

1 IN THE SENATE

BY LEWIS

2 SENATE BILL NO. 298

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 discovery procedures, amending
7 Alaska Supreme Court Criminal Rules 16(a), 16(b)(1)
8 and (6); 16(d)(5) and 16(e)(1)."

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

10 * Section 1. Alaska Supreme Court Rule of Criminal Procedure 16(a) is
11 amended to read:

12 (a) SCOPE OF DISCOVERY. In order to provide adequate information
13 for informed pleas, expedite trial, minimize surprise, afford oppor-
14 tunity for effective cross-examination, and meet the requirements of
15 due process, discovery prior to trial should be as full and free as
16 possible consistent with protection of persons, particularly the rights
17 of society and the victims of crime as well as the rights of the
18 accused, effective law enforcement, and the adversary system.

19 * Sec. 2. Alaska Supreme Court Rule of Criminal Procedure 16(b)(1) is
20 amended to read:

21 (1) Information Within Possession or Control of Prosecuting
22 Attorney. Except as is otherwise provided by these rules or by
23 AS 12.45.050 - 12.45.060 as to matters not subject to disclosure and
24 protective orders, the prosecuting attorney shall disclose the follow-
25 ing information within his possession or control to defense counsel
26 and make available for inspection and copying:

27 (1) The names and addresses of persons known by the
28 government to have knowledge of relevant facts and their written
29 or recorded statements or summaries of statements;

1 (ii) Any written or recorded statements and summaries of
2 statements and the substance of any oral statements made by the
3 accused;

4 (iii) Any written or recorded statements and summaries
5 of statements and the substance of any oral statements made by a
6 co-defendant;

7 (iv) Any reports or statements of experts, made in con-
8 nection with the particular case, including results of physical or
9 mental examinations and of scientific tests, experiments or
10 comparisons;

11 (v) Any books, papers, documents, photographs or tangible
12 objects, which the prosecuting attorney intends to use in the
13 hearing or trial which were obtained from or belong to the
14 accused; and

15 (vi) Any record of prior criminal convictions of the
16 defendant and of persons whom the prosecuting attorney intends to
17 call as witnesses at the hearing or trial.

18 * Sec. 3. Alaska Supreme Court Rule of Criminal Procedure 16(b)(6) is
19 amended to read:

20 (6) Information Regarding Searches and Seizures - Statements
21 From the Accused - Relationship of Witnesses to Prosecuting Attorney.
22 Except as otherwise provided by these rules or as limited by AS 12.45.-
23 050 - 12.45.060 the prosecuting attorney shall, upon request of defense
24 counsel, disclose and permit inspection, testing, copying and photo-
25 graphing of any relevant material and information regarding:

26 (i) Specified searches and seizures;

27 (ii) The acquisition of specified statements from the
28 accused; and

29 (iii) The relationship, if any, of specified witnesses

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to the prosecuting authority.

* Sec. 4. Alaska Supreme Court Rule of Criminal Procedure 16(d)(5) is amended to read:

(5) Material Partially Discoverable. When some parts of certain material are discoverable under these rules, and other parts are not discoverable, as much of the material shall be disclosed as is consistent with this rule and the provisions of AS 12.45.070 where applicable. Excision of certain material and disclosure of the balance shall be preferred to withholding of the whole. Material excised pursuant to court order shall be sealed and preserved in the records of the court, and shall be made available to the supreme court in the event of an appeal.

* Sec. 5. Alaska Supreme Court Rule of Criminal Procedure 16(e)(1) is amended to read:

(1) Failure to Comply with Discovery Rule or Order. Except where the provisions of AS 12.45.080 are applicable, if [IF] at any time during the course of the proceedings it is brought to the attention of the court that a party has failed to comply with an applicable discovery rule or an order issued pursuant thereto, the court may order such party to permit the discovery of material and information not previously disclosed or enter such other order as it deems just under the circumstances.