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"An Act relating to public records; and providing for an effective date."

2/20/75

# COMMITTEE REPORT

## HOUSE

Mr. Speaker:

Date 4/29/75

The Committee on Judiciary has had CSRD 07

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

() recommends it BE REPLACED WITH CS FOR \_\_\_\_\_ AND THAT

CS FOR \_\_\_\_\_ DO PASS

( ) "and" recommends it BE REFERRED TO THE \_\_\_\_\_

COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

<u>[Signature]</u>	<u>[Signature]</u>	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Members NOT concurring in the Majority report:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ Chairman

Original sponsor: Rules Committee

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 99  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

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

10 Sec. 09.25.125. ENFORCEMENT: INJUNCTIVE RELIEF. A person having  
11 custody or control of a public record who obstructs or attempts to  
12 obstruct, or a person not having custody or control who aids or abets  
13 another person in obstructing or attempting to obstruct, the inspection  
14 of a public record subject to inspection under sec. 110 or 120 of this  
15 chapter may be enjoined by the superior court from obstructing, or  
16 attempting to obstruct, the inspection of public records subject to  
17 inspection under sec. 110 or 120 of this chapter.

18 \* Sec. 2. AS 11.30.240 is amended to read:

19 Sec. 11.30.240. MISHANDLING OF PUBLIC RECORDS. A person who has  
20 the legal custody of and who wilfully destroys, secretes, or mutilates a  
21 public record, book, paper, or writing, or a person [AN ATTORNEY] who  
22 wilfully destroys, secretes, or mutilates a public record, book, paper,  
23 or writing, or wrongfully takes a public record, book, paper, or writing  
24 from the person having legal custody of it, or who has obtained posses-  
25 sion wrongfully and refuses or neglects to return or produce it when  
26 lawfully required or demanded so to do, upon conviction, is punishable  
27 by a fine of not less than \$100 nor more than \$500, or by imprisonment  
28 for not less than 90 days nor more than one year, or by both [IMPRISON-  
29 MENT IN THE PENITENTIARY FOR NOT LESS THAN SIX MONTHS NOR MORE THAN ONE

*expand to all persons*

1 YEAR, OR BY IMPRISONMENT IN A JAIL FOR NOT LESS THAN THREE MONTHS NOR  
2 MORE THAN ONE YEAR, OR BY A FINE OF NOT LESS THAN \$100 NOR MORE THAN  
3 \$500].

4 \* Sec. 3. AS 11.30 is amended by adding a new section to read:

5 Sec. 11.30.245. OBSTRUCTION OF ACCESS TO PUBLIC RECORDS. A  
6 person who has custody or control of a public record who intentionally  
7 obstructs or attempts to obstruct, or a person not having custody or  
8 control who intentionally aids or abets another person in obstructing or  
9 attempting to obstruct, the inspection of a public record subject to  
10 inspection under AS 09.25.110 or 09.25.120 is guilty of a misdemeanor  
11 and, upon conviction, is punishable by a fine of not less than \$100 nor  
12 more than \$500. Upon a subsequent conviction, that person is guilty of  
13 a misdemeanor and is punishable by a fine of not less than \$250 nor more  
14 than \$1,000, or by imprisonment for not more than six months, or by  
15 both.

16 \* Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-  
17 070(c).

18 *↓ criminal belongs in title 11 - we relocated this part*

19  
20  
21  
22  
23 \* Sec. 1 provides for injunctive remedy - would be in addition  
24 to a writ of mandamus remedy available to force  
25 public officials to do their duties properly.  
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27  
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House Judiciary Committee  
April 28, 1975

The meeting was called to order at 1:25 p.m. by Chairman Gardiner. All members were present except Mr. Eliason.

SB 99 Public Records

The committee reviewed the proposed CS by the Judiciary Committee which put section 2 in title 11 and incorporated material relating to the Ombudsman. Mr. Brown moved the Judiciary CS CS SB 99 do pass. There being no objection, it was so ordered.

SB 167 False reports

Mr. Brown moved SB 167 out do pass since it had been determined that it was in the correct title.

HB 418 Conflict of Interest

The committee reviewed the proposed CS by the Judiciary Committee which cleans up the problem of "members of municipal bodies" and "special" elections.

Mr. Parr raised the question on page 1, line 26 as to whether "legislative" only applied to state level or whether it could be interpreted to include municipal level. Mr. Walker stated that it could be open to interpretation. The committee requested Mr. Walker to draw up additional language to the effect that legislative related to matters before the state government.

HB 416 Abuse of power

Since the bill was determined to be in the correct title, Mr. Brown moved HB 416 out of committee as amended. There being no objection, it was so ordered.

HB 417 Intelligence Information

Mr. Brown moved HB 417 out of committee. There being no objection, it was so ordered.

CS SCR 5 Criminal Code

Mr. Brown moved this bill out of committee as it was the same as a bill already acted on by the committee. Mr. Gardiner mentioned the possibility of getting a LEAA grant for the study to be matched by state funds.

108

House Judiciary Committee  
April 24, 1975  
page 2

SB 99 Public records

The committee felt that (b) should be in title 11.  
line 12: change hinder to withhold or deny or obstructs  
of to a phrase using several other words.  
line 11: change to the person responsible for the custody  
of the records -- also in line 17

HB 246 Liquor license

Don Clocksin stated that the first section concerns notice. Section 2 provides that if one person objects to any license filed, the ABC Board has the option of accepting his protest. If 35% of the adults object, an election is required in which they can vote to go dry. This must cover all establishments in the area and not be selective. Outside a village, if a majority of the people object at a public hearing, the Board may refuse to grant the license. Section 4 makes a violation of the law a misdemeanor so that Troopers could be called in to enforce.

Mr. Bradley moved the C & RA CS out of committee do pass. There being no objection, it was so ordered.

SB 180 Salmon Hatcheries

Phil Daniels stated that the bill will require Fish and Game to cooperate with private hatchery groups. This was the legislative intent in allowing private hatchery groups in the past but this apparently was not clear to the Department because some problems developed.

Mr. Brown moved SB 180 out of committee do pass.

The committee agreed that the four bills discussed earlier should go to legislative affairs to make sure that they were in the correct titles.

# MEMORANDUM

LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

POUCH Y — STATE CAPITOL  
JUNEAU, ALASKA 99811

TO: Rep. Terry Gardiner, Chairman  
House Judiciary Committee

DATE: 31 March 1975

FROM: Stuart C.  Hall, Legislative Counsel

SUBJECT: Public Records Act  
(CSSB 99)

As you consider CSSB 99, you may wish to include an amendment to clean up AS 11.30.240 relative to mishandling of public records. This section was deleted from the Ombudsman Act due to questions raised by the press and others, and I have excluded those questioned provisions. However, the present law is unduly narrow in its application, and the penalty provisions confusingly written. The amendment I suggest is as follows:

On page 1, between lines 26 and 27, insert:

"\* Sec. 2. AS 11.30.240 is amended to read:

Sec. 11.30.240. MISHANDLING OF PUBLIC RECORDS. A person who has the legal custody of and who wilfully destroys, secretes, or mutilates a public record, book, paper, or writing, or a person [AN ATTORNEY] who wilfully destroys, secretes, or mutilates a public record, book, paper, or writing, or wrongfully takes a public record, book, paper, or writing from the person having legal custody of it, or who has obtained possession wrongfully and refuses or neglects to return or produce it when lawfully required or demanded so to do, upon conviction, is punishable by a fine of not less than \$100 nor more than \$500, or by imprisonment for not less than 90 days nor more than one year, or by both [IMPRISONMENT IN THE PENITENTIARY FOR NOT LESS THAN SIX MONTHS NOR MORE THAN ONE YEAR, OR BY IMPRISONMENT IN A JAIL FOR NOT LESS THAN THREE MONTHS NOR MORE THAN ONE YEAR, OR BY A FINE OF NOT LESS THAN \$100 NOR MORE THAN \$500]."

The amendment makes no substantive change to the penalty clause, but merely re-writes it in the style contemporarily employed by this office and the legislature. The restrictive application of the present law to attorneys only seems curious, and it is suggested that be broadened to include any person.

cc: Sen. Chancy Croft

Original sponsor: Rules Committee

Offered: 2/14/75  
Referred: Rules

1 IN THE SENATE BY THE JUDICIARY COMMITTEE

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7 an effective date."

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

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

10 Sec. 09.25.125 ENFORCEMENT: INJUNCTIVE RELIEF; CRIMINAL  
11 SANCTIONS. (a) A person having custody or control of a public record  
12 who hinders or attempts to hinder, or a person not having custody or  
13 control who aids or abets another person in hindering or attempting  
14 to hinder, the inspection of a public record subject to inspection  
15 under sec. 110 or 120 of this chapter may be enjoined by the superior  
16 court from committing a violation of sec. 110 or 120 of this chapter.

17 (b) A person who has custody or control of a public record who  
18 intentionally hinders or attempts to hinder, or a person not having  
19 custody or control who intentionally aids or abets another person in  
20 hindering or attempting to hinder, the inspection of a public record  
21 subject to inspection under sec. 110 or 120 of this chapter is guilty  
22 of a misdemeanor and, upon conviction, is punishable by a fine of not  
23 less than \$100 nor more than \$500. Upon a subsequent conviction, that  
24 person is guilty of a misdemeanor and is punishable by a fine of not  
25 less than \$250 nor more than \$1,000, or by imprisonment for not more  
26 than six months, or by both.

27 \* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-  
28 070(c).

29

*Doesn't belong in civil procedure title*

#

A M E N D M E N T

OFFERED IN THE HOUSE:

By: Smith

To: \_\_\_\_\_ HOUSE BILL No. HCR 60

SENATE BILL No. \_\_\_\_\_

PAGE: 2

LINE: 17

2

18-24

Page 2, line 17, delete ";" and add after the word "interest"  
"if the long lines carrier fails to provide adequate  
satellite earth stations;"

Page 2, lines 18-24, delete existing material and insert:

"BE IT RESOLVED by the Legislature of the State of Alaska  
that funds appropriated to build state owned satellite  
earth stations should be used for such purposes only in  
in the event the long lines carrier fails to install  
satellite earth stations in numbers and according to  
specifications that have already been determined by the  
Governor's Office of Telecommunications in consultation  
with the long lines carrier."

9 civil procedure

Original sponsor: Rules Committee

Offered: 2/14/75  
Referred: Rules

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11 SANCTIONS. (a) A person <sup>responsible for the</sup> ~~having~~ custody or control of a public record  
12 who hinders or attempts to hinder, or a person not having custody or  
13 control who aids or abets another person in hindering or attempting  
14 to hinder the inspection of a public record subject to inspection  
15 under sec. 110 or 120 of this chapter may be enjoined by the superior  
16 court from committing a violation of sec. 110 or 120 of this chapter.

17 (b) A person who <sup>is responsible for the</sup> ~~has~~ custody or control of a public record who  
18 intentionally hinders or attempts to hinder, or a person not having  
19 custody or control who intentionally aids or abets another person in  
20 hindering or attempting to hinder the inspection of a public record  
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change  
to  
withhold  
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not strong  
enough lang.  
for offense  
provided

→ Title II



Alaska State Legislature  
Senate

JUNEAU, ALASKA

MEMORANDUM

April 2, 1975

TO: Representative Terry Gardiner

FROM: Senator Chancy Croft 

I have reviewed Stuart Hall's memorandum to you of March 31 regarding CSSB99. I think his suggestion is a good one, and if House Judiciary sees fit to add it to the bill, I think the Senate would probably concur.

cc: Stuart Hall

Original sponsor: Rules Committee

Offered: 2/14/75  
Referred: Rules

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15 under sec. 110 or 120 of this chapter may be enjoined by the superior  
16 court from committing a violation of sec. 110 or 120 of this chapter.

17 *shd b m*  
18 *11* (b) A person who has custody or control of a public record who  
19 intentionally hinders or attempts to hinder, or a person not having  
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