

Offered: 5/11/83
Referred: Judiciary

Original sponsors: Rodey, Kelly,
Ray, et al

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR SENATE BILL NO. 115 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL
6 For an Act entitled: "An Act relating to individual rights of police offi-
7 cers."

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

9 * Section 1. AS 18.65 is amended by adding new sections to read:

10 ARTICLE 7. INDIVIDUAL RIGHTS OF POLICE OFFICERS.

11 Sec. 18.65.530. INVESTIGATION OF CONDUCT OF POLICE OFFICER SUB-
12 JECT TO CRIMINAL ACTION. If a police officer is under investigation
13 for conduct that may subject the police officer to criminal action,
14 the police officer may exercise all rights granted to any other citi-
15 zen under the law.

16 Sec. 18.65.531. INVESTIGATION OF CONDUCT OF POLICE OFFICER SUB-
17 JECT TO PUNITIVE ACTION. (a) If a police officer is under investiga-
18 tion instituted by the police officer's employing agency or as a
19 result of a complaint being filed against the police officer and the
20 police officer is interrogated or interviewed by the employing agency
21 for conduct that may subject the police officer to punitive action,

22 (1) before an interrogation or interview is commenced the
23 police officer shall be informed of the nature of the investigation
24 and advised concerning the rights specified in this section;

25 (2) the police officer is entitled to select and have pre-
26 sent at each interview a witness, including an attorney;

27 (3) failure to answer questions or provide information
28 relevant to the investigation or complaint can result in punitive
29 action unless the police officer's answer would tend to be self-

1 incriminating, in which case the police officer may exercise the right
2 to remain silent;

3 (4) the police officer and employing agency may tape record
4 the interrogation or interview after advising that a recording will be
5 made and each shall have access to the other's tape recording, if any
6 is made;

7 (5) the police officer is entitled to a transcript of the
8 notes made by a stenographer at the interrogation or interview;

9 (6) information that is adverse to the police officer or
10 otherwise considered by the employing agency to be confidential may
11 not be entered in the police officer's personnel file unless the
12 police officer is first given a copy of that information and an oppor-
13 tunity to file a response within 30 days which response shall be
14 attached to the adverse or confidential information; the employing
15 agency shall promptly remove all pertinent information upon determin-
16 ing that the allegations are unfounded;

17 (7) the police officer may not be compelled to submit to a
18 polygraph examination and the exercise of that right may not be used
19 in any way to disadvantage the police officer, including but not
20 limited to the use of that fact in a proceeding involving the police
21 officer or notation of that fact in a personnel file;

22 (8) subject to rules of discovery of evidence, the police
23 officer may refuse to disclose personal information, including but not
24 limited to property possessed, sources and amounts of income, debts,
25 and personal or domestic expenditures; unless it is relevant to an
26 investigation into possible conflicts of interest with respect to the
27 performance of the police officer's official duties;

28 (9) the police officer may exercise the right against
29 unlawful search and seizure with respect to the police officer's

1 locker or other space assigned to the police officer by the employing
2 agency;

3 (10) the police officer is to be presumed innocent unless
4 proven otherwise.

5 (b) As used in this section, "punitive action" means any action
6 taken against a police officer by the employing agency that may lead
7 to dismissal, demotion, suspension, written reprimand, or transfer in
8 work assignments for purposes of punishment, or that may affect the
9 police officer's integrity as a police officer, but does not include
10 spontaneous admonishment for minor infractions, such as uniform vio-
11 lations or grooming and dress standards.

12 Sec. 18.65.532. REPRISALS AGAINST POLICE OFFICER FOR EXERCISE OF
13 RIGHTS. A police officer may not be subjected to any reprisals or in
14 any way be disadvantaged for exercising the rights set out in AS 18.-
15 65.530 and 18.65.531, including but not limited to the use of the ex-
16 ercise of those rights

17 (1) as evidence in any proceeding involving the police
18 officer; or

19 (2) as justification for altering the police officer's work
20 schedule, wages, or working conditions.

21 Sec. 18.65.533. DEFINITIONS. As used in AS 18.65.530 - 18.65.-
22 532 "police officer" means a "police officer" as defined in
23 AS 18.65.290, but does not include the commissioner of public safety,
24 a deputy commissioner of public safety, the director of the division
25 of Alaska State Troopers, or a police chief of a local law enforcement
26 agency.

27 * Sec. 2. AS 23.10.037(b) is amended to read:

28 (b) The provisions of (a) of this section do not apply to the
29 state or a political subdivision of the state when dealing with

1 [POLICEMEN IN ITS EMPLOY OR WITH] persons applying to be employed as
2 policemen.