

Original sponsor: Rules Committee
by request

Offered: 5/10/72
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 387

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act protecting the constitutional right of privacy
7 of those individuals concerning whom records are main-
8 tained by governmental agencies."

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

10 * Section 1. AS 09.25 is amended by adding a new section to read:

11 Sec. 09.25.125. INDIVIDUAL RECORDS. (a) A state agency that
12 maintains records concerning a person which may be retrieved by
13 reference to, or indexed under, the person's name or a number by which
14 a person may be identified and which contains information obtained
15 from any source shall adopt regulations consistent with AS 40.21 which
16 provide, with respect to those records,

17 (1) the need and provision for the notification of the
18 person that the agency maintains or is about to maintain a record
19 concerning that person;

20 (2) for obtaining the permission of the person about whom
21 the record is maintained when the record or information contained in it
22 is not a public record under sec. 120 of this chapter and is disclosed
23 to another agency or to another person not employed by the agency
24 maintaining the record, except that when the person cannot be located
25 or communicated with after reasonable effort, the agency may make the
26 disclosure upon good cause for the disclosure, and except in those
27 instances provided for by regulation when the disclosure is of a
28 routine, administrative nature and would not be violative of the
29 person's right to privacy;

1 (3) the need and provision for the notification of the person
2 that his record has been transferred or inspected by another agency or
3 person, except in those instances provided for by regulation when the
4 transfer or inspection is of a routine, administrative nature and would
5 not be violative of the person's right to privacy;

6 (4) for the complete confidentiality of that information
7 required by law or regulation to be confidential, including records
8 maintained for investigatory purposes;

9 (5) for the maintenance of an accurate record of the
10 names and positions of all persons inspecting the records, whether
11 by transfer or otherwise, and the purposes for which the inspections
12 were made;

13 (6) for the inspection by a person on whom a record is
14 maintained of his own record, unless disclosure is prohibited by law,
15 and for the copying of that record by the person at his own expense;

16 (7) procedures under which a person may supplement informa-
17 tion contained in his record by the addition of any document or writing
18 containing information the person considers pertinent to his record;

19 (8) procedures under which a person may have erroneous
20 information removed from his record and which provide for hearing
21 and review if the agency declines to purge, modify or supplement the
22 person's record;

23 (9) for the periodic and systematic correction and purging
24 of the records of the agency;

25 (10) for the periodic and systematic purging of investigatory
26 and intelligence files compiled for law enforcement purposes which
27 have been maintained for a longer period than is reasonably necessary
28 to commence prosecution or other action; each agency shall report to
29 the legislature before January 30 of each year the number of investiga-

1 tory and intelligence files maintained during the immediately preceding
2 calendar year.

3 (b) The notification, obtaining permission for transfer, and
4 inspection provisions of this section do not apply to investigatory
5 files compiled for law enforcement purposes, to interagency or intra-
6 agency memorandums, letters, files or other information which would
7 not be available by law to a party in a litigation with the agency,
8 and to records relating to adoption proceedings.

9 (c) Regulations adopted under this section shall be submitted
10 to the legislature on the first day of each legislative session and
11 are subject to approval, rejection or amendment by a concurrent
12 resolution of the legislature introduced in either house. Regulations
13 adopted between the effective date of this Act and the first day of
14 the Eighth Alaska Legislature are not in effect until acted upon by
15 the legislature. Subsequent regulations adopted under this section
16 do not take effect until acted upon by the legislature within 45 days
17 of the first day of a legislative session. The notice and hearing
18 requirements of the Administrative Procedure Act (AS 44.62), relating
19 to the adoption of regulations, apply to regulations adopted under
20 this chapter.

21 (d) A political subdivision of the state, whether home rule or
22 otherwise, which maintain records on individuals shall provide, with
23 respect to those records, protections at least equivalent to those
24 provided individuals by the regulations required to be adopted under
25 (a) of this section.

26 (e) This section does not apply to criminal justice information
27 compiled and regulated under AS 12.62.

28 (f) This section may be enforced by an action in the superior
29 court. If a person, about whom information is maintained by an agency,

1 challenges that information in an action in the superior court as
2 being false, inaccurate or misleading, the burden is on the agency to
3 prove that the information is not false, inaccurate or misleading.

4 (g) A person may institute a civil action for damages or to
5 restrain a violation of this section, or both. If, in an action under
6 this section, it is found that a wilful violation of this section has
7 occurred, the violator shall, in addition to liability for actual
8 damages that may be shown, be liable for exemplary damages of not less
9 than \$100 nor more than \$1,000 for each violation, together with
10 costs and reasonable attorney fees.

11 (h) A person who wilfully requests, obtains or seeks to obtain
12 a personal record under false pretenses, or who wilfully communicates
13 or seeks to communicate a personal record to an agency or person except
14 in accordance with the provisions of this section, or a member, officer,
15 employee or agent of an agency who wilfully falsifies, or makes a
16 false statement as to the existence or nonexistence of a personal
17 record, is, for each offense, punishable by a fine of not more than
18 \$1,000, or by imprisonment for not more than one year, or by both. A
19 person who knowingly, but without criminal purpose, communicates or
20 attempts to communicate a personal record except in accordance with
21 the provisions of this section is, for each offense, punishable by a
22 fine of not more than \$500, or by imprisonment for not more than 30
23 days, or by both.

24 (i) "State agency" or "agency" in this section means a depart-
25 ment, institution, board, commission, bureau, division or other adminis-
26 trative unit of the executive, legislative or judicial branches of the
27 state government.
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