

**SENATE CS FOR CS FOR HOUSE BILL NO. 349(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/1/04

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 in the case who made the statement if  
 2 the 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 in the case, if the prosecution shows  
 13 that the evidence

14 (i) was the product of a statement illegally obtained  
 15 in violation of the right to warnings under Miranda v. Arizona, 384  
 16 US 436 (1966); and

17 (ii) was not obtained in substantial violation of the  
 18 rights of the defendant, codefendant, or a former defendant in the  
 19 case, as appropriate.