

CS FOR HOUSE BILL NO. 397(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 2/12/04

Referred: Rules

Sponsor(s): REPRESENTATIVES MCGUIRE, Samuels, Dahlstrom, Stoltze, Masek, Lynn, Meyer

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to defense contacts with and recordings of statements of victims and**
2 **witnesses of sexual offenses."**

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 12.61.125(a) is amended to read:

8 (a) The defendant accused of a sexual offense, the defendant's counsel, or an
9 investigator or other person acting on behalf of the defendant, may not

10 (1) notwithstanding AS 12.61.120, contact the victim of the offense or
11 a witness to the offense if the victim or witness, or the parent or guardian of the victim
12 or witness if the victim or witness is a minor, has informed the defendant or the
13 defendant's counsel in writing or in person that the victim or witness does not wish to
14 be contacted by the defense; a victim or witness who has not informed the defendant

1 or the defendant's counsel in writing or in person that the victim does not wish to be
2 contacted by the defense is entitled to rights as provided in AS 12.61.120;

3 (2) obtain a statement from the victim of the offense or a witness to the
4 offense, unless,

5 (A) if the statement is taken as a recording, the recording is
6 taken in compliance with AS 12.61.120, **and written authorization is first**
7 **obtained from the victim or witness, or from the parent or guardian of the**
8 **victim or witness if the victim or witness is a minor; the written**
9 **authorization must state that the victim or witness is aware that there is**
10 **no legal requirement that the victim or witness talk to the defense;** or

11 (B) if the statement is not taken as a recording, written
12 authorization is first obtained from the victim or witness, or from the parent or
13 guardian of the victim or witness if the victim or witness is a minor; the written
14 authorization must state that the victim or witness is aware that there is no
15 legal requirement that the victim or witness talk to the defense; a victim or
16 witness making a statement under this subparagraph remains entitled to rights
17 as provided in AS 12.61.120.