

Introduced: 2/18/80
Referred: State Affairs and
Judiciary

1 IN THE SENATE

BY RODEY AND KERTTULA

2 SENATE BILL NO. 480

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 privilege not to disclose
7 sources of information and converting the conditional
8 privilege of a reporter as to his sources of informa-
9 tion into an absolute privilege."

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

11 * Section 1. AS 09.25 is amended by adding a new section to read:

12 Sec. 09.25.140. PRIVILEGE OF REPORTER. (a) A reporter may not be
13 compelled to disclose the sources of information procured or obtained by
14 him while acting in the course of his duties as a reporter.

15 (b) This section applies to a hearing held under the laws of this
16 state

17 (1) before a court;

18 (2) before a court master or other court appointee;

19 (3) in the course of legislative proceedings or before a
20 commission, agency or committee created by the legislature;

21 (4) before an agency or representative of an agency of the
22 state, borough or city, or other body; or

23 (5) before any other forum of the state.

24 * Sec. 2. AS 09.25.150 is amended to read:

25 Sec. 09.25.150. CLAIMING OF PRIVILEGE BY PUBLIC OFFICIAL [OR
26 REPORTER]. Except as provided in AS 09.25.150 - 09.25.220, no public
27 official [OR REPORTER] may be compelled to disclose the source of in-
28 formation procured or obtained by him while acting in the course of his
29 duties as a public official [OR REPORTER].

1 * Sec. 3. AS 09.25.160 is amended to read:

2 Sec. 09.25.160. CHALLENGE OF PRIVILEGE. (a) When a public offi-
3 cial [OR REPORTER] claims the privilege in a cause being heard before
4 the supreme court or a superior court of this state, a person who has
5 the right to question him in that proceeding, or the court on its own
6 motion, may challenge the claim of privilege. The court shall make or
7 cause to be made whatever inquiry the court thinks necessary to a deter-
8 mination of the issue. The inquiry may be made instanter by way of
9 questions put to the witness claiming the privilege and a decision then
10 rendered, or the court may require the presence of other witnesses or
11 documentary showing or may order a special hearing for the determination
12 of the issue of privilege .

13 (b) The court may deny the privilege and may order the public
14 official [OR THE REPORTER] to testify, imposing whatever limits upon the
15 testimony and upon the right of cross-examination of the witness as may
16 be in the public interest or in the interest of a fair trial, if it
17 finds the withholding of the testimony would

18 (1) result in a miscarriage of justice or the denial of a
19 fair trial to those who challenge the privilege; or

20 (2) be contrary to the public interest.

21 * Sec. 4. AS 09.25.170(b) is amended to read:

22 (b) If, in a hearing, a public official [OR A REPORTER] should
23 refuse to divulge the source of his information, the agency body, per-
24 son, official, or party seeking the information may apply to the superior
25 court for an order divesting the official [OR REPORTER] of the privilege.
26 When the issue is raised before the supreme or a superior court, the
27 application must be made to that court.

28 * Sec. 5. AS 09.25.190 is amended to read:

29 Sec. 09.25.190. EXTENT OF PRIVILEGE. When a public official [OR

1 REPORTER] claims the privilege conferred by AS 09.25.150 - 09.25.220 and
2 the public official [OR REPORTER] has not been divested of the privilege
3 by order of the supreme or superior court, [NEITHER] he [NOR THE NEWS
4 ORGANIZATION WITH WHICH HE WAS ASSOCIATED] may not thereafter be per-
5 mitted to plead or prove the sources of information withheld, unless the
6 informant consents in writing or in open court.

7 * Sec. 6. AS 09.25.200 is amended to read:

8 Sec. 09.25.200. APPLICATION OF PRIVILEGE IN OTHER COURTS. AS 09.-
9 25.140 [09.25.150] - 09.25.220 also apply to proceedings held under the
10 laws of the United States or any other state where the law of this state
11 is being applied.

12 * Sec. 7. AS 09.25.220(1) is amended to read:

13 (1) "privilege" means the conditional privilege granted to
14 public officials [AND REPORTERS] to refuse to testify as to a source of
15 information;

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