



LAWS OF ALASKA

1976

Source

FCCS HCSSB 296

Chapter No.

181

AN ACT

Relating to the Alaska Integrated Bar Act; and amending Rule 2 of Part I of the Alaska Bar Rules of the Rules of Court.

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

* Section 1. LEGISLATIVE FINDINGS. The present lack of a law school in Alaska works substantial hardship on Alaska residents who desire to become attorneys because they must leave the state and obtain their law school education elsewhere at law schools not directly concerned with Alaska problems and at substantial additional expense. At this time establishment of a law school in Alaska is not practicable if other means of alleviating the problem can be found. A method used in the past which has produced lawyers who are a credit to the profession is study of law in the office of a practicing attorney. The objection that this method may leave attorneys who follow this approach ungrounded scholastically and in legal theory is overcome by prescribing certain formal educational requirements as a prerequisite to a clerkship program. The legislature finds that establishment of a program whereby persons who have completed at least one year of approved legal studies and have studied law in a formal program in the office of a practicing attorney under review by the supreme court is a reasonable alternative means of assuring professional competency of attorneys.

* Sec. 2. AS 08.08.020 is amended to read:

Sec. 08.08.020. MEMBERS. (a) Every person licensed to practice law in the state shall become a member in the Alaska Bar. All active and inactive members in good standing as of the effective date of this Act shall be considered to be members.

(b) A person licensed to practice law in the state who, on the effective date of this Act, is not enrolled on the membership rolls, shall be reinstated as a member

only in accordance with the Alaska Bar Rules.

* Sec. 3. AS 08.08.030 is amended to read:

Sec. 08.08.030. GOVERNANCE OF THE ALASKA BAR. The Alaska Bar is governed by the Board of Governors of the Alaska Bar. The board has the powers and duties conferred by this chapter and by the Alaska Bar Rules. Members of the board shall receive no salary.

* Sec. 4. AS 08.08.040 is amended to read:

Sec. 08.08.040. BOARD OF GOVERNORS OF THE ALASKA BAR. (a) There is hereby constituted a Board of Governors of the Alaska Bar to be elected under bylaws and regulations promulgated by the board.

(b) The board consists of nine active members elected by the active members of the Alaska Bar.

* Sec. 5. AS 08.08.080 is repealed and re-enacted to read:

Sec. 08.08.080. POWERS OF BOARD. (a) Except as may be otherwise provided in the Alaska Bar Rules, the board may adopt reasonable provisions

(1) concerning membership and the classification of membership in the Alaska Bar;

(2) providing for employees of the Alaska Bar, the time, place and method of their selection, and their respective powers, duties, terms of office, and compensation;

(3) concerning annual and special meetings;

(4) concerning the collection, deposit, and disbursement of membership and admission fees, penalties, and all other funds;

(5) providing for the organization and government of local subdivisions of the Alaska Bar;

(6) providing for all other matters affecting in any way the organization and functioning of the Alaska Bar.

(b) The board may

(1) approve and recommend to the state supreme court additional rules for promulgation by the court including rules concerning admission and discipline and defining the practice of law;

(2) adopt reasonable bylaws and regulations consistent with the Alaska Bar Rules;

(3) sue in the name of the Alaska Bar in a court of competent jurisdiction to enjoin a person from doing an act constituting a violation of this chapter;

(4) fix the annual membership fee for active and inactive members.

* Sec. 6. AS 08.08 is amended by adding a new section to

read:

Sec. 08.08.085. ANNUAL REPORT TO LEGISLATURE. The Board of Governors shall report annually to the legislature on all matters concerning admissions, discipline of members, and disbarment proceedings, except for those matters defined as confidential by court rule.

* Sec. 7. AS 08.08.090 is amended to read:

Sec. 08.08.090. POWER OF THE BAR TO MAKE OR CHANGE BYLAWS AND REGULATIONS. Any bylaw or regulation adopted by the Board of Governors may be modified or rescinded, or a new bylaw or regulation may be adopted, by a vote of the active members of the association under bylaws and regulations to be prescribed by the Board of Governors.

* Sec. 8. AS 08.08.100 is amended to read:

Sec. 08.08.100. ADMINISTRATIVE PROCEDURE ACT. The bylaws and regulations adopted by the board or the members of the Alaska Bar under this chapter are not subject to the Administrative Procedure Act (AS 44.62).

* Sec. 9. AS 08.08.210 is amended to read:

Sec. 08.08.210. WHO MAY PRACTICE LAW. (a) No person may engage in the practice of law in the state unless he is licensed to practice law in Alaska and is an active member of the Alaska Bar. A member of the bar in good standing in another jurisdiction may appear in the courts of the state under the rules the supreme court may prescribe.

(b) The practice of law shall be defined in the Alaska Bar Rules.

(c) This section and sec. 230 of this chapter do not apply to the practice of law for the legislature by a person employed by or under contract with the legislature who

(1) has been employed as a member of its legal staff on or before the effective date of this Act;

(2) has engaged in the practice of law on behalf of the legislature on or before the effective date of this Act and been compensated on a contractual or fee basis; or

(3) is employed by or under contract to the legislature and whose activities would constitute the practice of law under this chapter and under Alaska Bar Rules, until the results are released of the third Alaska Bar examination following that person's employment.

(d) Employees of the Department of Law whose activities would constitute the practice of law under this chapter and under Alaska Bar Rules are required to obtain a license to practice law in Alaska, no later than 10 months following the commencement of their employment.

* Sec. 10. AS 08.08.230 is amended to read:

Sec. 08.08.230. UNLAWFUL PRACTICE A MISDEMEANOR. (a) Any person not an active member of the Alaska Bar and not

licensed to practice law in Alaska who engages in the practice of law or represents himself as entitled to engage in the practice of law as that term is defined in the Alaska Bar Rules, or an active member of the Alaska Bar who willfully employs such a person knowing that such person is engaging in the practice of law or representing himself to be entitled to so engage is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$5,000, or by imprisonment for not more than one year, or by both.

(b) Nothing in this section prohibits the use of paralegal personnel as defined by rules of the Alaska Supreme Court.

* Sec. 11. AS 08.08.110 - 08.08.200, 08.08.240, and AS 44.62.-330(a)(22) are repealed.

* Sec. 12. AS 08.08 is amended by adding new sections to read:

Sec. 08.08.205. ELIGIBILITY TO TAKE BAR EXAMINATION. Applicants who have not graduated from an accredited law school but are otherwise qualified may take the bar examination if they have completed a clerkship in the manner prescribed by sec. 207 of this chapter.

Sec. 08.08.207. LAW CLERKS. (a) Every person who desires subsequently to qualify as a general applicant for admission to the Alaska Bar without having been graduated from an approved law school shall register as a law clerk as provided by this section. He must be a bona fide resident of the state and shall present satisfactory proof that he has been granted a bachelor's degree (other than bachelor of laws) by a college or university offering the degree on the basis of a four-year course of study and has successfully completed his first year of studies at a law school.

(b) The applicant shall obtain regular and full-time employment as a law clerk in the office of a judge of a court of record or an attorney or firm of attorneys licensed to practice law in Alaska and engaged in the general practice of law. The person by whom he is employed, or if he is employed by a firm, the person under whose direction he is to study, must have been admitted to practice law in this state for at least five years at the time the application for registration is filed, and be otherwise eligible to act as tutor. Before the commencement of the study of law under this section, the applicant shall file with the Alaska Supreme Court an application to register as a law clerk. The application shall be made on a form to be provided by the court and shall require answers to interrogatories the supreme court may determine from time to time to be relevant to a consideration of the application. Proof of a fact stated in the application may be required by the court. If the applicant fails or refuses to furnish any information or proof or answer any interrogatory required by the application, or independently by the court, in a manner satisfactory to the court, the application may be denied.

(c) Accompanying the application there must be submitted a statement under oath of the person by whom the applicant is employed as a law clerk, or, if he is employed by a firm, of the person under whose direction he is to

study, certifying to the fact of the employment and that that person will act as tutor for the applicant and will faithfully instruct the applicant in the branches of the law prescribed by the course of study adopted by the supreme court. No person is eligible to act as tutor while disciplinary proceedings (following the service of a formal complaint) are pending against him, or if he has ever been censured, reprimanded, suspended or disbarred. If a registered law clerk finds it necessary to change his tutor during his period of study, a new application for registration as a law clerk is required and such credit given for study under his prior tutor as the court may determine.

(d) A law clerk whose registration has been approved by the court must pursue a course of study for three calendar years of at least 44 weeks each year, with a minimum each week of 35 hours of study (it being understood that the time actually spent in the performance of the duties of law clerk is to be considered as time spent in the study of law). The tutor must give personal direction regularly and frequently to the clerk, must examine him at least once a month on the work done in the previous month, and must certify monthly as to compliance with the requirements of this subsection and (e) and (g) of this section.

(e) The examinations shall be written and not oral, and shall be answered by the clerk without research or assistance during the examination. The monthly certificate of compliance submitted by the tutor shall be accompanied by the originals of all written examinations and answers given during the period reported. If the certificates, together with the required attachments, are not filed timely with the court, no credit may be given for any period of the default.

(f) If a registered law clerk does not furnish evidence of completion of his law studies within a period of six years after registration, the court may cancel the registration.

(g) The course of study to be pursued by a registered law clerk shall cover subjects, text books, case books, and other material the court may from time to time require.

(h) A registered law clerk who has attended either an approved or a nonapproved law school may, in the discretion of the court, receive credit for work done and obtain advanced standing. In no event will credit be given for fractional parts of semesters or terms, or for correspondence school work.

(i) As used in this section "law school" means

(1) a law school accredited, approved or meeting the standards of the Council of Legal Education of the American Bar Association or the Association of American Law Schools; or

(2) a school in Alaska offering a course of study which the supreme court approves as the equivalent to a year's study in a law school under (1) of this subsection.

* Sec. 13. Rule 2 of Part I of the Alaska Bar Rules is

amended by adding new sections to read:

Section 4. An applicant who meets the requirements of (a) and (c) through (g) of section 1 of this Rule may qualify for admission if he has completed a clerkship in the manner prescribed by section 5 of this Rule.

Section 5. (a) Every person who desires subsequently to qualify as a general applicant for admission to the Alaska Bar without having been graduated from an approved law school shall register as a law clerk as provided by this section of this Rule. He must be a bona fide resident of the state and shall present satisfactory proof that he has been granted a bachelor's degree (other than bachelor of laws) by a college or university offering the degree on the basis of a four-year course of study and has successfully completed his first year of studies at a law school.

(b) The applicant shall obtain regular and full-time employment as a law clerk in the office of a judge of a court of record or an attorney or firm of attorneys licensed to practice law in Alaska and engaged in the general practice of law. The person by whom he is employed, or if he is employed by a firm, the person under whose direction he is to study, must have been admitted to practice law in this state for at least five years at the time the application for registration is filed, and be otherwise eligible to act as tutor. Before the commencement of the study of law under this section of this Rule, the applicant shall file with the Supreme Court an application to register as a law clerk. The application shall be made on a form to be provided by the Supreme Court and shall require answers to interrogatories the Supreme Court may determine from time to time to be relevant to a consideration of the application. Proof of a fact stated in the application may be required by the Supreme Court. If the applicant fails or refuses to furnish any information or proof or answer any interrogatory required by the application, or independently by the Supreme Court, in a manner satisfactory to the Supreme Court, the application may be denied.

(c) Accompanying the application there must be submitted a statement under oath of the person by whom the applicant is employed as a law clerk, or, if he is employed by a firm, of the person under whose direction he is to study, certifying to the fact of the employment and that that person will act as tutor for the applicant and will faithfully instruct the applicant in the branches of the law prescribed by the course of study adopted by the Supreme Court. No person is eligible to act as tutor while disciplinary proceedings (following the service of a formal complaint) are pending against him, or if he has ever been censured, reprimanded, suspended or disbarred. If a registered law clerk finds it necessary to change his tutor during his period of study, a new application for registration as a law clerk is required and such credit given for study under his prior tutor as the Supreme Court may determine.

(d) A law clerk whose registration has been approved by the Supreme Court must pursue a course of study for three calendar years of at least 44 weeks each year, with a minimum each week of 35 hours of study (it being understood that

the time actually spent in the performance of the duties of law clerk is to be considered as time spent in the study of law). The tutor must give personal direction regularly and frequently to the clerk, must examine him at least once a month on the work done in the previous month, and must certify monthly as to compliance with the requirements of (d), (e) and (g) of this section of this Rule.

(e) The examinations shall be written and not oral, and shall be answered by the clerk without research or assistance during the examination. The monthly certificate of compliance submitted by the tutor shall be accompanied by the originals of all written examinations and answers given during the period reported. If the certificates, together with the required attachments, are not filed timely with the Supreme Court, no credit may be given for any period of the default.

(f) If a registered law clerk does not furnish evidence of completion of his law studies within a period of six years after registration, the Supreme Court may cancel the registration.

(g) The course of study to be pursued by a registered law clerk shall cover subjects, text books, case books, and other material the Supreme Court may from time to time require.

(h) A registered law clerk who has attended either an approved or a nonapproved law school may, in the discretion of the Supreme Court, receive credit for work done and obtain advanced standing. In no event will credit be given for fractional parts of semesters or terms, or for correspondence school work.

(i) As used in this Rule "law school" means

(1) a law school accredited, approved or meeting the standards of the Council of Legal Education of the American Bar Association or the Association of American Law Schools; or

(2) a school in Alaska offering a course of study which the Supreme Court approves as the equivalent to a year's study in a law school under (1) of this subdivision.

* Sec. 14. The legislature declares that this Act is passed pursuant to art. IV, secs. 1 and 15, Constitution of the State of Alaska, which empower the legislature to prescribe the jurisdiction of the courts, and to change the Rules of Court, and pursuant to the legislature's inherent power.

* Sec. 15. Section 13 of this Act amends the Rules of Court (Rule 2 of Part I of the Alaska Bar Rules).