

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

ALASKA ASSOCIATION OF
CRIMINAL DEFENSE LAWYERS,
JAMES H. CANNON, JAMES W.
MCGOWAN, AND REX L. BUTLER,

Plaintiffs,

vs.

Case No. 3AN-10-8699CI

STATE OF ALASKA; DANIEL S.
SULLIVAN, ATTORNEY GENERAL
FOR THE STATE OF ALASKA, IN
HIS OFFICIAL CAPACITY,

Defendants.

TEMPORARY RESTRAINING ORDER

After hearing all parties in this matter in oral argument July 2, 2010 the court grants a temporary restraining order against the application of AS 12.30.027(b) as enacted in Section 8, HB 324 and which became effective July 1, 2010. The court holds that the language of Section 8 is insufficiently distinguishable from language found unconstitutional in Williams v. State, 151 P.3d 460,464 et seq. (Alaska App. 2006), to pass constitutional muster.

The court's ruling does not direct the courts of the state to disregard the remainder of the statute (AS 12.30.027) which requires a court's consideration of the safety of victims

and household members and which has long been the law. The factors described in section 8 of HB 324 should be taken into account by courts in the exercise of the judgments in issuance of bail in appropriate cases. Likewise, courts should continue to consider the restriction of a defendant's presence in the workplace of persons who have successfully obtained a domestic violence order against them.

This order is in effect unless and until the court rules otherwise in the declaratory judgment action or it is stayed or overruled by an appellate court. The state's motion made orally at argument for stay is denied.

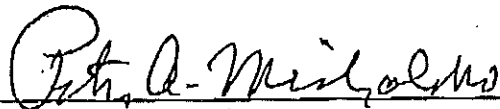
The court finds the complaint's naming of the State of Alaska sufficient to include the Court System of the State of Alaska and the judicial officers, as judicial officers, who serve it.

The plaintiffs - though not immediately subject to the law as individuals (the Association not ever being subject to bail) - represent many criminal defendants who have and will appear for bail before the court. The objections raised are to the constitutionality of the law on its face. If in the course of refining the issues it becomes apparent that specific decisions require a more fact enriched circumstance for a proper decision, the court may dismiss various issues or counts.

The court denies the motion for a temporary restraining order in all other respects.

IT IS SO ORDERED.

DATED at Anchorage, Alaska this 2nd day of July, 2010.



PETER A. MICHALSKI
Superior Court Judge