

**HOUSE BILL NO. 316**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

**BY REPRESENTATIVES DRUMMOND, Tarr**

**Introduced: 1/31/18**

**Referred: Judiciary, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the sealing of certain court records; restricting the publication of**  
2 **certain records of convictions on a publicly available website; relating to public records;**  
3 **and amending Rule 37.6, Alaska Rules of Administration."**

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

5 \* **Section 1.** AS 12.62.180 is amended by adding a new subsection to read:

6 (e) A person convicted in this state before February 24, 2015, of possession of  
7 a schedule VIA controlled substance for conduct that does not require a license and  
8 would otherwise be legal under AS 17.38 if committed on or after February 24, 2015,  
9 may submit a written request to the head of the agency responsible for maintaining  
10 past conviction or current offender information, asking the agency to seal that  
11 information about the person. The head of the agency shall grant the request if the  
12 head of the agency determines that the conduct that formed the basis of the conviction  
13 does not require a license and would otherwise be legal under AS 17.38 if committed  
14 on or after February 24, 2015.

1 \* **Sec. 2.** AS 22.35.030 is amended by adding a new subsection to read:

2 (b) The Alaska Court System may not publish a court record of a conviction  
3 on a publicly available website if the conviction occurred before February 24, 2015,  
4 and was for possession of a schedule VIA controlled substance for conduct that does  
5 not require a license and would otherwise be legal under AS 17.38 if committed on or  
6 after February 24, 2015.

7 \* **Sec. 3.** AS 40.25.120(a) is amended to read:

8 (a) Every person has a right to inspect a public record in the state, including  
9 public records in recorders' offices, except

10 (1) records of vital statistics and adoption proceedings, which shall be  
11 treated in the manner required by AS 18.50;

12 (2) records pertaining to juveniles unless disclosure is authorized by  
13 law;

14 (3) medical and related public health records;

15 (4) records required to be kept confidential by a federal law or  
16 regulation or by state law;

17 (5) to the extent the records are required to be kept confidential under  
18 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure  
19 or retain federal assistance;

20 (6) records or information compiled for law enforcement purposes, but  
21 only to the extent that the production of the law enforcement records or information

22 (A) could reasonably be expected to interfere with enforcement  
23 proceedings;

24 (B) would deprive a person of a right to a fair trial or an  
25 impartial adjudication;

26 (C) could reasonably be expected to constitute an unwarranted  
27 invasion of the personal privacy of a suspect, defendant, victim, or witness;

28 (D) could reasonably be expected to disclose the identity of a  
29 confidential source;

30 (E) would disclose confidential techniques and procedures for  
31 law enforcement investigations or prosecutions;

1 (F) would disclose guidelines for law enforcement  
 2 investigations or prosecutions if the disclosure could reasonably be expected to  
 3 risk circumvention of the law; or

4 (G) could reasonably be expected to endanger the life or  
 5 physical safety of an individual;

6 (7) names, addresses, and other information identifying a person as a  
 7 participant in the Alaska Higher Education Savings Trust under AS 14.40.802 or the  
 8 advance college tuition savings program under AS 14.40.803 - 14.40.817;

9 (8) public records containing information that would disclose or might  
 10 lead to the disclosure of a component in the process used to execute or adopt an  
 11 electronic signature if the disclosure would or might cause the electronic signature to  
 12 cease being under the sole control of the person using it;

13 (9) reports submitted under AS 05.25.030 concerning certain  
 14 collisions, accidents, or other casualties involving boats;

15 (10) records or information pertaining to a plan, program, or  
 16 procedures for establishing, maintaining, or restoring security in the state, or to a  
 17 detailed description or evaluation of systems, facilities, or infrastructure in the state,  
 18 but only to the extent that the production of the records or information

19 (A) could reasonably be expected to interfere with the  
 20 implementation or enforcement of the security plan, program, or procedures;

21 (B) would disclose confidential guidelines for investigations or  
 22 enforcement and the disclosure could reasonably be expected to risk  
 23 circumvention of the law; or

24 (C) could reasonably be expected to endanger the life or  
 25 physical safety of an individual or to present a real and substantial risk to the  
 26 public health and welfare;

27 (11) the written notification regarding a proposed regulation provided  
 28 under AS 24.20.105 to the Department of Law and the affected state agency and  
 29 communications between the Legislative Affairs Agency, the Department of Law, and  
 30 the affected state agency under AS 24.20.105;

31 (12) records that are

1 (A) proprietary, privileged, or a trade secret in accordance with  
2 AS 43.90.150 or 43.90.220(e);

3 (B) applications that are received under AS 43.90 until notice is  
4 published under AS 43.90.160;

5 (13) information of the Alaska Gasline Development Corporation  
6 created under AS 31.25.010 or a subsidiary of the Alaska Gasline Development  
7 Corporation that is confidential by law or under a valid confidentiality agreement;

8 (14) information under AS 38.05.020(b)(11) that is subject to a  
9 confidentiality agreement under AS 38.05.020(b)(12);

10 (15) records relating to proceedings under AS 09.58 (Alaska Medical  
11 Assistance False Claim and Reporting Act);

12 (16) names, addresses, and other information identifying a person as a  
13 participant in the Alaska savings program for eligible individuals under AS 06.65;

14 (17) artists' submissions made in response to an inquiry or solicitation  
15 initiated by the Alaska State Council on the Arts under AS 44.27.060;

16 **(18) records of a conviction that occurred before February 24,**  
17 **2015, for possession of a schedule VIA controlled substance for conduct that does**  
18 **not require a license and would otherwise be legal under AS 17.38 if committed**  
19 **on or after February 24, 2015.**

20 \* **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to  
21 read:

22 INDIRECT COURT RULE AMENDMENT. The provisions of AS 12.62.180(e),  
23 enacted by sec. 1 of this Act, have the effect of changing Rule 37.6, Alaska Rules of  
24 Administration, by changing the process to limit public access to certain case records.

25 \* **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to  
26 read:

27 TRANSITION. The Alaska Court System shall, within 90 days after the effective date  
28 of sec. 2 of this Act, remove any conviction currently appearing on a publicly available  
29 website that was for possession of a schedule VIA controlled substance for conduct that does  
30 not require a license and would otherwise be legal under AS 17.38 if committed on or after  
31 February 24, 2015.

1     \* **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to  
2 read:

3             CONDITIONAL EFFECT. AS 12.62.180(e), enacted by sec. 1 of this Act, takes effect  
4 only if sec. 4 of this Act receives the two-thirds majority vote of each house required by art.  
5 IV, sec. 15, Constitution of the State of Alaska.