

AMENDMENT #4

OFFERED IN THE HOUSE
TO: HB 67

BY REPRESENTATIVE GROH

- 1 Page 1, line 1, following "**procedure**";
- 2 Insert "**relating to hearsay evidence in prosecutions for sexual offenses**";
- 3
- 4 Page 1, line 5:
- 5 Delete "**6(r)**"
- 6 Insert "**6(s)**"
- 7
- 8 Page 1, line 8, through page 2, line 6:
- 9 Delete all material.
- 10
- 11 Page 2, line 7:
- 12 Delete "**Sec. 2**"
- 13 Insert "**Section 1**"
- 14
- 15 Page 2, following line 28:
- 16 Insert a new bill section to read:
- 17 "*** Sec. 2.** AS 12.40.110(a) is amended to read:
- 18 (a) In a prosecution for an offense under AS 11.41.410 - 11.41.458, hearsay
- 19 evidence of a statement related to the offense, not otherwise admissible, made by a
- 20 child who is the victim of the offense may be admitted into evidence before the grand
- 21 jury if
- 22 (1) the circumstances of the statement indicate its reliability;
- 23 (2) the child is under 18 [10] years of age when the hearsay evidence is

sought to be admitted;

(3) additional evidence is introduced to corroborate the statement; and

(4) the child testifies at the grand jury proceeding or the child will be available to testify at trial."

Renumber the following bill sections accordingly.

Page 11, line 10:

Delete "6(r)"

Insert "6(s)"

Page 11, line 12, through page 12, line 29:

Delete all material and insert:

"(s) Admissibility of Evidence.

(1) Evidence which would be legally admissible at trial shall be admissible before the grand jury. In appropriate cases, however, witnesses may be presented to summarize admissible evidence if the admissible evidence will be available at trial. Except as stated in subparagraphs (2), (3), and (6), hearsay evidence shall not be presented to the grand jury absent compelling justification for its introduction. If hearsay evidence is presented to the grand jury, the reasons for its use shall be stated on the record.

(2) In a prosecution for an offense under AS 11.41.410 - 11.41.458, hearsay evidence of a statement related to the offense, not otherwise admissible, made by a child who is the victim of the offense may be admitted into evidence before the grand jury if

(i) the circumstances of the statement indicate its reliability;

(ii) the child is under **18** [10] years of age when the hearsay evidence is sought to be admitted;

(iii) additional evidence is introduced to corroborate the statement; and

(iv) the child testifies at the grand jury proceeding or the child will be available to testify at trial.

(3) Hearsay evidence related to the offense, not otherwise admissible, may be admitted into evidence before the grand jury if

(i) the individual presenting the hearsay evidence is a peace officer involved in the investigation; and

(ii) the hearsay evidence consists of the statement and observations made by another peace officer in the course of an investigation; and

(iii) additional evidence is introduced to corroborate the statement.

(4) If the testimony presented by a peace officer under paragraph (3) of this section is inaccurate because of intentional, grossly negligent, or negligent misstatements or omissions, then the court shall dismiss an indictment resulting from the testimony if the defendant shows that the inaccuracy prejudices substantial rights of the defendant.

(5) In this section "statement" means an oral or written assertion or nonverbal conduct if the nonverbal conduct is intended as an assertion.

(6) When a prior conviction is an element of an offense, hearsay evidence received through the Alaska Public Safety Information Network or from other government agencies of prior convictions may be presented to the grand jury."

Page 13, line 1:

Delete "sec. 2"

Insert "sec. 1"

Page 13, following line 3:

Insert a new subsection to read:

"(b) AS 12.40.110(a), as amended by sec. 2 of this Act, applies to a prosecution for an offense committed on or after the effective date of this Act."

1 Reletter the following subsections accordingly.

2

3 Page 13, line 18:

4 Delete "6(r)"

5 Insert "6(s)"

6

7 Page 13, line 23:

8 Delete "6(r)"

9 Insert "6(s)"

