

HOUSE BILL NO. 326

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE PARNELL

Introduced: 4/29/95

Referred: Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to disclosures in contacts between crime victims and witnesses**
2 **and the defense; relating to recordings of statements of crime victims and**
3 **witnesses by the defense; and amending Alaska Rule of Evidence 613."**

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

5 *** Section 1.** AS 12.61.120(c) is amended to read:

6 (c) If **a defendant or** a person **acting on behalf of a defendant**
7 [REPRESENTING THE DEFENDANT, INCLUDING THE DEFENDANT'S
8 ATTORNEY OR A PERSON SPECIFIED BY THE COURT UNDER (b) OF THIS
9 SECTION,] contacts the victim of an offense with which the defendant is **or could be**
10 charged, the person shall clearly inform the victim

11 (1) of the person's identity and specific association with the defendant;

12 (2) that the victim does not have to talk to the person unless the victim
13 wishes; and

14 (3) that the victim may have a prosecuting attorney or other person

1 present during an interview.

2 * **Sec. 2.** AS 12.61.120 is amended by adding new subsections to read:

3 (d) If a defendant or a person acting on behalf of a defendant wishes to make
4 a recording of statements of the victim of an offense with which the defendant is or
5 could be charged, or of a witness, the person shall, before recording begins, obtain the
6 consent of the victim or witness to record the statement by clearly informing the victim
7 or witness (1) of the information set out in (c) of this section, (2) that the statement
8 will be recorded if the victim or witness consents, and (3) that the victim or witness
9 may obtain a transcript or other copy of the recorded statement upon request. When
10 recording begins, the person making the recording shall indicate in the recording that
11 the victim or witness has been informed as required by this subsection, and the victim
12 or witness shall state in the recording that consent of the victim or witness to the
13 recording has been given.

14 (e) If a victim or witness requests a transcript or other copy of a recorded
15 statement taken under (d) of this section, the defense shall prepare the transcript or
16 other copy and provide it to the person whose statement was recorded.

17 (f) In this section,

18 (1) "person acting on behalf of a defendant" includes the defendant's
19 attorney, an agent of the defendant or the defendant's attorney, or a person specified
20 by the court under (b) of this section or an agent of that person, but does not include
21 the defendant;

22 (2) "recording" means capturing a statement of a person, whether by
23 magnetic tape or other electronic or electromagnetic means;

24 (3) "witness" means a person contacted in connection with a criminal
25 case because the person making the contact believes the person being contacted may
26 have knowledge or information about the criminal case.

27 * **Sec. 3.** AS 12.50 is amended by adding a new section to read:

28 Sec. 12.50.200. VICTIMS AND WITNESSES OF SEXUAL OFFENSES. (a)
29 Notwithstanding AS 12.61.120, the defendant accused of a sexual offense, the
30 defendant's counsel, or an investigator or other person working on behalf of the
31 defense, may not

1 (1) contact the victim of the offense or a witness to the offense if the
2 victim or witness, or if the victim or witness is a minor, the parent or guardian of the
3 victim or witness, has informed the defendant or the defendant's counsel in writing or
4 in person that the victim or witness does not wish to be contacted by the defense;

5 (2) obtain a statement from the victim of the offense or a witness to
6 the offense, unless a written authorization is first obtained from the victim or witness,
7 or from the parent or guardian of the victim or witness if the victim or witness is a
8 minor; under this paragraph, a written authorization must state that the victim or
9 witness is aware that there is no legal requirement that the victim or witness talk to
10 the defense.

11 (b) A statement obtained from a victim or witness in violation of (a)(2) of this
12 section is inadmissible in a proceeding involving the prosecution of the defendant for
13 the sexual offense.

14 (c) A defendant who is the parent or guardian of a minor victim or witness
15 may not provide the authorization required under (a) of the section.

16 (d) If an attorney, or a person acting on behalf of the defendant for an
17 attorney, violates this section, the court shall refer the violation to the Disciplinary
18 Board of the Alaska Bar Association as a grievance.

19 (e) In this section, "sexual offense" means a violation of AS 11.41.410 -
20 11.41.470.

21 * **Sec. 4.** AS 12.50.200, added by sec. 3 of this Act, has the effect of amending Alaska
22 Rule of Evidence 613, relating to impeachment of witnesses.