF CASH IN THE AMOUNT OF THE BOND OR BY A TIMELY
 5 SURRENDER OF THE DEFENDANT INTO CUSTODY].

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

8 DIRECT COURT RULE AMENDMENT. Rule 41(i)(1), Alaska Rules of
 9 Criminal Procedure, is amended to read:

10 (1) Exoneration. When the defendant has met all of the conditions of
 11 the bond, the court shall **hold the bond in trust for the benefit of the victim in**
 12 **accordance with AS 12.30.075** [EXONERATE THE BOND AND RELEASE ANY
 13 SECURITY TO THE PERSON GIVING OR PLEDGING THE SECURITY].

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

16 APPLICABILITY. AS 12.30.075, as amended by sec. 1 of this Act, AS 12.30.075(d),
 17 enacted by sec. 2 of this Act, AS 12.55.045(p), enacted by sec. 3 of this Act, and
 18 AS 12.60.140, as amended by sec. 4 of this Act, apply to offenses committed on or after the
 19 effective date of secs. 1 - 4 of this Act.