

Original sponsors: Brown and Rogers

Offered: 3/12/81
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 36 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the privilege not to disclose
7 sources of information; and providing for an effective
8 date."

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

10 * Section 1. AS 09.25.150 is repealed and reenacted to read:

11 Sec. 09.25.150. CLAIMING OF PRIVILEGE BY PUBLIC OFFICIAL OR RE-
12 PORTER. Except as provided in AS 09.25.160 - 09.25.220,

13 (1) a public official may not be compelled to disclose the
14 source of information obtained by him while acting in the course of his
15 duties as a public official; and

16 (2) a reporter may not be compelled to disclose the source
17 of information obtained by him, nor may he be required to produce
18 photographs, photographic negatives, or audio or video tapes.

19 * Sec. 2. AS 09.25.160(a) is amended to read:

20 (a) When a public official or reporter claims the privilege in a
21 cause being heard before the supreme court or a superior court of this
22 state, a person who has the right to question him in that proceeding,
23 or the court on its own motion, may challenge the claim of privilege.
24 The court shall make or cause to be made whatever inquiry the court
25 thinks necessary to a determination of the issue. The inquiry may be
26 made immediately [INSTANTER] by way of questions put to the witness
27 claiming the privilege and a decision then rendered, or the court may
28 require the presence of other witnesses or documentary showing or may
29 order a special hearing for the determination of the issue of privilege.

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

2 (b) The court may deny the privilege and may order the public
3 official or the reporter to testify, or may order a reporter to produce
4 photographs, photographic negatives, or audio or video tapes, imposing
5 whatever limits upon the testimony and upon the right of cross-examina-
6 tion of the witness as may be in the public interest or in the interest
7 of a fair trial or a fair hearing, if it finds the withholding of the
8 testimony would

9 [(1)] result in a miscarriage of justice or the denial of a
10 fair trial or a fair hearing to those who challenge the privilege [; OR

11 (2) BE CONTRARY TO THE PUBLIC INTEREST].

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

13 (b) If, in a hearing, a public official or a reporter should re-
14 fuse to divulge the source of his information, or a reporter should re-
15 fuse to produce photographs, photographic negatives, or audio or video
16 tapes, the agency, [BODY,] person, official, or party seeking the
17 information may apply to the superior court for an order divesting the
18 official or reporter of the privilege. When the issue is raised before
19 the supreme or a superior court, the application must be made to that
20 court.

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

22 Sec. 09.25.190. EXTENT OF PRIVILEGE. When a public official or
23 reporter claims the privilege conferred by AS 09.25.150 - 09.25.220,
24 and the public official or reporter has not been divested of the pri-
25 vilege by order of the supreme or superior court, the public offi-
26 cial, the reporter or [NEITHER HE NOR] the news organization with which
27 he was associated may not thereafter be permitted to plead or prove the
28 sources of information withheld, and a reporter may not be required to
29 produce photographs, photographic negatives, or audio or video tapes,

1 unless the informant consents in writing or in open court.

2 * Sec. 6. AS 09.25.220(4)(A)(ii) is amended to read:

3 (ii) providing newsreels, audio or video tapes, or
4 other motion picture news for public showing; or

5 * Sec. 7. This Act takes effect immediately in accordance with AS 01.10.-
6 070(c).

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