

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 SENATE BILL NO. 253

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIRST LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to demands for the produc-  
7 tion of statements and reports of witnesses  
8 in criminal prosecutions,"

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 Section 1. a. In any criminal prosecution brought by the  
11 State of Alaska, no statement or report in the possession of the  
12 state which was made by a government witness or prospective  
13 government witness (other than the defendant) to an agent of the  
14 government shall be the subject of subpoena, discovery, or in-  
15 spection until said witness has testified on direct examination  
16 in the trial of the case.

17 b. After a witness called by the state has testified on  
18 direct examination, the court shall, on motion of the defendant,  
19 order the state to produce any statement (as hereinafter defined)  
20 of the witness in the possession of the state which relates to  
21 the subject matter as to which the witness has testified. If the  
22 entire contents of any such statement relate to the subject matter  
23 of the testimony of the witness, the court shall order it to be  
24 delivered directly to the defendant for his examination and use.

25 c. If the state claims that any statement ordered to be  
26 produced under this section contains matter which does not relate  
27 to the subject matter of the testimony of the witness, the court  
28 shall order the state to deliver such statement for the inspection  
29 of the court in camera. Upon such delivery the court shall excise

SB #253 as amended  
by the House

1 the portions of such statement which do not relate to the subject  
2 matter of the testimony of the witness. With such material ex-  
3 cised, the court shall then direct delivery of such statement to  
4 the defendant for his use. If, pursuant to such procedure, any  
5 portion of such statement is withheld from the defendant and the  
6 defendant objects to such withholding, and the trial is continued  
7 to an adjudication of the guilt of the defendant, the entire text  
8 of such statement shall be preserved by the state and, in the  
9 event the defendant appeals, shall be made available to the appel-  
10 late court for the purpose of determining the correctness of the  
11 ruling of the trial judge. Whenever any statement is delivered  
12 to a defendant pursuant to this section, the court in its dis-  
13 cretion, upon application of said defendant, may recess proceed-  
14 ings in the trial for such time as it may determine to be reason-  
15 ably required for the examination of such statement by said de-  
16 fendant and his preparation for its use in the trial.

17 d. If the state elects not to comply with an order of the  
18 court under paragraph b. or c. hereof to deliver to the defendant  
19 any such statement, or such portion thereof as the court may  
20 direct, the court shall strike from the record the testimony of  
21 the witness, and the trial shall proceed unless the court in its  
22 discretion shall determine that the interests of justice require  
23 that a mistrial be declared.

24 e. The term "statement," as used in paragraphs b., c., and  
25 d. of this section in relation to any witness called by the state,  
26 means:

27 (1) a written statement made by said witness and signed  
28 or otherwise adopted or approved by him; or

29 (2) a stenographic, mechanical, electrical, or other

1 recording, or a transcription thereof, which is a substantially  
2 verbatim recital of an oral statement made by said witness to an  
3 agent of the government and recorded contemporaneously with the  
4 making of such oral statement.

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29