



# LAWS OF ALASKA

1995

**Source**  
CSHB 26(JUD)

**Chapter No.**

12

## AN ACT

Amending Rule 15, Alaska Rules of Criminal Procedure, relating to depositions.

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

THE ACT FOLLOWS ON PAGE 1

**Approved by the Governor:** April 26, 1995  
**Actual Effective Date:** July 25, 1995

AN ACT

1 Amending Rule 15, Alaska Rules of Criminal Procedure, relating to depositions.

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3 \* Section 1. Rule 15(a), Alaska Rules of Criminal Procedure, is amended to read:

4 (a) When Taken. The deposition of a prospective witness may be taken by  
5 either party, upon notice as provided in (b) of this rule and upon motion filed  
6 with the court if the court finds by clear and convincing evidence that (1) the  
7 witness will not be present to testify at trial; or (2) due to exceptional  
8 circumstances, the deposition is necessary to prevent a failure of justice. [UPON  
9 ORDER OF THE COURT FOR GOOD CAUSE SHOWN, THE TESTIMONY OF A  
10 PROSPECTIVE WITNESS MAY BE TAKEN BY EITHER PARTY FOR  
11 DISCOVERY UPON NOTICE AND AFTER THE DEPOSING PARTY HAS  
12 DISCLOSED ALL STATEMENTS, EXHIBITS, AND WITNESS LISTS REQUIRED  
13 BY RULE 16.] Any designated book, paper, document, record, recording, or other

## Chapter 12

1 material not privileged may be subpoenaed at the same time and place of the taking  
2 of the deposition. If a witness is committed for failure to give bail or appear to testify  
3 at a trial or hearing, the court on written motion of the witness and upon notice to the  
4 parties may direct that the witness' deposition be taken. After the deposition has been  
5 subscribed the court may discharge the witness. In considering a request for the taking  
6 of depositions, the court shall grant such motion only if the taking of such deposition  
7 will not cause unreasonable delay in the trial of the action and shall apply a  
8 presumption against granting a deposition under (a)(2) of this rule if, in regard  
9 to that action, the witness has testified before the grand jury or in a prior court  
10 proceeding, or has given a recorded statement to a law enforcement agency and  
11 the moving party had the opportunity to obtain such a recorded statement.

12 \* Sec. 2. Rule 15(c), Alaska Rules of Criminal Procedure, is amended to read:

13 (c) How Taken. The court shall preside over a deposition it orders under  
14 (a) of this rule. The deposition shall be conducted in a closed proceeding and  
15 recorded in the same manner as other closed court proceedings. This rule does  
16 not preclude a party from also recording the deposition by other means approved  
17 by the court. [SUBJECT TO SUCH ADDITIONAL CONDITIONS AS THE COURT  
18 SHALL PROVIDE AND EXCEPT AS OTHERWISE PROVIDED IN THESE RULES  
19 A DEPOSITION SHALL BE TAKEN AND FILED IN THE MANNER PROVIDED  
20 IN CIVIL RULES 26, 28, 29, 30, 31 AND 32.] In no event shall a deposition be  
21 taken of a party defendant without that defendant's consent.