

HOUSE BILL NO. 384

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE EASTMAN

Introduced: 2/20/24

Referred: Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to grand juries; amending Rules 6(e), (i), (n), (p), (s), and (u), Alaska**
2 **Rules of Criminal Procedure; and repealing Rules 6(j) and 6.1, Alaska Rules of**
3 **Criminal Procedure."**

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

5 * **Section 1.** AS 12.40.010 is amended by adding a new subsection to read:

6 (b) The official grand jury handbook is the handbook titled "Alaska Grand
7 Jury Handbook," distributed by The Supreme Court of Alaska, that was acquired by
8 the National Criminal Justice Reference Service on October 25, 1982.

9 * **Sec. 2.** AS 12.40.030 is amended by adding new subsections to read:

10 (b) A grand jury, without outside input, decides what concerns the public
11 safety or welfare, what to investigate, and how to conduct an investigation.

12 (c) A grand jury report or recommendation after an investigation shall be
13 immediately made public following issuance by the grand jury, without rewrite,
14 censorship, or redaction.

1 (d) An individual or group of individuals has an unqualified right to appeal
 2 directly to a grand jury for an investigation. This right includes the right to appeal to a
 3 grand jury for an investigation related to an individual court case.

4 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
 5 read:

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

8 (e) **Swearing and Instructing Jurors.**

9 (1) The following oath shall be administered by the clerk of the
 10 superior court to the persons selected for grand jury duty: "You and each of you as
 11 members of this grand jury for the State of Alaska, do solemnly swear or affirm that
 12 you will diligently inquire and true presentment make of all such matters as shall be
 13 given to you for consideration, or shall otherwise come to your knowledge in
 14 connection with your present service; that you will preserve the secrecy required by
 15 law as to all proceedings had before you; that you will present no one through envy,
 16 hatred or malice, or leave any one unpresented through fear, affection, gain, reward, or
 17 hope thereof; but that you will present all things truly and impartially as they shall
 18 come to your knowledge according to the best of your understanding."

19 (2) When the grand jury is sworn, the court shall charge the jury with
 20 written instructions [, WHICH THE COURT DEEMS PROPER,] concerning the
 21 powers and duties of the grand jury.

22 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
 23 read:

24 DIRECT COURT RULE AMENDMENT. Rule 6(i), Alaska Rules of Criminal
 25 Procedure, is amended to read:

26 (i) **Preparing Indictments and Presentments.** The prosecuting attorney shall
 27 prepare all indictments and presentments for the grand jury, and shall attend their
 28 [ITS] sittings to advise them [IT] of their [ITS] duties and to examine witnesses in
 29 their [ITS] presence.

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

1 DIRECT COURT RULE AMENDMENT. Rule 6(n), Alaska Rules of
2 Criminal Procedure, is amended to read:

3 (n) **Availability of Grand Jury Record to Defendant.** Upon request, a
4 defendant shall be entitled to listen to the electronic recording of the grand jury
5 proceedings and inspect all exhibits presented to the grand jury. Upon further request
6 the defendant may obtain a transcript of such proceedings and copies of such exhibits.
7 The trial of the case shall not be delayed because of the failure of a defendant to
8 request the transcript. [THE AVAILABILITY OF A GRAND JURY REPORT IS
9 GOVERNED BY CRIMINAL RULE 6.1.]

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

12 DIRECT COURT RULE AMENDMENT. Rule 6(p), Alaska Rules of
13 Criminal Procedure, is amended to read:

14 (p) **Presentment** [QUESTIONS TO THE SUPERIOR COURT].

15 (1) Whenever there is doubt from the evidence presented

16 (i) whether the facts constitute a crime, or

17 (ii) whether a defendant is subject to prosecution by
18 reason of either a lapse of time or a former acquittal or conviction, then
19 the grand jury by a concurrence of at least five members may **make a**
20 **presentment of** [, AFTER CONSULTING THE PROSECUTING
21 ATTORNEY, PRESENT] the facts of the case to the court with a
22 request for **instructions** [INSTRUCTION] on the law.

23 (2) The **presentment shall be made by the** foreperson [SHALL
24 MAKE THE PRESENTATION OF FACTS AND THE REQUEST FOR
25 INSTRUCTION ON THE LAW TO THE COURT] in the presence of the grand jury.

26 (3) The **presentment** [PRESENTATION TO THE COURT] shall not
27 mention the names of individuals. **The presentment** [ANY WRITTEN DOCUMENT
28 CONTAINING THE PRESENTATION OF FACTS AND REQUEST FOR
29 INSTRUCTION ON THE LAW] shall not be filed with the court, nor shall it be kept
30 by the court beyond the time that the grand jury is discharged.

31 (4) When the **presentment** [PRESENTATION OF FACTS AND

1 REQUEST FOR INSTRUCTION] is made [,] the court shall give such **instructions**
2 [INSTRUCTION] on the law as it considers necessary.

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

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

7 (s) **Admissibility of Evidence.**

8 (1) **All evidence is admissible before a grand jury conducting an**
9 **investigation and preparing a report or recommendation.** Evidence which would
10 be legally admissible at trial shall be **used by** [ADMISSIBLE BEFORE] the grand
11 jury **if, after investigation, the grand jury decides to issue an indictment.** In
12 appropriate cases, however, witnesses may be presented to summarize admissible
13 evidence if the admissible evidence will be available at trial. Except as stated in
14 subparagraphs (2), (3), and (6), hearsay evidence shall not be presented to the grand
15 jury absent compelling justification for its introduction. If hearsay evidence is
16 presented to the grand jury, the reasons for its use shall be stated on the record.

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

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

23 (ii) the child is under 10 years of age when the hearsay
24 evidence is sought to be admitted;

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

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

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

31 (i) the individual presenting the hearsay evidence is a

1 peace officer involved in the investigation; and

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

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

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

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

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

17 * **Sec. 8.** 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(u), Alaska Rules of
20 Criminal Procedure, is amended to read:

21 (u) **Delegation of Duties.** Whenever a superior court is sitting other than
22 where the presiding judge is sitting, or the presiding judge is unavailable, the presiding
23 judge may delegate duties under this rule to another judicial officer. [HOWEVER,
24 THE PRESIDING JUDGE MAY DELEGATE DUTIES UNDER CRIMINAL RULE
25 6.1 ONLY TO ANOTHER SUPERIOR COURT JUDGE.]

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

28 REPEAL OF COURT RULES. Rules 6(j) and 6.1, Alaska Rules of Criminal
29 Procedure, are repealed.

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

1 APPLICABILITY. Rules 6(e), (i), (n), (p), (s), and (u), Alaska Rules of Criminal
2 Procedure, as amended by secs. 3 - 8 of this Act, and the repeal of Rules 6(j) and 6.1, Alaska
3 Rules of Criminal Procedure, by sec. 9 of this Act, apply to indictments occurring on or after
4 the effective date of this Act for offenses committed before, on, or after the effective date of
5 this Act.

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

8 CONDITIONAL EFFECT. Rules 6(e), (i), (n), (p), (s), and (u), Alaska Rules of
9 Criminal Procedure, as amended by secs. 3 - 8 of this Act, and the repeal of Rules 6(j) and
10 6.1, Alaska Rules of Criminal Procedure, by sec. 9 of this Act take effect only if secs. 3 - 9 of
11 this Act receive the two-thirds majority vote of each house required by art. IV, sec. 15,
12 Constitution of the State of Alaska.