

Introduced: 5/5/77
Referred: Judiciary

1 IN THE HOUSE

BY DANKWORTH

2 HOUSE BILL NO. 526

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the exclusionary rule."

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

8 * Section 1. AS 12.35 is amended by adding a new section to read:

9 Sec. 12.35.130. LIMITATION OF EXCLUSIONARY RULE. (a) No evidence
10 may be excluded from any criminal proceeding solely because that evi-
11 dence was obtained in violation of art. I, sec. 14, Constitution of the
12 State of Alaska, or the Fourth Amendment to the Constitution of the
13 United States, unless the court finds, as a matter of law, that the
14 violation was substantial.

15 (b) In determining whether a violation is substantial for the
16 purposes of (a) of this section, the court shall consider all of the
17 circumstances including

- 18 (1) the extent of deviation from sanctioned conduct;
19 (2) the extent to which the violation was wilful;
20 (3) the extent to which privacy was invaded;
21 (4) the extent to which exclusion will tend to prevent future
22 deviations from sanctioned conduct;
23 (5) whether if, but for the violations, the thing seized
24 would have been discovered; and
25 (6) the extent to which the violation would prejudice the
26 defendant's ability to defend himself in the proceeding in which the
27 thing seized is sought to be introduced in evidence against him.

28 * Sec. 2. AS 09.50.250(3) is amended to read:

29 (3) arises out of assault, battery, false imprisonment, false

1 arrest, malicious prosecution, abuse of process, libel, slander, mis-
2 representation, deceit, or interference with contract rights except if
3 the assault, battery, false imprisonment, false arrest, malicious pro-
4 secution, or abuse of process constitutes, or is proximately related to,
5 a violation of the person's rights under art. I, sec. 14 or 22 of the
6 Constitution of the State of Alaska.

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