

Original sponsor: Judiciary Committee
by request

Offered: 5/22/76

1 IN THE SENATE

BY THE FREE CONFERENCE COMMITTEE

2 FREE CONFERENCE CS FOR HOUSE CS FOR SENATE BILL NO. 296

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 the Alaska Integrated Bar Act; and
7 amending Rule 2 of Part I of the Alaska Bar Rules of
8 the Rules of Court."

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

10 * Section 1. LEGISLATIVE FINDINGS. The present lack of a law school in
11 Alaska works substantial hardship on Alaska residents who desire to become
12 attorneys because they must leave the state and obtain their law school
13 education elsewhere at law schools not directly concerned with Alaska prob-
14 lems and at substantial additional expense. At this time establishment of a
15 law school in Alaska is not practicable if other means of alleviating the
16 problem can be found. A method used in the past which has produced lawyers
17 who are a credit to the profession is study of law in the office of a prac-
18 ticing attorney. The objection that this method may leave attorneys who
19 follow this approach ungrounded scholastically and in legal theory is over-
20 come by prescribing certain formal educational requirements as a prerequisite
21 to a clerkship program. The legislature finds that establishment of a pro-
22 gram whereby persons who have completed at least one year of approved legal
23 studies and have studied law in a formal program in the office of a prac-
24 ticing attorney under review by the supreme court is a reasonable alternative
25 means of assuring professional competency of attorneys.

26 * Sec. 2. AS 08.08.020 is amended to read:

27 Sec. 08.08.020. [ACTIVE] MEMBERS. (a) Every person licensed to
28 practice law in the state shall become a member [EXCEPT A JUDGE OF A
29 COURT OF RECORD IS ELIGIBLE FOR ACTIVE MEMBERSHIP] in the Alaska Bar.

1 All active and inactive members in good standing as of the effective
2 date of this Act shall be considered to be members.

3 (b) A person licensed to practice law in the state who, on the
4 effective date of this Act, is not enrolled on the membership rolls,
5 shall be reinstated as a member only in accordance with the Alaska Bar
6 Rules.

7 * Sec. 3. AS 08.08.030 is amended to read:

8 Sec. 08.08.030. GOVERNANCE OF THE ALASKA BAR. The Alaska Bar is
9 governed by the Board of Governors of the Alaska Bar. The board has the
10 powers and duties conferred by this chapter and by the Alaska Bar Rules.
11 Members of the board shall receive no salary.

12 * Sec. 4. AS 08.08.040 is amended to read:

13 Sec. 08.08.040. BOARD OF GOVERNORS OF THE ALASKA BAR. (a) There
14 is hereby constituted a Board of Governors of the Alaska Bar to be
15 elected under bylaws and regulations [RULES] promulgated by the board.

16 (b) The board consists of nine active [PRACTICING] members elected
17 by the active members of the Alaska Bar [FROM THE FOUR JUDICIAL DIS-
18 TRICTS].

19 * Sec. 5. AS 08.08.080 is repealed and re-enacted to read:

20 Sec. 08.08.080. POWERS OF BOARD. (a) Except as may be otherwise
21 provided in the Alaska Bar Rules, the board may adopt reasonable pro-
22 visions

23 (1) concerning membership and the classification of member-
24 ship in the Alaska Bar;

25 (2) providing for employees of the Alaska Bar, the time,
26 place and method of their selection, and their respective powers,
27 duties, terms of office, and compensation;

28 (3) concerning annual and special meetings;

29 (4) concerning the collection, deposit, and disbursement of

1 membership and admission fees, penalties, and all other funds;

2 (5) providing for the organization and government of local
3 subdivisions of the Alaska Bar;

4 (6) providing for all other matters affecting in any way the
5 organization and functioning of the Alaska Bar.

6 (b) The board may

7 (1) approve and recommend to the state supreme court addi-
8 tional rules for promulgation by the court including rules concerning
9 admission and discipline and defining the practice of law;

10 (2) adopt reasonable bylaws and regulations consistent with
11 the Alaska Bar Rules;

12 (3) sue in the name of the Alaska Bar in a court of competent
13 jurisdiction to enjoin a person from doing an act constituting a viola-
14 tion of this chapter;

15 (4) fix the annual membership fee for active and inactive
16 members.

17 * Sec. 6. AS 08.08 is amended by adding a new section to read:

18 Sec. 08.08.085. ANNUAL REPORT TO LEGISLATURE. The Board of
19 Governors shall report annually to the legislature on all matters con-
20 cerning admissions, discipline of members, and disbarment proceedings,
21 except for those matters defined as confidential by court rule.

22 * Sec. 7. AS 08.08.090 is amended to read:

23 Sec. 08.08.090. POWER OF THE BAR TO MAKE OR CHANGE BYLAWS AND
24 REGULATIONS [RULES]. Any bylaw or regulation [RULE] adopted by the
25 Board of Governors [UNDER SEC. 80 OF THIS CHAPTER] may be modified or
26 rescinded, or a new bylaw or regulation [RULE] may be adopted, by a vote
27 of the active members of the association under bylaws and regulations
28 [RULES] to be prescribed by the Board of Governors.

29 * Sec. 8. AS 08.08.100 is amended to read:

1 Sec. 08.08.100. ADMINISTRATIVE PROCEDURE ACT. The bylaws and
2 regulations [RULES] adopted by the board or the members of the Alaska
3 Bar under this chapter are not subject to the Administrative Procedure
4 Act (AS 44.62).

5 * Sec. 9. AS 08.08.210 is amended to read:

6 Sec. 08.08.210. WHO MAY PRACTICE LAW. (a) No person may engage
7 in the [PRIVATE] practice of law in the state unless he is licensed to
8 practice law in Alaska and is an active member of the Alaska Bar. A
9 member of the bar in good standing in another jurisdiction may appear
10 in the courts of the state under the rules the supreme court [BOARD]
11 may prescribe.

12 (b) The practice of law shall be defined in the Alaska Bar Rules.

13 (c) This section and sec. 230 of this chapter do not apply to the
14 practice of law for the legislature by a person employed by or under
15 contract with the legislature who

16 (1) has been employed as a member of its legal staff on or
17 before the effective date of this Act;

18 (2) has engaged in the practice of law on behalf of the
19 legislature on or before the effective date of this Act and been compen-
20 sated on a contractual or fee basis; or

21 (3) is employed by or under contract to the legislature and
22 whose activities would constitute the practice of law under this chapter
23 and under Alaska Bar Rules, until the results are released of the third
24 Alaska Bar examination following that person's employment.

25 (d) Employees of the Department of Law whose activities would
26 constitute the practice of law under this chapter and under Alaska Bar
27 Rules are required to obtain a license to practice law in Alaska, no
28 later than 10 months following the commencement of their employment.

29 * Sec. 10. AS 08.08.230 is amended to read:

1 Sec. 08.08.230. UNLAWFUL PRACTICE A MISDEMEANOR. (a) Any person
2 not an active member of the Alaska Bar and not licensed to practice law
3 in Alaska who engages in the [PRIVATE] practice of law or represents
4 himself as entitled to engage in the [PRIVATE] practice of law as that
5 term is defined in the Alaska Bar Rules, or an active member of the
6 Alaska Bar who wilfully employs such a person knowing that such person
7 is engaging in the practice of law or representing himself to be
8 entitled to so engage [IN THE STATE OTHER THAN AS PERMITTED BY THIS
9 CHAPTER] is guilty of a misdemeanor and upon conviction is punishable by
10 a fine of not more than \$5,000 [\$1,000], or by imprisonment for not more
11 than one year, or by both.

12 (b) Nothing in this section prohibits the use of paralegal person-
13 nel as defined by rules of the Alaska Supreme Court.

14 * Sec. 11. AS 08.08.110 - 08.08.200, 08.08.240, and AS 44.62.330(a)(22)
15 are repealed.

16 * Sec. 12. AS 08.08 is amended by adding new sections to read:

17 Sec. 08.08.205. ELIGIBILITY TO TAKE BAR EXAMINATION. Applicants
18 who have not graduated from an accredited law school but are otherwise
19 qualified may take the bar examination if they have completed a clerk-
20 ship in the manner prescribed by sec. 207 of this chapter.

21 Sec. 08.08.207. LAW CLERKS. (a) Every person who desires sub-
22 sequently to qualify as a general applicant for admission to the Alaska
23 Bar without having been graduated from an approved law school shall
24 register as a law clerk as provided by this section. He must be a bona
25 fide resident of the state and shall present satisfactory proof that he
26 has been granted a bachelor's degree (other than bachelor of laws) by a
27 college or university offering the degree on the basis of a four-year
28 course of study and has successfully completed his first year of studies
29 at a law school.

1 (b) The applicant shall obtain regular and full-time employment as
2 a law clerk in the office of a judge of a court of record or an attorney
3 or firm of attorneys licensed to practice law in Alaska and engaged in
4 the general practice of law. The person by whom he is employed, or if
5 he is employed by a firm, the person under whose direction he is to
6 study, must have been admitted to practice law in this state for at
7 least five years at the time the application for registration is filed,
8 and be otherwise eligible to act as tutor. Before the commencement of
9 the study of law under this section, the applicant shall file with the
10 Alaska Supreme Court an application to register as a law clerk. The
11 application shall be made on a form to be provided by the court and
12 shall require answers to interrogatories the supreme court may determine
13 from time to time to be relevant to a consideration of the application.
14 Proof of a fact stated in the application may be required by the court.
15 If the applicant fails or refuses to furnish any information or proof or
16 answer any interrogatory required by the application, or independently
17 by the court, in a manner satisfactory to the court, the application may
18 be denied.

19 (c) Accompanying the application there must be submitted a state-
20 ment under oath of the person by whom the applicant is employed as a law
21 clerk, or, if he is employed by a firm, of the person under whose
22 direction he is to study, certifying to the fact of the employment and
23 that that person will act as tutor for the applicant and will faithfully
24 instruct the applicant in the branches of the law prescribed by the
25 course of study adopted by the supreme court. No person is eligible to
26 act as tutor while disciplinary proceedings (following the service of a
27 formal complaint) are pending against him, or if he has ever been
28 censured, reprimanded, suspended or disbarred. If a registered law
29 clerk finds it necessary to change his tutor during his period of study,

1 a new application for registration as a law clerk is required and such
2 credit given for study under his prior tutor as the court may determine.

3 (d) A law clerk whose registration has been approved by the court
4 must pursue a course of study for three calendar years of at least 44
5 weeks each year, with a minimum each week of 35 hours of study (it being
6 understood that the time actually spent in the performance of the duties
7 of law clerk is to be considered as time spent in the study of law).
8 The tutor must give personal direction regularly and frequently to the
9 clerk, must examine him at least once a month on the work done in the
10 previous month, and must certify monthly as to compliance with the
11 requirements of this subsection and (e) and (g) of this section.

12 (e) The examinations shall be written and not oral, and shall be
13 answered by the clerk without research or assistance during the examina-
14 tion. The monthly certificate of compliance submitted by the tutor
15 shall be accompanied by the originals of all written examinations and
16 answers given during the period reported. If the certificates, together
17 with the required attachments, are not filed timely with the court, no
18 credit may be given for any period of the default.

19 (f) If a registered law clerk does not furnish evidence of com-
20 pletion of his law studies within a period of six years after registra-
21 tion, the court may cancel the registration.

22 (g) The course of study to be pursued by a registered law clerk
23 shall cover subjects, text books, case books, and other material the
24 court may from time to time require.

25 (h) A registered law clerk who has attended either an approved or
26 a nonapproved law school may, in the discretion of the court, receive
27 credit for work done and obtain advanced standing. In no event will
28 credit be given for fractional parts of semesters or terms, or for
29 correspondence school work.

1 (1) As used in this section "law school" means

2 (1) a law school accredited, approved or meeting the stan-
3 dards of the Council of Legal Education of the American Bar Association
4 or the Association of American Law Schools; or

5 (2) a school in Alaska offering a course of study which the
6 supreme court approves as the equivalent to a year's study in a law
7 school under (1) of this subsection.

8 * Sec. 13. Rule 2 of Part I of the Alaska Bar Rules is amended by adding
9 new sections to read:

10 Section 4. An applicant who meets the requirements of (a) and (c)
11 through (g) of section 1 of this Rule may qualify for admission if he
12 has completed a clerkship in the manner prescribed by section 5 of this
13 Rule.

14 Section 5. (a) Every person who desires subsequently to qualify
15 as a general applicant for admission to the Alaska Bar without having
16 been graduated from an approved law school shall register as a law clerk
17 as provided by this section of this Rule. He must be a bona fide resi-
18 dent of the state and shall present satisfactory proof that he has been
19 granted a bachelor's degree (other than bachelor of laws) by a college
20 or university offering the degree on the basis of a four-year course of
21 study and has successfully completed his first year of studies at a law
22 school.

23 (b) The applicant shall obtain regular and full-time employment as
24 a law clerk in the office of a judge of a court of record or an attorney
25 or firm of attorneys licensed to practice law in Alaska and engaged in
26 the general practice of law. The person by whom he is employed, or if
27 he is employed by a firm, the person under whose direction he is to
28 study, must have been admitted to practice law in this state for at
29 least five years at the time the application for registration is filed,

1 and be otherwise eligible to act as tutor. Before the commencement of
2 the study of law under this section of this Rule, the applicant shall
3 file with the Supreme Court an application to register as a law clerk.
4 The application shall be made on a form to be provided by the Supreme
5 Court and shall require answers to interrogatories the Supreme Court
6 may determine from time to time to be relevant to a consideration of the
7 application. Proof of a fact stated in the application may be required
8 by the Supreme Court. If the applicant fails or refuses to furnish any
9 information or proof or answer any interrogatory required by the appli-
10 cation, or independently by the Supreme Court, in a manner satisfactory
11 to the Supreme Court, the application may be denied.

12 (c) Accompanying the application there must be submitted a state-
13 ment under oath of the person by whom the applicant is employed as a law
14 clerk, or, if he is employed by a firm, of the person under whose
15 direction he is to study, certifying to the fact of the employment and
16 that that person will act as tutor for the applicant and will faithfully
17 instruct the applicant in the branches of the law prescribed by the
18 course of study adopted by the Supreme Court. No person is eligible to
19 act as tutor while disciplinary proceedings (following the service of a
20 formal complaint) are pending against him, or if he has ever been
21 censured, reprimanded, suspended or disbarred. If a registered law
22 clerk finds it necessary to change his tutor during his period of study,
23 a new application for registration as a law clerk is required and such
24 credit given for study under his prior tutor as the Supreme Court may
25 determine.

26 (d) A law clerk whose registration has been approved by the
27 Supreme Court must pursue a course of study for three calendar years of
28 at least 44 weeks each year, with a minimum each week of 35 hours of
29 study (it being understood that the time actually spent in the perfor-

1 mance of the duties of law clerk is to be considered as time spent in
2 the study of law). The tutor must give personal direction regularly and
3 frequently to the clerk, must examine him at least once a month on the
4 work done in the previous month, and must certify monthly as to compli-
5 ance with the requirements of (d), (e) and (g) of this section of this
6 Rule.

7 (e) The examinations shall be written and not oral, and shall be
8 answered by the clerk without research or assistance during the examina-
9 tion. The monthly certificate of compliance submitted by the tutor
10 shall be accompanied by the originals of all written examinations and
11 answers given during the period reported. If the certificates, together
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13 Court, no credit may be given for any period of the default.

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18 shall cover subjects, text books, case books, and other material the
19 Supreme Court may from time to time require.

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21 a nonapproved law school may, in the discretion of the Supreme Court,
22 receive credit for work done and obtain advanced standing. In no event
23 will credit be given for fractional parts of semesters or terms, or for
24 correspondence school work.

25 (i) As used in this Rule "law school" means

26 (1) a law school accredited, approved or meeting the stan-
27 dards of the Council of Legal Education of the American Bar Association
28 or the Association of American Law Schools; or

29 (2) a school in Alaska offering a course of study which the

1 Supreme Court approves as the equivalent to a year's study in a law
2 school under (1) of this subdivision.

3 * Sec. 14. The legislature declares that this Act is passed pursuant to
4 art. IV, secs. 1 and 15, Constitution of the State of Alaska, which empower
5 the legislature to prescribe the jurisdiction of the courts, and to change
6 the Rules of Court, and pursuant to the legislature's inherent power.

7 * Sec. 15. Section 13 of this Act amends the Rules of Court (Rule 2 of
8 Part I of the Alaska Bar Rules).

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