



AMENDMENT #1

Rep. Kawasaki

OFFERED IN THE HOUSE
TO: HCS CSSB 108(FIN)

1 Page 2, line 17:

2 Insert new subsections to read:

3 "(d) This section does not apply to a person who is or has been a candidate for
4 election to public office.

5 (e) In this section, "candidate for election to public office" means a person
6 who is or has been a candidate for election to a federal, state, municipal, or tribal
7 executive, legislative, or judicial office created by the constitution or laws of this state
8 or the United States or the laws of a federally recognized tribe."
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10 Page 2, line 20, following "APPLICABILITY":

11 Insert "(a) Except as provided in (b) of this section,"
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13 Page 2, following line 22:

14 Insert a new subsection to read:

15 "(b) AS 22.35.030(d) and (e), enacted by sec. 2 of this Act, apply to a person
16 whose candidacy for election to public office occurred before, on, or after the effective
17 date of this Act."

Keep the court records open: Senate Bill 108 would seal files, harming public knowledge of official actions

Posted: Wednesday, April 16, 2014 11:56 pm

Fairbanks Daily News-Miner editorial

Three of the Fairbanks region's state senators voted for more secrecy in government late last month. Let's hope their colleagues in the House don't follow them.

Republican Sens. John Coghill of North Pole and Republican Sens. Pete Kelly and Click Bishop of Fairbanks were among the 18 senators who voted yes on a bill that would make confidential the records of criminal cases that result in an acquittal or dismissal.

Poof. Gone from public view.

Republican Sen. Fred Dyson of Eagle River, the sponsor of Senate Bill 108, writes in his sponsor statement regarding the Alaska Court System's website in particular that the "public posting of a person's name and charges has had significant deleterious effects on employment prospects, ability to find housing, and other professional and personal opportunities of many Alaskans."

People whose names are published do sometimes, unfortunately, have difficulty in these areas. It is, equally unfortunately, an occasional consequence of living in an open society.

SB108 would reduce the number of those occurrences. But it also would cloak in secrecy the actions of the government agencies involved and hide information that the public could find useful in legitimate purposes.

Consider this situation if SB 108 becomes law: Assume that a person is charged with a felony after the Oct. 1, 2014, effective date of the proposed law. The filing of the charge is available for public inspection but gains little attention by news reporters or anyone else. Suddenly the charge is dismissed, the 120-day public availability period in the law lapses, and the record is then locked up from public view.

Now let's say that same person then decides to run for public office. The public should know about that felony charge and what led it to be dismissed. What were the details of the case? Why did the prosecutor drop the case? Reporters and others who want to run a background check on the candidate — standard procedure during campaigns — wouldn't find anything about that charge.

SB108 also instructs the court system to seal from public view cases that resulted in acquittal or dismissal before the Oct. 14 effective date.

In this instance, a candidate for public office wouldn't have to worry that voters would find out about any charges that didn't lead to a conviction. That is simply unacceptable. We hold candidates for public office to a higher standard; the public expects to know whether a candidate for office has ever been charged with a crime even if it didn't result in a conviction.

And the candidate would have SB 108 and its supporters to thank.

Also, as we've said here before regarding this bill, an acquittal doesn't always equate with innocence. It sometimes means that prosecutors didn't have a strong case against a person who is truly guilty or that they didn't present their case well.

There's also the potential to extend the thinking behind SB108 beyond the legal system and into law enforcement. If court records can be sealed in cases of acquittal or dismissal, what about the reports of law enforcement agencies? The Alaska State Troopers has nearly a year's worth of incident reports posted on its website for public viewing, with many of those reports naming people who have been arrested on various charges but, at the time of the posting, not yet prosecuted. Will we soon see the Legislature requiring that those records, too, be made confidential?

SB 108 is sitting in the House Finance Committee. The Fairbanks region has three members on that committee: Republican Reps. Steve Thompson of Fairbanks and Tammie Wilson of North Pole and Democratic Rep. David Guttenberg of Fairbanks.

Senate Bill 108 carries great consequences and should be rejected.