

SENATE BILL NO. 270

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FOURTH LEGISLATURE - SECOND SESSION

BY SENATORS BJORKMAN, Myers

Introduced: 2/23/26

Referred: State Affairs, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to grand juries; amending Rules 5(e), 6, and 6.1, Alaska Rules of
2 Criminal Procedure; repealing Rules 6.1(b)(2) and (3), Alaska Rules of Criminal
3 Procedure; and providing for an effective date."

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

5 * **Section 1.** AS 09.20.080 is amended by adding a new subsection to read:

6 (c) The jury panel for a grand jury includes not fewer than two alternate
7 jurors. The presiding judge shall designate the alternate jurors at the time a grand jury
8 is selected.

9 * **Sec. 2.** AS 09.20.090 is amended by adding a new subsection to read:

10 (b) When a grand jury is impaneled, the court shall provide the jury with
11 written instructions that include state statutes relating to grand juries.

12 * **Sec. 3.** AS 12.40.030 is amended to read:

13 **Sec. 12.40.030. Duty of inquiry into crimes and general powers.** The grand
14 jury shall inquire into all crimes committed or triable within the jurisdiction of the

1 court and present them to the court. The grand jury shall have the power to **initiate**
 2 **investigations, investigate, issue indictments consistent with AS 12.40.180,** and
 3 make recommendations concerning the public welfare or safety. **The power of grand**
 4 **juries to investigate and make recommendations concerning the public welfare or**
 5 **safety may not be limited or suspended.**

6 * **Sec. 4.** AS 12.40.030 is amended by adding new subsections to read:

7 (b) An individual grand juror may propose that the grand jury investigate a
 8 matter concerning the public welfare or safety. If, after a reasonable time for
 9 consideration, as established by a majority of the grand jury members, the grand jury
 10 determines that the matter should be investigated, the grand jury shall initiate an
 11 investigation.

12 (c) For purposes of this section, a matter that concerns a private cause of
 13 action, or a matter that could be the basis of a civil claim, does not qualify as a matter
 14 concerning the public welfare or safety.

15 * **Sec. 5.** AS 12.40.040 is amended to read:

16 **Sec. 12.40.040. Juror to disclose knowledge of crime.** If an individual grand
 17 juror knows or has reason to believe that a crime has been committed that is triable by
 18 the court, the juror shall disclose it to

19 **(1) the other jurors, who shall investigate it; and**

20 **(2) the prosecuting attorney or presiding judge.**

21 * **Sec. 6.** AS 12.40.050 is amended to read:

22 **Sec. 12.40.050. Holding to answer as affecting indictment or presentment.**

23 The grand jury may indict or present a person for a crime upon sufficient evidence,
 24 whether that person has been held to answer for the crime or not. **The grand jury**
 25 **may direct the prosecutor to prepare an indictment.**

26 * **Sec. 7.** AS 12.40.070 is amended to read:

27 **Sec. 12.40.070. Duty of prosecuting attorney.** The prosecuting attorney

28 (1) shall submit an indictment to the grand jury and cause the evidence
 29 in support of the indictment to be brought before them in every case when a person is
 30 held to answer a criminal charge in the court where the jury is formed;

31 (2) may submit an indictment in any case when the prosecuting

1 attorney has good reason to believe a crime has been committed that is triable by the
2 court; [AND]

3 (3) shall, when required by the grand jury, prepare indictments or
4 presentments for them or a replacement grand jury and attend their sittings to advise
5 them in relation to their duties or to examine witnesses in their presence; **and**

6 **(4) make arrangements for a citizen to speak with a grand jury as**
7 **provided under AS 12.40.150.**

8 * **Sec. 8.** AS 12.40.090 is amended by adding a new subsection to read:

9 (b) Violation of (a) of this section is a class A misdemeanor.

10 * **Sec. 9.** AS 12.40.100 is amended by adding a new subsection to read:

11 (d) Only evidence that could be admissible at trial may be included in an
12 indictment.

13 * **Sec. 10.** AS 12.40 is amended by adding new sections to read:

14 **Sec. 12.40.120. Hearsay evidence.** (a) All evidence or information may be
15 presented to the grand jury. A witness may be presented to summarize admissible
16 evidence if the admissible evidence will be available at trial.

17 (b) The prosecuting attorney shall, before indictment, inform the grand jury if
18 information presented to the grand jury may be considered hearsay or determined
19 inadmissible at trial by the court.

20 (c) Information that would be inadmissible at trial may be included in a report
21 by the grand jury.

22 **Sec. 12.40.130. Obstructing a grand jury.** (a) A person commits the crime of
23 obstructing a grand jury if the person intentionally fails to give or directs, orders,
24 threatens, restrains, coerces, forces, or prevents another person from giving full
25 cooperation to the grand jury in assembling or furnishing requested information to the
26 grand jury.

27 (b) It is not a violation of (a) of this section if a prosecutor or judicial officer

28 (1) informs a grand jury of its ability to refer matters to an
29 ombudsman;

30 (2) explains potential consequences of a grand jury investigation,
31 including a grand jury investigation's interference with an investigation by law

1 enforcement;

2 (3) advises a grand jury of the time commitment that may be required
3 to investigate a matter brought before it;

4 (4) gives instructions or explains procedure to the grand jury for
5 another reason before or during an investigation.

6 (c) Obstructing a grand jury is a class A misdemeanor.

7 **Sec. 12.40.140. Prosecutorial misconduct.** If a grand jury investigation
8 concerns possible prosecutorial misconduct or misconduct on the part of an employee
9 or agent of the Department of Law so that having a prosecuting attorney or the
10 Department of Law proceed with an investigation would create an appearance of
11 impropriety or conflict, the prosecuting attorney shall immediately advise the attorney
12 general. The attorney general shall appoint a neutral attorney to assist the grand jury in
13 its investigation and the preparation of its report.

14 **Sec. 12.40.150. Citizen investigation requests.** If a citizen who is not serving
15 on a grand jury believes a matter of public welfare or safety should be investigated by
16 a grand jury, the citizen may speak with a prosecuting attorney. The prosecuting
17 attorney shall make arrangements for the citizen to speak with the grand jury under
18 AS 12.40.070. A majority of grand jury members shall determine whether an
19 investigation into the citizen's concern is warranted.

20 **Sec. 12.40.160. Report.** A grand jury shall make a report only upon the
21 concurrence of a majority of the total number of grand jurors on the grand jury. A
22 foreperson shall sign the grand jury report. A grand jury report may include
23 allegations of criminal conduct.

24 **Sec. 12.40.170. Subpoena power.** While conducting an investigation and
25 preparing a report concerning a matter of public welfare or safety, a grand jury may,
26 upon approval of a majority of the grand jurors, issue a subpoena to compel testimony
27 from witnesses or to compel the production of documents. A subpoena may be issued
28 only after due consideration by the grand jury of the reasonableness of the proposed
29 subpoena and the necessity of the anticipated testimony or documents.

30 **Sec. 12.40.180. Due Process.** If, while conducting an investigation, a grand
31 jury requests or receives information that may be considered prejudicial or

1 inadmissible in court, the prosecuting attorney shall inform the grand jury of the
 2 ramifications and emphasize that inclusion of the information may jeopardize the
 3 validity of an indictment issued by the grand jury. If the grand jury proceeds with the
 4 investigation despite the inclusion of prejudicial or inadmissible evidence, the grand
 5 jury may request that any indictment based on that investigation be transferred to
 6 another grand jury. The grand jury has a right to continue the investigation and
 7 produce a grand jury report containing recommendations related to matters of public
 8 welfare or safety.

9 **Sec. 12.40.190. Replacement grand jury.** If a grand jury requests that an
 10 indictment be brought before another grand jury under AS 12.40.180, a new grand
 11 jury shall be convened to pursue the indictment and the court may extend the time
 12 limit for preliminary examination to 20 days.

13 **Sec. 12.40.200. Peace officer testimony.** If the testimony presented by a peace
 14 officer to a grand jury is inaccurate because of intentional or negligent misstatements
 15 or omissions and the defendant shows that the inaccuracy prejudices substantial rights
 16 of the defendant, the court shall dismiss an indictment resulting from the testimony.

17 * **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to
 18 read:

19 DIRECT COURT RULE AMENDMENT. Rule 5(e), Alaska Rules of
 20 Criminal Procedure, is amended to read:

21 (e) Felonies - Other Requirements at First Appearance.

22 (1) If the charge against the defendant is a felony, the defendant shall
 23 not be called upon to plead.

24 (2) The judicial officer shall inform the defendant of the right to a
 25 preliminary examination. A defendant is entitled to a preliminary examination if the
 26 defendant is charged with a felony for which the defendant has not been indicted,
 27 unless

28 (A) the defendant waives the preliminary examination, or

29 (B) an information has been filed against the defendant with the
 30 defendant's consent in the superior court.

31 (3) If the defendant after having had the opportunity to consult with

1 counsel waives preliminary examination, the judicial officer shall forthwith hold the
2 defendant to answer in the superior court.

3 (4) If the defendant does not waive preliminary examination, the
4 judicial officer shall schedule a preliminary examination. Such examination shall be
5 held within a reasonable time, but in no event later than

6 (A) 10 days following the initial appearance, if the defendant is
7 in custody, or

8 (B) 20 days following the initial appearance, if the defendant is
9 not in custody **or if a replacement grand jury has been impaneled pursuant**
10 **to AS 12.40.190**. With the consent of the defendant and upon a showing of
11 good cause, taking into account the public interest in prompt disposition of
12 criminal cases, the judicial officer may extend the time limits specified in this
13 subsection one or more times. In the absence of consent by the defendant, the
14 judicial officer may extend these time limits only upon a showing that
15 extraordinary circumstances exist and that delay is indispensable to the interest
16 of justice.

17 * **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 DIRECT COURT RULE AMENDMENT. Rule 6(s), Alaska Rules of Criminal
20 Procedure, is amended to read:

21 (s) Admissibility of Evidence.

22 (1) **All evidence or information may be presented to** [EVIDENCE
23 WHICH WOULD BE LEGALLY ADMISSIBLE AT TRIAL SHALL BE
24 ADMISSIBLE BEFORE] the grand jury. Witnesses may be presented to summarize
25 admissible evidence if the admissible evidence will be available at trial.

26 (2) [HEARSAY EVIDENCE RELATED TO THE OFFENSE, NOT
27 OTHERWISE ADMISSIBLE, MAY BE ADMITTED INTO EVIDENCE BEFORE
28 THE GRAND JURY IF THE INDIVIDUAL PRESENTING THE HEARSAY
29 EVIDENCE IS A PEACE OFFICER INVOLVED IN THE INVESTIGATION.

30 (3) If the testimony presented by a peace officer [UNDER
31 PARAGRAPH (2) OF THIS SECTION] is inaccurate because of intentional, grossly

1 negligent, or negligent misstatements or omissions, then the court shall dismiss an
 2 indictment resulting from the testimony if the defendant shows that the inaccuracy
 3 prejudices substantial rights of the defendant.

4 [(4) WHEN A PRIOR CONVICTION IS AN ELEMENT OF AN
 5 OFFENSE, HEARSAY EVIDENCE RECEIVED THROUGH THE ALASKA
 6 PUBLIC SAFETY INFORMATION NETWORK OR FROM OTHER
 7 GOVERNMENT AGENCIES OF PRIOR CONVICTIONS MAY BE PRESENTED
 8 TO THE GRAND JURY.]

9 * **Sec. 13.** The uncodified law of the State of Alaska is amended by adding a new section to
 10 read:

11 DIRECT COURT RULE AMENDMENT. Rule 6.1(a), Alaska Rules of
 12 Criminal Procedure, is amended to read:

13 (a) **Authority to Investigate and Issue Reports.** A grand jury is
 14 constitutionally authorized to investigate and make reports and recommendations
 15 concerning the public welfare or safety. [AN ISSUE CONCERNS THE PUBLIC
 16 WELFARE OR SAFETY, AND THEREFORE IS WITHIN THE SCOPE OF A
 17 GRAND JURY'S INVESTIGATIVE AUTHORITY, WHEN

18 (1) THE INVESTIGATION OF THE ISSUE COULD FURTHER A
 19 PUBLIC POLICY OF THE STATE;

20 (2) THE OUTCOME OF THE INVESTIGATION COULD
 21 REASONABLY BE EXPECTED TO BENEFIT A LARGE NUMBER OF PEOPLE,
 22 RATHER THAN TO BENEFIT ONLY AN INDIVIDUAL OR SMALL GROUP OF
 23 INDIVIDUALS; AND

24 (3) THE ISSUE INVOLVES A MATTER OF GENERAL
 25 IMPORTANCE TO A LARGE NUMBER OF PEOPLE, RATHER THAN TO AN
 26 INDIVIDUAL OR A SMALL GROUP OF INDIVIDUALS.

27 AN ISSUE THAT CONCERNS PRIMARILY A PRIVATE MATTER RATHER
 28 THAN ONE THAT CONCERNS THE GENERAL PUBLIC IS NOT GENERALLY AN
 29 ISSUE CONCERNING THE PUBLIC WELFARE OR SAFETY WITHIN THE SCOPE OF
 30 A GRAND JURY'S INVESTIGATIVE AUTHORITY. AN INDICTMENT IS NOT A
 31 "REPORT" AS USED IN THIS RULE AND CRIMINAL RULE 6.]

1 * **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 REPEAL OF COURT RULES. Rules 6.1(b)(2) and (3), Alaska Rules of Criminal
4 Procedure, are repealed.

5 * **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 INDIRECT COURT RULE AMENDMENTS. The provisions of secs. 1 - 10 of this
8 Act have the effect of changing Rules 6 and 6.1, Alaska Rules of Criminal Procedure, by
9 changing the procedure for grand jury proceedings, the duties and authority of a grand jury,
10 and the evidence that may be presented to a grand jury.

11 * **Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 APPLICABILITY. (a) AS 12.40.090(b), enacted by sec. 8 of this Act, applies to
14 offenses committed on or after the effective date of this Act.

15 (b) Rule 5(e), Alaska Rules of Criminal Procedure, as amended by sec. 11 of this Act,
16 Rule 6(s), Alaska Rules of Criminal Procedure, as amended by sec. 12 of this Act, and Rule
17 6.1(a), Alaska Rules of Criminal Procedure, as amended by sec. 13 of this Act, apply to
18 indictments occurring on or after the effective date of this Act for offenses committed before,
19 on, or after the effective date of this Act.

20 * **Sec. 17.** The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 CONDITIONAL EFFECT. (a) Rule 5(e), Alaska Rules of Criminal Procedure, as
23 amended by sec. 11 of this Act, takes effect only if sec. 11 of this Act receives the two-thirds
24 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

25 (b) Rule 6(s), Alaska Rules of Criminal Procedure, as amended by sec. 12 of this Act,
26 takes effect only if sec. 12 of this Act receives the two-thirds majority vote of each house
27 required by art. IV, sec. 15, Constitution of the State of Alaska.

28 (c) Rule 6.1(a), Alaska Rules of Criminal Procedure, as amended by sec. 13 of this
29 Act, takes effect only if sec. 13 of this Act receives the two-thirds majority vote of each house
30 required by art. IV, sec. 15, Constitution of the State of Alaska.

31 (d) Sections 1 - 10 of this Act take effect only if sec. 12 of this Act receives the two-

1 thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of
2 Alaska.

3 (e) The repeal of Rules 6.1(b)(2) and (3), Alaska Rules of Criminal Procedure, by sec.
4 14 of this Act, takes effect only if sec. 14 of this Act receives the two-thirds majority vote of
5 each house required by art. IV, sec. 15, Constitution of the State of Alaska.

6 * **Sec. 18.** This Act takes effect July 1, 2026.