

Introduced: 1/19/76
Referred: Judiciary

1 IN THE HOUSE

BY PARR

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 531

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to freedom of public information."

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

8 * Section 1. AS 40 is amended by adding a new chapter to read:

9 CHAPTER 25. FREEDOM OF PUBLIC INFORMATION.

10 Sec. 40.25.010. STATE POLICY REGARDING RECORDS. It is the
11 policy of the state that

12 (1) all governmental units exist to aid in the conduct of the
13 people's business;

14 (2) the records of those units be open for public inspection
15 except as provided in this chapter;

16 (3) the people of this state do not yield their sovereignty
17 to the agencies which serve them;

18 (4) the people, in delegating authority, do not give their
19 public servants the right to decide what is best for the people to know
20 and what is not best for them to know;

21 (5) the people's right to remain informed shall be protected
22 so that they may retain control over the instruments they have created.

23 Sec. 40.25.020. RECORDS TO BE OPEN TO INSPECTION; EXCEPTIONS.

24 (a) Except as otherwise specifically provided by law, all records
25 are open to inspection and copying by any person during the regular
26 office hours of the custodian of the records. Access to records may not
27 be denied to any person, nor to representatives of newspapers and maga-
28 zines and representatives of radio and television stations; however, the
29 custodian of the records shall take all necessary precautions for their

1 preservation and safekeeping.

2 (b) If the record is in active use or storage and not available at
3 the time a request to examine it is made, the custodian shall state this
4 fact in writing to the applicant and set a date and hour within a rea-
5 sonable time at which the record may be examined.

6 (c) Every public officer having the custody of records not included
7 in the exceptions in (d) of this section shall permit the inspection,
8 and give on demand and on payment of the legal fee required, a certified
9 copy of the writing or record, and the copy shall in all cases be evi-
10 dence of the original. Recorders shall permit memoranda, transcripts,
11 and copies of the public writings and records in their offices to be
12 reproduced in any reasonable manner for the purpose of examining title
13 to real estate described in the public writings and records, making
14 abstracts of title or guaranteeing or insuring the title of the real
15 estate, or building and maintaining title and abstract plants. In addi-
16 tion, recorders shall furnish proper and reasonable facilities to per-
17 sons having lawful occasion for access to the public writings and
18 records for the purposes specified in this subsection, subject to reason-
19 able rules and regulations, in conformity to the direction of the court,
20 as are necessary for the protection of the writings and records and to
21 prevent interference with the regular discharge of the duties of the
22 recorders and their employees.

23 (d) The following records are excluded from the provisions of this
24 section:

- 25 (1) those defined as confidential by federal or state law;
26 (2) state income tax returns;
27 (3) personnel records, except that access may not be denied
28 to the person who is the subject of the records;
29 (4) school district records pertaining to an individual stu-

1 , dent, except that access may not be denied to the student, a parent or
2 guardian of the student, or a person responsible for supervising the
3 student;

4 (5) University of Alaska records pertaining to an individual
5 student, except that access may not be denied to the student;

6 (6) medical, psychological, and sociological data on indivi-
7 dual persons, exclusive of autopsy reports;

8 (7) archival materials contributed by a private person, to
9 the extent of any limitations placed on them as a condition of the con-
10 tribution; however, these limitations must be in writing and the state-
11 ment of limitations must be produced upon denial of access;

12 (8) circulation records maintained by public libraries,
13 public school libraries, and University of Alaska libraries showing
14 personal transactions by those borrowing from them;

15 (9) social services records pertaining to individual persons,
16 except that access may not be denied to the person who is the subject
17 of the records;

18 (10) trade secrets, privileged information and confidential
19 commercial, financial, geological or geophysical data furnished in
20 compliance with state law or regulation, or in compliance with a municipi-
21 pal ordinance;

22 (11) test questions, scoring keys and other examination data
23 pertaining to administration of a licensing examination, for employment,
24 or academic examination; except that written promotional examinations
25 and the scores or results of them shall be available for inspection, but
26 not copying or reproduction, after the conducting or grading of the
27 examination;

28 (12) intelligence and investigatory files maintained by state
29 or municipal law enforcement agencies, except that access to police

1 blotters and booking records, including forms for this purpose used
2 by the state troopers, may not be denied;

3 (13) lists of names and addresses in the possession of a
4 state or municipal agency if the lists would be used for private com-
5 mercial, or fund-raising purposes;

6 (14) marriage licenses, upon the request of both parties to
7 the marriage.

8 (e) When the lawful custodian of a record determines that the
9 record is exempt under the provisions of this section, he shall also
10 determine whether a deletion of the exempt parts of the record will
11 make it suitable for release. If a partial deletion of material will
12 make the record suitable for release, the deletion shall be made and the
13 record released, with the notation that exempt material has been removed.
14 If the custodian determines that the record is not open to inspection,
15 he shall certify that determination in writing to the person requesting
16 the record.

17 (f) No record more than 50 years old is excluded from the provi-
18 sions of this section unless a longer period is required under (d)(7)
19 of this section.

20 Sec. 40.25.030. ENFORCEMENT: INJUNCTIVE RELIEF. (a) A person
21 having custody or control of a record who obstructs or attempts to ob-
22 struct, or a person not having custody or control who aids or abets
23 another person in obstructing or attempting to obstruct, the inspection
24 of a record subject to inspection under sec. 20 of this chapter may be
25 enjoined by the superior court from obstructing, or attempting to ob-
26 struct, the inspection of records subject to inspection under sec. 20
27 of this chapter.

28 (b) In a suit brought under this section the court may enjoin
29 withholding of the records and order the production to the complainant

1 of records improperly withheld. In such a case the court shall deter-
2 mine the matter de novo, and may examine the contents of any records in
3 camera to determine whether the records or any portion of them may be
4 withheld under any of the exemptions set out in sec. 20 of this chapter,
5 and the burden is on the agency to sustain its action.

6 Sec. 40.25.040. MISHANDLING OF RECORDS. A person who has the
7 legal custody of and who wilfully destroys, conceals, or mutilates a
8 record, book, paper, or writing, or a person who wilfully destroys,
9 conceals, or mutilates a record, book, paper or writing, or wrongfully
10 takes a public record, book, paper, or writing from the person having
11 legal custody of it, or who has obtained possession wrongfully and re-
12 fuses or neglects to return or produce it when lawfully required or
13 demanded so to do, upon conviction, is punishable by a fine of not less
14 than \$100 nor more than \$500, or by imprisonment for not less than 90
15 days nor more than one year, or by both.

16 Sec. 40.25.050. OBSTRUCTION OF ACCESS TO RECORDS. A person who
17 has custody or control of a record who intentionally obstructs or at-
18 tempts to obstruct, or a person not having custody or control who inten-
19 tionally aids or abets another person in obstructing or attempting to
20 obstruct, the inspection of a record subject to inspection under sec. 20
21 of this chapter is guilty of a misdemeanor and, upon conviction, is
22 punishable by a fine of not less than \$100 nor more than \$500. Upon a
23 subsequent conviction, that person is guilty of a misdemeanor and is
24 punishable by a fine of not less than \$250 nor more than \$1,000, or by
25 imprisonment for not more than six months, or by both.

26 Sec. 40.25.060. DEFINITIONS. In this chapter, unless the context
27 otherwise requires, "record" means any document, paper, book, letter,
28 drawing, map, plat, photo, photographic file, motion picture, film,
29 microfilm, microphotograph, exhibit, magnetic or paper tape, punched

1 card, or other document of any other material, regardless of physical
2 form or characteristic, developed or received under law or in connection
3 with the transaction of official business and preserved or appropriate
4 for preservation by an agency, political subdivision or other body
5 subject to the open meeting provision of AS 44.62.310, as evidence of
6 the organization, function, policies, decisions, procedures, operations
7 or other activities of the state or political subdivision or because of
8 the informational value in them; it also includes staff manuals and
9 instructions to staff that affect the public.

10 * Sec. 2. AS 44.62.310 is amended by adding new subsections to read:

11 (g) No resolution, ordinance, rule, contract, regulation or motion
12 adopted, passed or agreed to in an executive or closed meeting shall
13 become effective unless the public body, following the meeting, re-
14 convenes in open meeting and takes a vote of the membership on the
15 resolution, ordinance, rule, contract, regulation or motion.

16 (h) Nothing in this section may be construed to prevent the hold-
17 ing of conferences between two or more public bodies, or their repre-
18 sentatives, but these conferences are subject to the same regulations
19 for holding executive or closed sessions as are applicable to any other
20 public body.

21 * Sec. 3. AS 44.62.310(d)(1) is amended to read:

22 (1) judicial [OR QUASI-JUDICIAL] bodies when holding a meet-
23 ing solely to make a decision in an adjudicatory proceeding;

24 * Sec. 4. AS 44.62.310(c)(3) is amended to read:

25 (3) matters which by law [, MUNICIPAL CHARTER, OR ORDINANCE]
26 are required to be confidential.

27 * Sec. 5. AS 09.25.110, 09.25.120, 09.25.125, AS 11.30.240 and 11.30.245
28 are repealed.