

# ALASKA STATE LEGISLATURE



**SENATOR PETER MICCICHE**  
SENATE DISTRICT O

## **SB 15 Sectional Analysis**

*An Act relating to a petition to convene a grand jury; and repealing and reenacting Rule 16(b)(3), Alaska Rules of Criminal Procedure, concerning a prosecuting attorney's duty to disclose favorable information to a defendant in a criminal proceeding.*

### **Section 1: Adds new section AS 12.40.120 Grand Jury**

(a) allowing an individual to petition to convene a grand jury for the purpose of investigating a matter that could result in an indictment (Page 1, lines 6-8)

(b) Establishes the individual must file the petition in the appropriate judicial district. (Page 1, lines 9-12)

(c) Establishes that within 4 days the judge shall enter an order of determination of whether the subject of the petition can be reasonably investigated and may lead to information that would lead to an indictment (Page 1, line 13 – Page 2, line 3)

(d) Establishes that the judge must issue a written order if the petition is deficient, allows the petitioner to file an amended petition within 2 days, and requires the judge 2 additional days to determine if it meets the requirements (Page 2, lines 4-9)

(e) States the petitioner may not circulate the petition without a court order (Page 2, lines 10-11)

(f) Establishes the procedure for the petitioner to collect the required signatures and file the completed petition with the Division of Elections. It also requires the division to certify the signatures and submit the petition to the clerk of court, who must then submit it to the presiding superior court judge (Page 2, lines 12-20)

(g) Allows an individual who signed a petition to remove their name any time before it is certified by elections (Page 2, lines 21-24)

(h) Requires the presiding superior court judge to convene a grand jury within 30 calendar days after the certification of the petition is received by the clerk of court (Page 2, lines 25-28)

(i) Provides for penalties for offering anything of value or making false to signatories of the petition (Page 2, lines 29 – Page 3, line 4)

(j) Clarifies the definition of “knowingly” (Page 3, line 5)

## **Section 2: Amends the Alaska Rules of Criminal Procedure**

Repeals and reenacts Rule 16(b)(3) *Prosecuting Attorney's Duty to Disclose Favorable Information to Defense Counsel*

(A) (Beginning on Page 3, line 10, through Page 4, line 5) Requires the prosecuting attorney to disclose to the defense counsel any material or information that tends to negate the guilt of the accused. Within 20 day after the written notice of demand from the defense, the prosecuting attorney must disclose the following:

- (i) all information favorable to the accused in their possession, or in the possession of a branch of law enforcement
- (ii) evidence disproving the identity of the accused as the perpetrator of an offense
- (iii) evidence tending to disprove an element of an offense
- (iv) evidence of varying testimony of a witness
- (v) evidence that a witness has a prior criminal history
- (vi) evidence that a witness has issues with credibility
- (vii) evidence that a witness may have ulterior motive, bias, compensation or information tending to devalue their testimony

(B) Addresses materials not in the prosecuting attorney's possession, and requires they make a good faith effort identify the material and make it available to the defense (Page 4, lines 6-11)

(C) Requires the prosecuting attorney to continue to disclose materials to the defense before and during the trial (Page 4, lines 12-18)

(D) Allows the prosecuting attorney to request an in camera review of any evidence demanded by the defense counsel, and requires the court to issue a written order granting or denying the defense counsel's request. The court must ascertain whether the requested review is expected to cause substantial and identifiable harm to others that outweighs the right of the accused to access the materials, whether access would have a detrimental effect on the proceeding, or whether the materials are personal notes and observations. (Page 4, lines 19 – Page 5, line 2)

(E) Requires the date of disclosure of materials may not be less than 30 days before a trial (Page 5, lines 3-8)

(F-H) Procedures for dealing with noncompliance of this rule and establishes remedies, including sanctions (Page 5, line 9 – Page 6, line 4)

## **Section 3: Conditional Effect**

Section 2 of this Act takes effect only by a two-thirds vote of each body of the legislature. (Page 6, lines 7-9)

### **§ 15. Rule-Making Power**

The supreme court shall make and promulgate rules governing the administration of all courts. It shall make and promulgate rules governing practice and procedure in civil and criminal cases in all courts. These rules may be changed by the legislature by two-thirds vote of the members elected to each house.