

**CS FOR HOUSE BILL NO. 171 (JUDICIARY)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION**

BY THE HOUSE JUDICIARY COMMITTEE

**Offered: 4/21/92
Referred: Finance**

Sponsor(s): HOUSE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act restricting court orders and certain private agreements relating to the concealment
2 of public hazards and information on public hazards; and amending Alaska Rules of Civil
3 Procedure 24, 26(c), 26(f), 29, 30(d), and 37(a)(2)."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 09.25 is amended by adding new sections to read:

6 Sec. 09.25.230. COURT ORDERS ON MATERIALS CONCERNING PUBLIC
7 HAZARDS. (a) A court may not enter an order or judgment that has the effect of concealing
8 a public hazard or information concerning a public hazard. If an order or judgment that violates
9 this subsection contains provisions that do not violate this subsection, those provisions are valid.

10 (b) Upon the motion by a party to litigation for an order prohibiting the disclosure of
11 materials produced or to be produced in discovery, the court shall examine the materials in
12 camera. The court shall deny the motion if it finds that the materials have previously been
13 disclosed to the public in this or another jurisdiction or that the materials concern a public
14 hazard. If the court finds that only a portion of the materials have been previously disclosed or

1 concern a public hazard, the court may enter an order prohibiting disclosure of the portion that
2 has not been previously disclosed and does not concern a public hazard.

3 (c) An interested person alleging that a judgment or order entered by a court violates (a)
4 or (b) of this section may contest the order by filing a motion to vacate the judgment or order
5 at any time with the court that entered the motion. An interested person alleging that a requested
6 judgment or order would, if entered, violate (a) or (b) of this section may contest the request by
7 filing an opposition with the court where the request is pending.

8 Sec. 09.25.240. PRIVATE AGREEMENTS ON MATERIALS CONCERNING PUBLIC
9 HAZARDS. (a) That part of an agreement or contract executed in order to settle civil litigation
10 or in connection with discovery in civil litigation that has the purpose or effect of concealing a
11 public hazard or information concerning a public hazard is void and may not be enforced.

12 (b) An interested person who believes that an agreement or contract that violates (a) of
13 this section is being enforced may bring an action for injunctive relief against a party to the
14 agreement or contract.

15 Sec. 09.25.250. DEFINITIONS FOR AS 09.25.230 - 09.25.250. In AS 09.25.230 -
16 09.25.250,

17 (1) "interested person" shall be construed as that term is used in AS 44.62.300,
18 but does not include a party to the litigation in which the contested judgment or order was
19 entered or in relation to which the contested agreement or contract was executed;

20 (2) "public hazard" means an instrumentality, other than a trade secret as defined
21 in AS 45.50.940, that has caused injury to a person or property, and includes a device,
22 instrument, person, procedure, or product, and a condition of a device, instrument, person,
23 procedure, or product.

24 * Sec. 2. The provisions of sec. 1 of this Act have the effect of changing Alaska Rules of Civil
25 Procedure 24, 26(c), 26(f), 29, 30(d), and 37(a)(2) by limiting the discretion of the court in entering
26 protective orders regarding discovery in civil litigation, by limiting the discretion of the parties to civil
27 litigation to enter into agreements regarding discovery procedures, and by granting automatic limited
28 intervenor status to certain persons challenging certain court orders or motions in civil cases.

29 * Sec. 3. AS 09.25.230(c) and 09.25.240, added by sec. 1 of this Act, are applicable only to orders
30 or judgments entered by a court, or agreements or contracts entered into by parties to civil litigation, on
31 or after the effective date of this Act.

1 * Sec. 4. This Act takes effect only if sec. 2 of this Act receives the two-thirds majority vote of each
2 house required by art. IV, sec. 15, Constitution of the State of Alaska.