

Introduced: 1/28/80  
Referred: Judiciary

1 IN THE HOUSE

BY PARR

2 HOUSE BILL NO. 627

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the public defender agency; and  
7 providing for an effective date."

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

9 \* Section 1. LEGISLATIVE FINDINGS. (a) The legislature recognizes the  
10 right of a defendant charged with a crime to the effective assistance of  
11 counsel which is protected by the Sixth Amendment to the United States Consti-  
12 tution and by art. I, sec. 11 of the Alaska Constitution. The legislature  
13 recognizes that the public defender agency frequently participates in cases  
14 in which more than one defendant is charged with the same criminal act and in  
15 which the defense of one defendant may be inconsistent with the defense of  
16 others charged in the same case. The legislature does not intend that a  
17 defendant represented by the public defender agency be required to yield his  
18 right to counsel and accept joint representation by a single attorney or by  
19 attorneys whose allegiance to him may be questioned. The legislature further  
20 recognizes that the Code of Professional Responsibility imposes on attorneys  
21 the preservation of the confidences and secrets of their clients. The legis-  
22 lature does not, however, believe that the public defender agency is ethically  
23 required by the Code of Professional Responsibility to refuse to accept the  
24 defense of a second or subsequent defendant in cases involving inconsistent  
25 defenses or similar considerations.

26 (b) The legislature finds that the public defender agency may avoid the  
27 problems of joint representation and accomplish the preservation of the  
28 confidences and secrets in the defense of cases involving more than one  
29 defendant by establishing sections in the agency in which a defendant may

1 have his constitutional rights protected and his secrets and confidences  
2 preserved.

3 \* Sec. 2. AS 18.85 is amended by adding a new section to read:

4           Sec. 18.85.125. AGENCY SECTIONS. The public defender may  
5 establish one or more sections in the agency for the defense of cases  
6 that present the assistant public defenders of the agency with ethical  
7 conflicts. Assistant public defenders may be reassigned by the public  
8 defender among agency sections as the needs of the agency require.

9 \* Sec. 3. AS 18.85 is amended by adding a new section to read:

10           Sec. 18.85.127. CONFIDENCES AND SECRETS. When the defense of a  
11 defendant has been assigned to a section established under AS 18.85.125,  
12 the assistant public defender assigned to that case shall maintain the  
13 confidences and secrets of his client and shall not disclose them to  
14 agency staff members who do not serve in that section.

15 \* Sec. 4. This Act takes effect July 1, 1980.  
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