

HOUSE BILL NO. 263

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES DOOGAN, Lynn, Peggy Wilson

Introduced: 1/19/10

Referred: State Affairs, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to procedures and confidentiality under the Alaska Executive Branch
2 Ethics Act."

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

4 * **Section 1.** AS 39.52.310(b) is amended to read:

5 (b) A person may file a complaint with the attorney general regarding the
6 conduct of a current or former public officer. A complaint must be in writing, be
7 signed under oath, and contain a clear statement of the details of the alleged violation.

8 **Except as required by law or permitted by AS 39.52.340, a person filing a**
9 **complaint under this chapter shall keep confidential the filing of the complaint**
10 **and the contents of the complaint.**

11 * **Sec. 2.** AS 39.52.320 is repealed and reenacted to read:

12 **Sec. 39.52.320. Dismissal if confidentiality violated by complainant.** If the
13 attorney general determines that a complainant has violated a confidentiality provision
14 of this chapter, the attorney general shall immediately dismiss the complaint. The

1 attorney general shall communicate disposition of the matter promptly to the
 2 complainant under AS 39.52.335(c) and to the subject of the complaint. Dismissal of a
 3 complaint under this section does not affect the right of any person other than the
 4 complainant to initiate a complaint based on the same factual allegations.

5 * **Sec. 3.** AS 39.52.335(c) is amended to read:

6 (c) If a complaint is [DISMISSED UNDER AS 39.52.320 OR] resolved under
 7 AS 39.52.330 **or dismissed under AS 39.52.320 or 39.52.350(a) before the service**
 8 **of an accusation under AS 39.52.350(a)**, the attorney general shall promptly prepare
 9 a summary of the matter and provide a copy of the summary to the personnel board,
 10 **the subject of the complaint**, and the complainant. The summary is **not a public**
 11 **document open to inspection, and the attorney general, the personnel board, and**
 12 **the complainant shall treat it as** confidential, unless the

13 (1) dismissal or resolution [AGREED TO UNDER AS 39.52.320 OR
 14 39.52.330] is public; or

15 (2) superior court makes the matter public under (h) of this section.

16 * **Sec. 4.** AS 39.52.340(a) is amended to read:

17 (a) Except as provided in AS 39.52.335, before the initiation of formal
 18 proceedings under AS 39.52.350, the complaint and all other documents and
 19 information regarding an investigation conducted under this chapter or obtained by the
 20 attorney general during the investigation are confidential and not subject to inspection
 21 by the public. In the case of a complaint concerning the governor, lieutenant governor,
 22 or attorney general, all meetings of the personnel board concerning the complaint and
 23 investigation before the determination of probable cause are closed to the public. If, in
 24 the course of an investigation or probable cause determination, the attorney general
 25 finds evidence of probable criminal activity, the attorney general shall transmit a
 26 statement and factual findings limited to that activity to the appropriate law
 27 enforcement agency. If the attorney general finds evidence of a probable violation of
 28 AS 15.13, the attorney general shall transmit a statement to that effect and factual
 29 findings limited to the probable violation to the Alaska Public Offices Commission.
 30 **During an investigation, the complainant, the** [THE] attorney general, and all
 31 persons contacted during the course of **the** [AN] investigation shall maintain

1 confidentiality regarding the existence of the investigation.

2 * **Sec. 5.** AS 39.52.340 is amended by adding a new subsection to read:

3 (d) Notwithstanding AS 39.52.310(b) and (a) of this section, a person who has
4 filed a complaint under this chapter is not required to keep confidential the filing of
5 the complaint, the contents of the complaint, or the existence of an investigation after
6 service of an accusation based on the complaint has been made on the accused under
7 AS 39.52.350(a).

8 * **Sec. 6.** AS 39.52.350(a) is amended to read:

9 (a) **If the attorney general investigates a complaint filed under this**
10 **chapter and determines that there is no probable cause to believe that one or**
11 **more violations of this chapter have occurred, the attorney general shall dismiss**
12 **the complaint. However, if** [IF] the attorney general **investigates the complaint and**
13 determines that there is probable cause to believe that a knowing violation of this
14 chapter or a violation that cannot be corrected under AS 39.52.330 has occurred, or
15 that the subject of a complaint failed to comply with a recommendation for corrective
16 or preventive action, the attorney general shall initiate formal proceedings by serving a
17 copy of an accusation **on** [UPON] the subject of the accusation. The accusation shall
18 specifically set out the alleged violation. After service, the accusation is a public
19 document open to inspection. Except as provided in AS 39.52.370(c), all subsequent
20 proceedings are open to the public.

21 * **Sec. 7.** AS 39.52.350 is amended by adding a new subsection to read:

22 (e) The attorney general shall promptly notify the complainant and the subject
23 of the complaint when, under (a) of this section, a complaint is dismissed or an
24 accusation is served.

25 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 APPLICABILITY. This Act applies to complaints filed under AS 39.52 on or after the
28 effective date of this Act.