

BY THE JUDICIARY COMMITTEE

Offered: 2/26/74
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 635

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the postponement of civil
7 proceedings when a party, attorney or witness is
8 a member of the legislature; and changing Rule 40(f)
9 of the Alaska Rules of Civil Procedure."

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

11 * Section 1. AS 24.40 is amended by adding a new section to read:

12 Sec. 24.40.031. POSTPONEMENT OF CIVIL PROCEEDINGS WHEN A PARTY,
13 ATTORNEY OR WITNESS IS A MEMBER OF THE LEGISLATURE. The trial of a
14 civil action, or proceeding in a court, or of any administrative pro-
15 ceeding before a state agency or officer, irrespective of the date of
16 filing or when it became at issue, or the hearing of any motion or
17 other proceeding shall be postponed, unless there is a finding by
18 the judge, or by the agency or officer in the case of an administra-
19 tive proceeding, that it would cause unreasonable hardship to another
20 party, when it appears to the court, agency, or officer before which
21 the action or proceeding is pending that either a party, or an attorney
22 of record (whether he became an attorney of record before or after the
23 commencement of a legislative session or before or after his appoint-
24 ment to a legislative committee) or a principal witness is a member
25 of the legislature of this state and that the legislature is in session
26 or in recess (not exceeding a recess of 35 days) or that a legislative
27 interim committee of which he is a member is meeting, or is to meet
28 within a period which the court finds does not exceed the time
29 reasonably necessary to enable the member to reach the committee meeting

1 by the ordinary mode of travel. When the legislature is in session or
2 in recess the action or proceeding shall not, without the consent of
3 the attorney of record or a finding of unreasonable hardship resulting
4 from postponement, be brought on for trial or hearing before the
5 expiration of 30 days following final adjournment of the legislature
6 or the commencement of a recess of more than 35 days. If a date is
7 available during recess, continuance shall be given if possible to
8 the earlier date. When a legislative committee is meeting, or is to
9 meet within a period which the court finds does not exceed the time
10 reasonably necessary to enable the member to reach the committee
11 meeting by the ordinary mode of travel, the action or proceeding shall
12 not, without the consent of the attorney of record or a finding of
13 unreasonable hardship resulting from postponement, be brought on for
14 trial or hearing before the expiration of the period necessary follow-
15 ing the adjournment or recess of the committee meeting as the court
16 finds is reasonably necessary to enable the member to reach the place
17 of trial or hearing by the ordinary mode of travel from the place of
18 the committee meeting, unless at the expiration of that period the
19 legislature is to be in session; and in that case the action or
20 proceeding shall not, without his consent or the above finding of
21 hardship, be brought on for trial or hearing before the expiration
22 of 30 days next following final adjournment or the commencement of
23 a recess of more than 35 days. If a date is available during the
24 recess, continuance shall be given to the earlier date.

25 * Sec. 2. In sec. 1 of this Act, AS 24.40.031 has the effect of
26 changing Rule 40(f) of the Alaska Rules of Civil Procedure, by providing
27 for the continuance of a trial of a civil action or other court proceeding
28 when a party, attorney or principal witness is a member of the legislature.
29