

CS FOR HOUSE BILL NO. 316(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 2/28/18

Referred: Finance

Sponsor(s): REPRESENTATIVES DRUMMOND, Tarr

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the release of certain records of convictions; relating to public**
2 **records; amending Rule 37.5, Alaska Rules of Administration; and providing for an**
3 **effective date."**

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

5 *** Section 1.** AS 12.62.160 is amended by adding a new subsection to read:

6 (f) Notwithstanding (b)(8) of this section, an agency may not release records
7 of a criminal case if the defendant

8 (1) was convicted under AS 11.71.060, or a municipal ordinance with
9 similar elements, for possession of less than one ounce of a schedule VIA controlled
10 substance;

11 (2) was 21 years of age or older at the time of commission of the
12 offense; and

13 (3) was not convicted of any other charges in that case.

14 *** Sec. 2.** AS 22.35 is amended by adding a new section to read:

1 **Sec. 22.35.040. Confidential court records.** The Alaska Court System shall
 2 make a court record of a criminal case confidential and limit access to that court
 3 record if the defendant

4 (1) was convicted under AS 11.71.060, or a municipal ordinance with
 5 similar elements, for possession of less than one ounce of a schedule VIA controlled
 6 substance;

7 (2) was 21 years of age or older at the time of commission of the
 8 offense; and

9 (3) was not convicted of any other charges in that case.

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

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

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

15 (2) records pertaining to juveniles unless disclosure is authorized by
 16 law;

17 (3) medical and related public health records;

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

20 (5) to the extent the records are required to be kept confidential under
 21 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure
 22 or retain federal assistance;

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

25 (A) could reasonably be expected to interfere with enforcement
 26 proceedings;

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

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

31 (D) could reasonably be expected to disclose the identity of a

1 confidential source;

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

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

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

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

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

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

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

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

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

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

30 (11) the written notification regarding a proposed regulation provided
31 under AS 24.20.105 to the Department of Law and the affected state agency and

1 communications between the Legislative Affairs Agency, the Department of Law, and
2 the affected state agency under AS 24.20.105;

3 (12) records that are

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

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

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

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

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

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

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

19 **(18) records of a conviction under AS 11.71.060, or a municipal**
20 **ordinance with similar elements, for possession of less than one ounce of a**
21 **schedule VIA controlled substance if the defendant was 21 years of age or older**
22 **at the time of commission of the offense and was not convicted of any other**
23 **charges in that case.**

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

26 INDIRECT COURT RULE AMENDMENT. The provisions of AS 22.35.040,
27 enacted by sec. 2 of this Act, have the effect of changing Rule 37.5, Alaska Rules of
28 Administration, by limiting public access to certain case records.

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

31 CONDITIONAL EFFECT. AS 22.35.040, enacted by sec. 2 of this Act, takes effect

- 1 only if sec. 4 of this Act receives the two-thirds majority vote of each house required by art.
- 2 IV, sec. 15, Constitution of the State of Alaska.
- 3 * **Sec. 6.** This Act takes effect 120 days after becoming law.