

HOUSE BILL NO. 397

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

BY REPRESENTATIVES MCGUIRE, Samuels, Dahlstrom, Stoltze

Introduced: 1/23/04
Referred: Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to defense contacts with and recordings of statements of victims or**
2 **witnesses; and amending Rule 16, Alaska Rules of Criminal Procedure."**

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

4 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new
5 subsection to read:

6 SHORT TITLE. This Act may be known as the Brooke Act.

7 * **Sec. 2.** AS 12.61.120(b) is amended to read:

8 (b) If the defendant is proceeding without counsel in a case involving a
9 charged violation of AS 11.41, AS 11.46.300 - 11.46.330, AS 11.56.740, 11.56.807,
10 11.56.810, AS 11.61.190 - 11.61.210, or a crime involving domestic violence and the
11 court finds that the defendant may pose a continuing threat to the victim of or witness
12 to the offense charged, the court shall protect the address and telephone number of the
13 victim or witness by providing the information only to a person specified by the court
14 or by imposing other restrictions that the court considers necessary. When an address

1 or telephone number is released to a person specified by the court under this
 2 subsection, that person, who shall be ordered not to disclose the information to the
 3 defendant, shall contact the victim or witness, **or, if the victim or witness is a minor,**
 4 **the parent or guardian of the victim or witness,** on behalf of the defendant, and the
 5 defendant shall meet or speak with the victim or witness only

6 **(1) if the victim or witness consents, or, if the victim or witness is a**
 7 **minor, if the parent or guardian of the victim consents; and**

8 **(2) in the presence of the [THAT] person specified by the court.**

9 * **Sec. 3.** AS 12.61.120(c) is amended to read:

10 (c) **A defendant or a person acting on behalf of a defendant may not**
 11 **contact a minor victim of an offense with which the defendant is or could be**
 12 **charged unless the defendant or person first contacts and obtains the consent of**
 13 **the parent or guardian of the victim.** If a defendant or a person acting on behalf of a
 14 defendant contacts the victim of an offense with which the defendant is or could be
 15 charged, the person shall clearly inform the victim, **and the parent or guardian of**
 16 **the victim if the victim is a minor;**

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

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

20 (3) that the victim may have a prosecuting attorney or other person
 21 present during an interview.

22 * **Sec. 4.** AS 12.61.120(d) is amended to read:

23 (d) If a defendant or a person acting on behalf of a defendant wishes to make a
 24 recording of statements of the victim of an offense with which the defendant is or
 25 could be charged in this or another jurisdiction, or of a witness, the person shall,
 26 before recording begins, obtain the consent of the victim or witness, **or, if the victim**
 27 **or witness is a minor, the consent of the parent or guardian of the victim or**
 28 **witness,** to record the statement by clearly informing the victim or witness (1) of the
 29 information set out in (c) of this section, (2) that the statement will be recorded if the
 30 victim or witness consents, and (3) that the victim or witness may obtain a transcript
 31 or other copy of the recorded statement upon request. When recording begins, the

1 person making the recording shall indicate in the recording that the victim or witness
2 has been informed as required by this subsection, and the victim or witness shall state
3 in the recording that consent of the victim or witness, **or of the parent or guardian, if**
4 **appropriate,** to the recording has been given.

5 * **Sec. 5.** AS 12.61.120(e) is amended to read:

6 (e) If a victim or witness, **or, if the victim or witness is a minor, the parent**
7 **or guardian of the victim or witness,** requests a transcript or other copy of a
8 recorded statement taken under (d) of this section, the defense shall prepare the
9 transcript or other copy and provide it to the person whose statement was recorded.

10 * **Sec. 6.** AS 12.61.120 is amended by adding a new subsection to read:

11 (g) A defendant who is the parent or guardian of a minor victim or witness
12 may not provide an authorization required under this section.

13 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
14 read:

15 **INDIRECT COURT RULE AMENDMENT.** The changes made to AS 12.61.120 by
16 this Act have the effect of amending Rule 16, Alaska Rules of Criminal Procedure, by
17 limiting the discovery available to criminal defendants.