

CS FOR HOUSE BILL NO. 349(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 2/18/04

Referred: Rules

Sponsor(s): REPRESENTATIVES SAMUELS, MCGUIRE, STOLTZE AND DAHLSTROM, Wilson

A BILL

FOR AN ACT ENTITLED

1 **"An Act amending Rule 412, Alaska Rules of Evidence."**

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

3 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
4 to read:

5 DIRECT COURT RULE AMENDMENT. Rule 412, Alaska Rules of
6 Evidence, is amended to read:

7 **Rule 412. Evidence Illegally Obtained.** Evidence illegally obtained shall not
8 be used over proper objection by the defendant in a criminal prosecution for any
9 purpose except:

10 (1) a statement illegally obtained in violation of the right to warnings
11 under Miranda v. Arizona, 384 U.S. 436 (1966), may be used in

12 (A) a prosecution for perjury if the statement is relevant to the
13 issue of guilt or innocence and if the prosecution shows that the statement was
14 otherwise voluntary and not coerced; **or**

15 **(B) any prosecution, to impeach the defendant,**

1 codefendant, or a former defendant who made the statement if the
2 prosecution shows that the statement was

3 (i) otherwise voluntary and not coerced; and

4 (ii) recorded, if required by law, or has been
5 determined to be covered by one of the recognized exceptions to the
6 recording requirement; and

7 (2) other evidence illegally obtained may be admitted in

8 (A) a prosecution for perjury if it is relevant to **the** issue of
9 guilt or innocence and if the prosecution shows that the evidence was not
10 obtained in substantial violation of rights **of the defendant; or**

11 (B) any criminal action, to impeach the defendant,
12 codefendant, or a former defendant if the prosecution shows that the
13 evidence was not obtained in substantial violation of rights of the
14 defendant, codefendant, or a former defendant, as appropriate.