

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 4, 2024

2:06 p.m.

MEMBERS PRESENT

Representative Sarah Vance, Chair
Representative Jamie Allard, Vice Chair
Representative Ben Carpenter
Representative Craig Johnson
Representative Jesse Sumner
Representative Andrew Gray
Representative Cliff Groh

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 67

"An Act relating to criminal law and procedure; relating to the crime of stalking; relating to consecutive sentencing for violation of conditions of release; relating to the duty to register as a sex offender; amending the definition of 'sex offense'; amending the definition of 'crime involving domestic violence'; relating to multidisciplinary child protection teams; amending Rule 6(r), Alaska Rules of Criminal Procedure; and providing for an effective date."

- MOVED CSHB 67(JUD) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 67

SHORT TITLE: HARASSMENT; SEX OFFENDERS & OFFENSES

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/08/23	(H)	READ THE FIRST TIME - REFERRALS
02/08/23	(H)	JUD, FIN
03/03/23	(H)	JUD AT 1:00 PM GRUENBERG 120
03/03/23	(H)	Heard & Held
03/03/23	(H)	MINUTE(JUD)
03/27/23	(H)	JUD AT 1:00 PM GRUENBERG 120
03/27/23	(H)	Heard & Held
03/27/23	(H)	MINUTE(JUD)

02/05/24	(H)	JUD AT 1:30 PM GRUENBERG 120
02/05/24	(H)	Heard & Held
02/05/24	(H)	MINUTE(JUD)
02/07/24	(H)	JUD AT 1:00 PM GRUENBERG 120
02/07/24	(H)	Heard & Held
02/07/24	(H)	MINUTE(JUD)
02/09/24	(H)	JUD AT 1:30 PM GRUENBERG 120
02/09/24	(H)	Heard & Held
02/09/24	(H)	MINUTE(JUD)
02/12/24	(H)	JUD AT 1:30 PM GRUENBERG 120
02/12/24	(H)	-- MEETING CANCELED --
02/19/24	(H)	JUD AT 1:30 PM GRUENBERG 120
02/19/24	(H)	-- MEETING CANCELED --
02/28/24	(H)	JUD AT 1:00 PM GRUENBERG 120
02/28/24	(H)	-- MEETING CANCELED --
03/04/24	(H)	JUD AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

ANGIE KEMP, Director
 Criminal Division
 Department of Law
 Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 67.

CLAIRE RADFORD, Attorney
 Legislative Legal Services
 Legislative Affairs Agency
 Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 67.

NANCY MEADE, General Counsel
 Alaska Court System
 Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 67.

BOB BALINGER, Staff
 Representative Sarah Vance
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Explained Amendment 7 on behalf of Representative Vance.

ACTION NARRATIVE

[2:06:23 PM](#)

CHAIR VANCE called the House Judiciary Standing Committee meeting to order at 2:06 p.m. Representatives Carpenter, C. Johnson, Sumner, Gray, Groh, Allard, and Vance were present at the call to order.

HB 67-HARASSMENT; SEX OFFENDERS & OFFENSES

[2:07:05 PM](#)

CHAIR VANCE announced that the only order of business would be HOUSE BILL NO. 67, "An Act relating to criminal law and procedure; relating to the crime of stalking; relating to consecutive sentencing for violation of conditions of release; relating to the duty to register as a sex offender; amending the definition of 'sex offense'; amending the definition of 'crime involving domestic violence'; relating to multidisciplinary child protection teams; amending Rule 6(r), Alaska Rules of Criminal Procedure; and providing for an effective date." [Before the committee was HB 67, as amended on 2/5/24.]

[Because of their length, some amendments discussed or adopted during the meeting are found at the end of the minutes for HB 67. Shorter amendments are included in the main text.]

[2:07:47 PM](#)

The committee took an at-ease from 2:07 p.m. to 2:11 p.m.

[2:11:30 PM](#)

REPRESENTATIVE CARPENTER moved Amendment 6 to HB 67, labeled 33-GH1031\A.23, C. Radford, 3/1/24. [Amendment 67 is provided at the end of the minutes on HB 67.]

REPRESENTATIVE ALLARD objected.

[2:11:45 PM](#)

REPRESENTATIVE CARPENTER explained Amendment 6. He said HB 67, as amended, is known as a victims' rights bill, and central to that is the ability of a grand jury to seek justice for Alaskans. He said recent history had identified a need to reform the grand jury process, and as a response, Amendment 6

was drafted. The adoption of Amendment 6 would be seen by posterity as important legislative intent and referenced by future courts. He proceeded to read Article 1, Section 8, of the Alaska Constitution, which provides for the right to a grand jury. He shared that in the past six years, officers of the court had prevented members of the grand jury from speaking amongst themselves about crimes that they want investigated. However, under statute, if a grand jury member knows of a crime, that information should be shared with the grand jury, and the grand jury shall investigate. The current system, he said, has prevented information from getting to the grand jury unless the prosecuting attorney allows it. He cited the duty of the prosecuting attorney under AS 12.40.070 and claimed that while paragraphs (1) and (2) of that section are being followed, paragraph (3) is not.

[2:20:57 PM](#)

REPRESENTATIVE CARPENTER stated that Amendment 6 would protect victims of government corruption by enabling the grand jury to fulfill its constitutional authority and exercise its responsibility to ensure public welfare and safety. Amendment 6 would do the following: require the inclusion of at least two alternate jurors on a grand jury; clarify and reinforce the grand jury's power to initiate investigations without seeking approval from a prosecuting attorney; require individual grand jurors to disclose to the prosecuting attorney or presiding judge, in addition to the other jurors, knowledge of a potential crime; reinforce the current statutory responsibility of a grand jury to direct a prosecutor to prepare an indictment; direct the prosecutor to make arrangements for citizens to speak with a grand jury; allow a witness to summarize admissible evidence if the evidence will be available at trial; require the prosecuting attorney, before an indictment, to inform the grand jury if information presented to the grand jury may be considered hearsay or determined inadmissible at trial; allow for inadmissible information to be included in a report by the grand jury; require prosecutors to advise the attorney general if a grand jury investigation includes possible misconduct on the part of a prosecutor, at which point a neutral prosecuting attorney must be appointed to assist the grand jury in the investigation; allow citizens not sitting on a grand jury to inform a prosecutor of matters of public welfare to be investigated; allow a grand jury to issue a subpoena to compel testimony for the production of documents; require the prosecuting attorney to inform the grand jury of the ramifications of including information that may jeopardize the

validity of an indictment if the grand jury receives information that may be inadmissible in court. He further explained that if the grand jury proceeds with the investigation despite the inclusion of prejudicial or inadmissible evidence, the grand jury may request that the indictment be transferred to another grand jury.

[2:34:01 PM](#)

REPRESENTATIVE ALLARD sought to confirm that there would be two separate grand juries.

REPRESENTATIVE CARPENTER explained in Amendment 6, one grand jury can both indict and investigate; however, a second grand jury could be sought to replace a grand jury that was presented with inadmissible information to account for the due process of Alaskans and maintain the dual authority of indictment and investigation.

[2:37:53 PM](#)

REPRESENTATIVE ALLARD asked whether Representative Carpenter was insinuating that one grand jury can indict and investigate at the same time.

REPRESENTATIVE CARPENTER answered no. He shared his understanding that in a normal investigation, a grand jury would uncover inadmissible information and therefore, any indictment would be tainted. Consequently, the grand jury conducting the investigation would have to forward the indictment to another grand jury to consider the admissible information.

REPRESENTATIVE ALLARD asked whether Amendment 6 allowed for the grand jury to both investigate and indict.

REPRESENTATIVE CARPENTER addressed the definition of "indict," explaining that Amendment 6 would direct the prosecuting attorney to forward an indictment to a second grand jury.

[2:39:52 PM](#)

REPRESENTATIVE CARPENTER resumed the explanation of Amendment 6. He said Amendment 6 would require the prosecuting attorney to prepare indictments or presentments for a replacement grand jury if directed by a grand jury; require a court to dismiss an indictment resulting from the testimony of a peace officer if the testimony is inaccurate because of negligent misstatements

or omissions; create a class A misdemeanor for obstructing a grand jury; add a penalty for questioning a juror for conduct; delete Rule 6(r) from court rules; remove limitations on court rules for grand juries to investigate or make reports and recommendations concerning the public welfare or safety. He explained that through the amendment, he aimed to modify the current process in order for grand jurors and everyday Alaskans to bring their cases directly to the grand jury. The power of the investigatory grand jury is specifically designated to combat public corruption.

CHAIR VANCE sought questions from committee members.

[2:44:51 PM](#)

REPRESENTATIVE GROH questioned the expected cost of the proposed amendment.

REPRESENTATIVE CARPENTER said there is no fiscal note associated with Amendment 6; however, that does not mean there's not a respective cost. He reported that \$500,000 was earmarked in the current budget for grand juries conducting investigations; however, he said no one knows exactly how much it would cost.

REPRESENTATIVE GROH asked whether Amendment 6 would overturn any Alaska Supreme Court decisions.

REPRESENTATIVE CARPENTER said Legislative Legal Services had indicated that Amendment 6 would not be found unconstitutional.

REPRESENTATIVE GROH said given the broad scope, it would be useful to hear from the Department of Law (DOL) and the Alaska Court System. He referenced the broad definition on page 7, line 10, which may contribute to potential costs. In addition, he asked whether excessively broad evidence presented to the grand jury was a factor in the recent dismissal of a case arising from the Kenai Peninsula that had been reported on in the media.

REPRESENTATIVE CARPENTER answered no, [broad evidence was not a factor].

[2:50:50 PM](#)

REPRESENTATIVE GROH said he read a new report that suggested otherwise. He referenced the concern expressed by Representative Allard and asked whether one grand jury could

investigate another grand jury's failure to indict, thereby creating a circular nature that might contribute to substantial costs.

REPRESENTATIVE CARPENTER noted that DOL posed the same question and characterized the supposition as a "fear factor from an organization that does not want to conduct or allow grand juries to investigate on what Alaskans want to investigate on." He opined that a circular nature would indicate that information is not being adequately presented to a grand jury.

[2:54:14 PM](#)

The committee took a brief at-ease.

[2:55:25 PM](#)

CHAIR VANCE sought questions from committee members.

[2:55:32 PM](#)

REPRESENTATIVE GRAY directed attention to page 4, lines 19-24, and asked whether prosecutors would be required to make arrangements for any citizen expressing a concern about matters of public welfare to speak to a grand jury.

REPRESENTATIVE CARPENTER said yes, that is the intent of the legislation.

REPRESENTATIVE GRAY asked whether citizens would be able to repeatedly present their concerns to different grand juries.

REPRESENTATIVE CARPENTER did not know the answer. He acknowledged that there could be room for abuse.

REPRESENTATIVE GRAY questioned the safeguards against angry citizens who might continuously bring superfluous charges against someone.

REPRESENTATIVE CARPENTER said there's not a perfect solution for that other than placing someone in charge as a gatekeeper for the information presented to the grand jury.

CHAIR VANCE pointed out that the grand jury must follow the law, which includes due process. She explained that there would need to be proof that the person being investigated actually broke the law.

[3:01:17 PM](#)

REPRESENTATIVE GRAY asked for DOL's position on Amendment 6.

[3:01:51 PM](#)

ANGIE KEMP, Director, Criminal Division, Department of Law (DOL), said DOL does not support the proposed amendment, as drafted. She said the department continues to have a multitude of concerns related to the legislation, including the idea that inadmissible evidence could be instructed away, and the belief that that may "cure" the potential issues that might flow from an indictment. Among the core concerns from the department's perspective is the way the language relates to the admission of evidence and the summaries that witnesses can offer, per Sections 10 and 11 of the bill. She expressed concern that the language in those sections could lend itself to interpretation by the courts that would create problems going forward. She indicated that there are other constitutional concerns as well, including the allowance of unfettered unrestricted access to investigative grand juries without guardrails. She added that repeated claims being brought by the same person is likely to happen and would create another appellate avenue for criminal litigates who are dissatisfied with the results of their case, thereby doing more harm to victims. She highlighted Section 4 and the lack of limitations on the court's ability to interpret constitutional provisions or issues related to a piece of legislation, which would completely "ice out" the court system.

[3:06:40 PM](#)

REPRESENTATIVE CARPENTER contended that nothing in Amendment 6 would cure a grand jury that had been presented both admissible and inadmissible information. He asked what section Ms. Kemp was referring to.

MS. KEMP directed attention to Section 12.40.170 on page 5 of Amendment 6, which would make it discretionary on the part of the grand jury to determine whether there had been a due process violation or whether inadmissible evidence was presented to such a degree that it would need to be referred to another grand jury, which is a legally complicated analysis that could prevent prosecutors from proceeding.

REPRESENTATIVE CARPENTER shared his understanding that the grand jury could not continue with an indictment that includes inadmissible information.

3:12:05 PM

REPRESENTATIVE ALLARD, referring to page 5, line 4, asked how a grand jury is supposed to "unhear" inadmissible information and indict only on admissible evidence.

MS. KEMP said that's precisely the issue. She said from DOL's perspective, the bill would allow for the same grand jury to potentially indict. She explained that there comes a tipping point, known as the "Stern standard," at which point [inadmissible evidence] cannot be instructed away and jeopardizes the indictment itself. If the discretion is left with the grand jury to decide whether or not to proceed to an indictment, things would become problematic, she said.

3:15:00 PM

REPRESENTATIVE CARPENTER asked how the department would overcome the Stern doctrine if it were impacting a grand jury today and whether that case could be presented to another grand jury.

MS. KEMP said not without seeking judicial review first before re-presenting that case before a grand jury. She shared an example, indicating that typically, new or additional evidence must be acquired to re-present the case.

REPRESENTATIVE CARPENTER sought to confirm that there is a process in current law for curing a grand jury that has been presented with inadmissible information, and yet, modifying the process to allow grand juries to investigate would nullify the process. He asked whether the department is in favor of grand juries being able to investigate and indict.

MS. KEMP answered yes; however, not through the vehicle of Amendment 6. She further noted that the proposed amendment would not allow for guardrails to be placed on successive applications; instead, it would task the grand jury with deciding whether something lends itself to a civil dispute or a private right.

REPRESENTATIVE CARPENTER shared his understanding that DOL is in favor of the grand jury being able to investigate and indict, and yet, prosecutors have prevented that same thing from

happening. He said he did not understand the contradiction between the department's statement and its actions.

[3:22:37 PM](#)

REPRESENTATIVE C. JOHNSON spoke to the three branches of government and opined that they are on the brink of a separation of powers issue. He shared his belief that the legislature is trying to adjudicate, the court system is trying to legislate, and DOL is trying to moderate. He remarked that the legislature should do its job by writing the laws.

[3:24:11 PM](#)

The meeting was recessed at 3:24 p.m. to be continued at 5:30 p.m.

[5:54:50 PM](#)

CHAIR VANCE called the House Judiciary Standing Committee meeting back to order at 5:54 p.m. Representatives Carpenter, C. Johnson, Gray, Allard, and Vance were present at the call back to order. Representative Groh arrived as the meeting was in progress.

[5:55:31 PM](#)

REPRESENTATIVE CARPENTER asked what makes Amendment 6 unconstitutional.

MS. KEMP stated that there are several concerns. One is related to the section allowing any evidence to be introduced and the section concerning the grand jury's authority to compel the production of evidence. Despite the constitutional protections for individuals testifying, from DOL's perspective, Amendment 6 would permit individuals to be called to the grand jury and then forced to testify under oath despite the constitutional implications surrounding the testimony, such as psychotherapist patient privileges or attorney/client privilege.

[5:59:31 PM](#)

REPRESENTATIVE CARPENTER asked which section of the proposed amendment Ms. Kemp was referring to.

MS. KEMP answered Section 11 and Section 12.

[6:01:31 PM](#)

REPRESENTATIVE CARPENTER asked whether the act of subpoenaing a witness requires that person to give up their Fifth Amendment right.

MS. KEMP said [the grand jury] is still limited by various privileges and constitutional rights. Ms. Kemp shared the example of a spouse being asked to testify to private conversations between her and her significant other, which, if she objected to, could not be forced.

[6:03:22 PM](#)

MS. KEMP, in response to a follow up question from Representative Carpenter, explained that should Amendment 6 pass, the grand jury could subpoena a potential target and, despite the prosecutor's advice, compel the witness to testify regardless of his/her constitutional rights; furthermore, the prosecutor could give advice, but could not stop the witness from testifying.

REPRESENTATIVE CARPENTER shared his understanding that Ms. Kemp had stated that should Amendment 6 pass, the grand jury might mislead an individual into testifying who has a constitutional right not to. He asked whether that is correct.

MS. KEMP responded, "Perhaps." She said the broader issue is that it would authorize the grand jury to do more than its currently authorized and would not allow for intervention to prevent a constitutional issue from occurring. She added that it seems to work against the prosecutor's ability to stop a proceeding that would illicit privileged or constitutionally protected information.

REPRESENTATIVE CARPENTER contended that currently, the grand jury is being prevented from investigating. He reiterated that the proposed amendment would clarify that the grand jury can investigate "wherever it needs to go" concerning public welfare and safety and shall not be suspended. He asked Legislative Legal Services whether there is a constitutional issue [with regard to Sections 11 and 12].

[6:12:48 PM](#)

REPRESENTATIVE ALLARD asked whether the U.S. Constitution and Alaska Constitution supersedes Amendment 6.

MS. KEMP answered yes.

REPRESENTATIVE ALLARD said if that's true, she was confused by Ms. Kemp's argument.

MS. KEMP shared an example related to Sections 10 and 11. She reiterated that ultimately, the court is responsible for identifying potential constitutional concerns.

[6:17:18 PM](#)

REPRESENTATIVE ALLARD asked whether Ms. Kemp was saying that Section 10 and Section 11 violate either the U.S. Constitution or the Alaska Constitution in any way.

MS. KEMP said given the language in Sections 10 and 11, the intent is unclear. Further, she questioned whether it was designed to achieve the committee's intent. Ultimately, she expressed concern that the courts may declare it unconstitutional. She provided an example.

[6:19:53 PM](#)

The committee took an at-ease from 6:19 p.m. to 6:25 p.m.

[6:25:10 PM](#)

CHAIR VANCE

REPRESENTATIVE CARPENTER questioned the constitutionality of Section 11 in Amendment 6.

[6:26:08 PM](#)

CLAIRE RADFORD, Attorney, Legislative Legal Services, Legislative Affairs Agency (LAA), responded that it is difficult to say with certainty whether the court would find a statute unconstitutional. She said it would depend on the facts of a specific case and what was presented to the grand jury. Regarding Section 11, she shared her belief that a grand jury could not compel a person to testify against his/her own self-interest or require a person to waive his/her constitutional rights.

[6:27:20 PM](#)

REPRESENTATIVE GRAY sought to confirm that "hearsay" [evidence] applies to everyone.

MS. RADFORD said, "That would be correct."

REPRESENTATIVE GRAY asked when section 10 would be used, as opposed to Section 11.

MS. RADFORD said Section 11 of Amendment 6, hearsay evidence, states that all evidence or information may be presented to the grand jury. Conversely, under Section 10, the grand jury would only be able to use admissible evidence for the purpose of returning a true bill.

REPRESENTATIVE GRAY directed attention to page 5, lines 14-17, and asked whether there would be limitations on the replacement grand jury.

MS. RADFORD established that as drafted, there are no limitations on the grand jury's ability to request that an indictment be brought before another grand jury.

[6:31:45 PM](#)

REPRESENTATIVE GRAY suggested that there could be a continuous cycle of replacement grand juries. He asked whether that is accurate.

MS. RADFORD confirmed that Representative Gray had highlighted a potential hazard of the proposed amendment, as there would be no limit on the number of grand juries that could pursue an indictment if more prejudicial or inadmissible evidence were found.

CHAIR VANCE referred to Section 12, and asked whether a lack of purposeful evidence in the aforementioned scenario could be considered obstruction.

MS. RADFORD said overall, it is unlikely that a person could be charged with obstructing a grand jury for proceeding in that manner.

[6:34:10 PM](#)

REPRESENTATIVE C. JOHNSON inquired about severability and asked whether it is a "bygone era." He recalled putting severability

clauses in bills to ensure that if one section of the bill were unconstitutional, the whole bill would not be struck down.

MS. RADFORD revealed that severability provisions are no longer necessary, per Title 1.

REPRESENTATIVE C. JOHNSON sought to confirm that if Section 11 were deemed unconstitutional, the rest of the bill would remain intact.

MS. RADFORD responded, "That is correct."

[6:36:47 PM](#)

REPRESENTATIVE CARPENTER asked whether any other provisions in Amendment 6 could be construed as unconstitutional.

MS. RADFORD said she had not identified any other provisions that may be considered unconstitutional; however, it is hard to say with certainty.

[6:38:24 PM](#)

REPRESENTATIVE GROH requested a ballpark estimate of the perceived cost of Amendment 6 from DOL's perspective.

MS. KEMP acknowledged that there would be a fiscal impact; however, she could not provide an estimate at this time.

REPRESENTATIVE GROH requested a list of court decisions that could be impacted by Amendment 6.

MS. KEMP cited the O'Leary v. Superior Court and Powell v. State decisions in reference to Sections 10 and 11.

[6:42:48 PM](#)

REPRESENTATIVE GROH requested a ballpark estimate of the cost to the Alaska Court System should Amendment 6 pass.

NANCY MEADE, General Counsel, Alaska Court System, reflected on grand jurors' compensation and recalled an example in which the pay to the grand jurors amounted to \$15,000; consequently, 20 grand juries per year would amount to \$20,000. She added that she was not prepared to make an educated guess on the cost today.

[6:44:15 PM](#)

REPRESENTATIVE GROH asked whether any administrative concerns had been identified.

MS. MEADE said administratively, it would be a matter of calling additional grand jurors and one more statewide jury coordinator to deal with the expanded grand jury list. Also, if this were to become more common, there might be a space constraint to consider in terms of where the investigative grand juries could meet.

REPRESENTATIVE GROH asked about procedural concerns that might be engendered by the adoption of Amendment 6.

MS. MEADE expressed concern about the removal of criminal rule 6.1, which reflects the court's position on how to best approach investigative grand juries and offers guidelines on matters of public welfare and safety. Nonetheless, she acknowledged that the legislature has the authority to make this change.

[6:49:07 PM](#)

REPRESENTATIVE C. JOHNSON encouraged the committee to stick to policy decisions, not money, as the bill would be referred to the House Finance Committee.

[6:53:46 PM](#)

REPRESENTATIVE CARPENTER asked if the legislature were to change the statutes regarding admissible evidence in hearsay, whether that would impact indictments, investigations, or both.

MS. MEADE said she did not understand the question. She addressed the danger of instituting an unconstitutional provision or a provision that could be challenged as such. She explained that if someone were convicted with evidence that is not currently admissible, but new statute allowed it to be admitted, that person could ask the Alaska Supreme Court to overturn the conviction by citing an improper indictment. In this instance, the district attorney (DA) may have followed the statute, but the statute could be ruled unconstitutional, and consequently, the indictment could be thrown out.

REPRESENTATIVE CARPENTER referenced the Powell doctrine and shared his understanding that additional amounts of admissible hearsay was found constitutional. He asserted that putting

[hearsay] in statute would make it less likely that the courts would find it unconstitutional.

[6:57:43 PM](#)

CHAIR VANCE asked Representative Carpenter to clarify the difference between an investigative grand jury and an indicting grand jury.

REPRESENTATIVE CARPENTER described the process that differentiates the investigative grand jury from the replacement grand jury.

[7:00:58 PM](#)

CHAIR VANCE questioned the purpose of Amendment 6.

REPRESENTATIVE CARPENTER said the purpose of the proposed amendment is to enable the grand jury to investigate matters of public welfare and safety, and issue either an indictment or a report to the public, thereby following through on its constitutional authority.

[7:02:06 PM](#)

REPRESENTATIVE ALLARD removed her objection.

REPRESENTATIVE GRAY objected.

[7:02:30 PM](#)

REPRESENTATIVE GRAY referenced an Anchorage Daily News (ADN) article about a Kenai Peninsula grand jury, in which the judge found the indictment to be exceptionally vague, lacking details, and flooded with improperly presented evidence. He expressed concern that Amendment 6 would make all grand juries more like the Kenai Peninsula case. He opined that grand jury reform is wide ranging and worthy of its own bill to be fully vetted. He expressed concern that the convening of more grand juries would garner a fiscal note and worried about potential litigation. He quoted two committee members' comments about a previous amendment about financial considerations, and said he felt the same way about Amendment 6, and for that reason, he would be a "no" vote.

[7:05:29 PM](#)

REPRESENTATIVE GROH expressed concern that the issue had not been fully vetted. He shared his belief that Amendment 6 could magnify grievances and give power the grand jury in ways that differ from the constitutional intent; further, he echoed Representative Gray's comments about financial considerations and said he would be a "no" vote on Amendment 6.

CHAIR VANCE said the public has heard from both the courts and DOL on this issue, but not from the legislature. She opined that Amendment 6 would clarify the legislature's position on grand juries, and by doing so, provide the balance of all three branches of government [weighing in on the issue].

[7:08:04 PM](#)

A roll call vote was taken. Representatives Carpenter, C. Johnson, Allard, and Vance voted in favor of Amendment 6. Representatives Gray and Groh voted against it. Therefore, Amendment 6 was adopted by a vote of 4-2.

[7:08:39 PM](#)

REPRESENTATIVE ALLARD moved to adopt Amendment 7 to HB 67, labeled 33-GH1031\A.25, C. Radford, 3/2/24, which read:

Page 1, line 10, through page 2, line 1:

Delete all material and insert:

"LEGISLATIVE FINDINGS AND INTENT. (a) The legislature finds that safeguarding the constitution is not solely the responsibility of the courts and that every branch of state government has a duty to uphold the constitution. When the foundational institutions outlined in the constitution are disregarded or marginalized, it is imperative for the legislature to fortify those institutions.

(b) It is the intent of the legislature to protect the constitutional rights of citizens of the state by empowering the grand jury to seek justice and minimize trauma to victims while upholding due process.

(c) The legislature further finds that a grand jury's constitutional duties to return indictments and investigate matters concerning public welfare and safety are complementary and must be performed in a manner that protects citizens' constitutional rights."

Reletter the following subsection accordingly.

REPRESENTATIVE CARPENTER objected.

[7:09:14 PM](#)

BOB BALLINGER, Staff, Representative Sarah Vance, Alaska State Legislature, on behalf of Representative Vance, explained Amendment 7. He said the proposed amendment would add legislative intent language to overturn the Powell decision to the extent that it concerns the admissibility of hearsay evidence. He proceeded to paraphrase subsections (a) through (c).

[7:11:37 PM](#)

REPRESENTATIVE GRAY shared his understanding that HB 67, as amended, would allow all hearsay evidence to be admissible. He asked whether the additional amendment was necessary.

MR. BALLINGER answered no, the purpose of Amendment 7 was to clarify legislative intent.

[7:12:48 PM](#)

The committee took an at-ease from 7:12 p.m. to 7:16 p.m.

[2:16:15 PM](#)

REPRESENTATIVE GROH maintained his objection. He opined that expanding the use of hearsay makes sense for sexual offenses involving minors; however, it would not make as much sense for other cases. For that reason, he said he would be voting "no" on Amendment 7 and planned to offer Amendment 4.

REPRESENTATIVE CARPENTER asked whether the question could be divided to adopt the intent language and allow Representative Groh to offer his amendment.

[7:18:13 PM](#)

REPRESENTATIVE ALLARD asked whether Representative Groh disagreed with subsection (b) of Amendment 7.

REPRESENTATIVE GROH clarified that he agreed with subsection (b). He explained that he disagreed with the wide application of hearsay, as it would apply to criminal offenses such as alleged embezzlement or car theft.

REPRESENTATIVE ALLARD pointed out that Amendment 7 provided legislative intent language and therefore, she said she was supportive of it.

[7:22:08 PM](#)

A roll call vote was taken. Representatives Allard, Carpenter, C. Johnson, and Vance voted in favor of Amendment 7. Representatives Gray and Groh voted against it. Therefore, Amendment 7 was adopted by a vote of 4-2.

REPRESENTATIVE GRAY moved to rescind the committee's action on 2/9/24 in failing to adopt Amendment 3 to HB 67, labeled 33-GH1031\A.14, C. Radford, 2/5/24, which read:

Page 1, line 1, following "**stalking**";:
Insert "**relating to sexual abuse of a minor**";

Page 2, line 2:
Delete "sec. 12"
Insert "sec. 15"

Page 2, following line 28:
Insert new bill sections to read:
"*** Sec. 3.** AS 11.41.434(a) is amended to read:
(a) An offender commits the crime of sexual abuse of a minor in the first degree if
(1) being 16 years of age or older, the offender engages in sexual penetration with a person who is under 13 years of age or aids, induces, causes, or encourages a person who is under 13 years of age to engage in sexual penetration with another person;
(2) being 18 years of age or older, the offender engages in sexual penetration with a person who is under 18 years of age, and the offender is the victim's natural parent, stepparent, adopted parent, or legal guardian; or
(3) being 18 years of age or older, the offender engages in sexual penetration with a person who is under 18 [16] years of age, and
(A) the victim at the time of the offense is residing in the same household as the offender and the offender has authority over the victim; or
(B) the offender occupies a position of authority in relation to the victim.
*** Sec. 4.** AS 11.41.436(a) is amended to read:

(a) An offender commits the crime of sexual abuse of a minor in the second degree if,

(1) being 17 years of age or older, the offender engages in sexual penetration with a person who is 13, 14, [OR] 15, 16, or 17 years of age and at least four years younger than the offender, or aids, induces, causes, or encourages a person who is 13, 14, [OR] 15, 16, or 17 years of age and at least four years younger than the offender to engage in sexual penetration with another person;

(2) being 16 years of age or older, the offender engages in sexual contact with a person who is under 13 years of age or aids, induces, causes, or encourages a person under 13 years of age to engage in sexual contact with another person;

(3) being 18 years of age or older, the offender engages in sexual contact with a person who is under 18 years of age, and the offender is the victim's natural parent, stepparent, adopted parent, or legal guardian;

(4) being 16 years of age or older, the offender aids, induces, causes, or encourages a person who is under 16 years of age to engage in conduct described in AS 11.41.455(a)(2) - (6);

(5) being 18 years of age or older, the offender engages in sexual contact with a person who is under 18 [16] years of age, and

(A) the victim at the time of the offense is residing in the same household as the offender and the offender has authority over the victim; or

(B) the offender occupies a position of authority in relation to the victim;

(6) being 18 years of age or older, the offender engages in sexual penetration with a person who is 16 or 17 years of age and at least three years younger than the offender, and the offender occupies a position of authority in relation to the victim; or

(7) being under 16 years of age, the offender engages in sexual penetration with a person who is under 13 years of age and at least three years younger than the offender.

* **Sec. 5.** AS 11.41.438(a) is amended to read:

(a) An offender commits the crime of sexual abuse of a minor in the third degree if being 17 years of age or older, the offender engages in sexual contact with a person who is 13, 14, [OR] 15, 16, or

17 years of age and at least four years younger than the offender."

Renumber the following bill sections accordingly.

Page 12, line 29:

Delete all material and insert:

"* **Sec. 16.** AS 11.41.436(a)(6), 11.41.440(a)(2); AS 12.40.110; and AS 12.63.100(7)(C)(ii) are repealed."

Page 13, line 1, following "Act,":

Insert "AS 11.41.434(a), as amended by sec. 3 of this Act, AS 11.41.436(a), as amended by sec. 4 of this Act, AS 11.41.438(a), as amended by sec. 5 of this Act,"

Page 13, line 2:

Delete "sec. 3"

Insert "sec. 6"

Page 13, lines 2 - 3:

Delete "sec. 9"

Insert "sec. 12"

Page 13, line 5:

Delete "sec. 4"

Insert "sec. 7"

Delete "sec. 5"

Insert "sec. 8"

Page 13, line 6:

Delete "sec. 6"

Insert "sec. 9"

Page 13, line 9:

Delete "sec. 7"

Insert "sec. 10"

Page 13, line 13:

Delete "sec. 7"

Insert "sec. 10"

Page 13, line 16:

Delete "sec. 8"

Insert "sec. 11"

Page 13, line 18:
Delete "sec. 12"
Insert "sec. 15"

Page 13, line 24:
Delete "sec. 12" in both places
Insert "sec. 15" in both places

[7:23:28 PM](#)

The committee took an at-ease from 7:23 p.m. to 7:26 p.m.

[7:26:20 PM](#)

A roll call vote was taken. Representatives Groh and Gray voted in favor of rescinding action on Amendment 3. Representatives Allard, Carpenter, C. Johnson, and Vance voted against it. Therefore, rescinding action on Amendment 3 failed by a vote of 2-4.

[7:27:11 PM](#)

REPRESENTATIVE GROH moved to adopt Amendment 4 to HB 67, labeled 33-GH1031\A.16, C. Radford, 2/6/24, which read:

Page 1, line 1, following "**procedure;**":
Insert "**relating to hearsay evidence in prosecutions for sexual offenses;**"

Page 1, line 5:
Delete "**6(r)**"
Insert "**6(s)**"

Page 1, line 8, through page 2, line 6:
Delete all material.

Page 2, line 7:
Delete "**Sec. 2**"
Insert "**Section 1**"

Page 2, following line 28:
Insert a new bill section to read:
"*** Sec. 2.** AS 12.40.110(a) is amended to read:
(a) 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

- (1) the circumstances of the statement indicate its reliability;
- (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."

Reletter the following subsections accordingly.

Page 13, line 18:

Delete "6(r)"

Insert "6(s)"

Page 13, line 23:

Delete "6(r)"
Insert "6(s)"

REPRESENTATIVE ALLARD objected.

[7:27:21 PM](#)

REPRESENTATIVE GROH said he found the bill's broad expansion of hearsay at grand juries to be problematic. Amendment 4, he explained, would restrict the use of hearsay at grand jury and move away from the broad definitions. He shared an example of a case he litigated.

[7:29:46 PM](#)

REPRESENTATIVE ALLARD asked whether unintended consequences could result from Amendment 4.

MS. KEMP said the proposed amendment would limit the scope of the evidence that could be summarized. She shared a hypothetical example and said Amendment 4 would raise the statutory age and provide protections for people 18 years old and under.

[7:31:04 PM](#)

REPRESENTATIVE GRAY shared his understanding that hearsay is allowed in thirty other states. He asked whether that is correct.

MS. KEMP acknowledged that many states [allow hearsay], adding that Alaska is in the minority in terms of the preclusion of admissible evidence.

REPRESENTATIVE GRAY asked how many states have hearsay allowances as broad as in HB 67, as amended.

MS. KEMP did not know the answer.

REPRESENTATIVE GRAY asked Ms. Kemp to name a state that allows all hearsay evidence.

MS. KEMP listed Alabama, Kentucky, Delaware, Maine, Mississippi, New Jersey, North Carolina, Ohio, as states that allow a broad spectrum of hearsay similar to HB 67, as amended.

[7:33:51 PM](#)

REPRESENTATIVE C. JOHNSON requested the definition of hearsay.

MS. KEMP defined "hearsay" as an out-of-court statement offered to provide the truth of the matter asserted.

REPRESENTATIVE C. JOHNSON asked whether video testimony is considered hearsay.

MS. KEMP said currently, grand jury rules allow for telephonic participation in some scenarios. She added that the idea behind the legislation is to avoid someone having to come to court and re-live a traumatic experience.

REPRESENTATIVE C. JOHNSON emphasized that hearsay is real audio or video testimony, not "bar talk."

CHAIR VANCE asked what the federal government allows in court for hearsay.

MS. KEMP explained that the federal government allows witnesses to summarize admissible testimony, much like the goal of the bill.

[7:38:52 PM](#)

REPRESENTATIVE GRAY posed several hypotheticals involving conversations taking place at a bar and asked whether they would be considered hearsay.

MS. KEMP explained that if someone were a percipient witness to a confession, other exceptions could be introduced. In response to a follow up question, she acknowledged that regardless of HB 67, as amended, there are still evidentiary vehicles to introduce certain hearsay.

[7:41:10 PM](#)

The committee took a brief at-ease.

[7:41:27 PM](#)

A roll call vote was taken. Representative Groh voted in favor of Amendment 4. Representatives Gray, Allard, Carpenter, C. Johnson, and Vance voted against it. Therefore, Amendment 4 failed by a vote of 1-5.

[7:42:28 PM](#)

CHAIR VANCE encouraged members of the public to read the intent language that is attempting to protect the rights of victims by not requiring them to come before the grand jury and be retraumatized.

[7:43:43 PM](#)

REPRESENTATIVE ALLARD moved to report HB 67, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 67(JUD) was reported from the House Judiciary Standing Committee.

[7:45:13 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 7:45 p.m.

AMENDMENTS

The following amendment to HB 67 was moved for adoption during the hearing. [Shorter amendments are provided in the main text only.]

Amendment 6 [33-GH1031\A.23, C. Radford, 3/1/24]:

Page 1, line 1, following "**procedure;**":
Insert "**relating to grand juries;**"

Page 1, line 5:
Delete "**Rule 6(r)**"
Insert "**Rules 5(e), 6, and 6.1**"
Following "**Procedure;**":
Insert "**repealing Rules 6.1(b)(2) and (3), Alaska Rules of Criminal Procedure;**"

Page 1, line 8, through page 2, line 6:
Delete all material and insert:
"*** Section 1.** AS 09.20.080 is amended by adding a new subsection to read:
(c) The jury panel for a grand jury includes not fewer than two alternate jurors. The presiding judge

shall designate the alternate jurors at the time a grand jury is selected.

* **Sec. 2.** AS 09.20.090 is amended by adding a new subsection to read:

(b) When a grand jury is impaneled, the court shall provide the jury with written instructions that include state statutes relating to grand juries."

Renumber the following bill sections accordingly.

Page 2, following line 28:

Insert new bill sections to read:

** **Sec. 4.** AS 12.40.030 is amended to read:

Sec. 12.40.030. Duty of inquiry into crimes and general powers. The grand jury shall inquire into all crimes committed or triable within the jurisdiction of the court and present them to the court. The grand jury shall have the power to initiate investigations, investigate, issue indictments consistent with AS 12.40.170, and make recommendations concerning the public welfare or safety. The power of grand juries to investigate and make recommendations concerning the public welfare or safety may not be limited or suspended.

* **Sec. 5.** AS 12.40.030 is amended by adding new subsections to read:

(b) An individual grand juror may propose that the grand jury investigate a matter concerning the public welfare or safety. If, after a reasonable time for consideration, as established by a majority of the grand jury members, the grand jury determines that the matter should be investigated, the grand jury shall initiate an investigation.

(c) For purposes of this section, a matter that concerns a private cause of action, or a matter that could be the basis of a civil claim, does not qualify as a matter concerning the public welfare or safety.

* **Sec. 6.** AS 12.40.040 is amended to read:

Sec. 12.40.040. Juror to disclose knowledge of crime. If an individual grand juror knows or has reason to believe that a crime has been committed that is triable by the court, the juror shall disclose it to

(1) the other jurors, who shall investigate it; and
(2) the prosecuting attorney or presiding judge.

* **Sec. 7.** AS 12.40.050 is amended to read:

Sec. 12.40.050. Holding to answer as affecting indictment or presentment. The grand jury may indict or present a person for a crime upon sufficient evidence, whether that person has been held to answer for the crime or not. The grand jury may direct the prosecutor to prepare an indictment.

* **Sec. 8.** AS 12.40.070 is amended to read:

Sec. 12.40.070. Duty of prosecuting attorney. The prosecuting attorney

(1) shall submit an indictment to the grand jury and cause the evidence in support of the indictment to be brought before them in every case when a person is held to answer a criminal charge in the court where the jury is formed;

(2) may submit an indictment in any case when the prosecuting attorney has good reason to believe a crime has been committed that is triable by the court; [AND]

(3) shall, when required by the grand jury, prepare indictments or presentments for them or a replacement grand jury and attend their sittings to advise them in relation to their duties or to examine witnesses in their presence; and

(4) make arrangements for a citizen to speak with a grand jury as provided under AS 12.40.140.

* **Sec. 9.** AS 12.40.090 is amended by adding a new subsection to read:

(b) Violation of (a) of this section is a class A misdemeanor.

* **Sec. 10.** AS 12.40.100 is amended by adding a new subsection to read:

(d) Only evidence that could be admissible at trial may be included in an indictment.

* **Sec. 11.** AS 12.40.110 is repealed and reenacted to read:

Sec. 12.40.110. Hearsay evidence. (a) All evidence or information may be presented to the grand jury. A witness may be presented to summarize admissible evidence if the admissible evidence will be available at trial.

(b) The prosecuting attorney shall, before indictment, inform the grand jury if information presented to the grand jury may be considered hearsay or determined inadmissible at trial by the court.

(c) Information that would be inadmissible at trial may be included in a report by the grand jury.

* **Sec. 12.** AS 12.40 is amended by adding new sections to read:

Sec. 12.40.120. Obstructing a grand jury. (a) A person commits the crime of obstructing a grand jury if the person intentionally fails to give or directs, orders, threatens, restrains, coerces, forces, or prevents another person from giving full cooperation to the grand jury in assembling or furnishing requested information to the grand jury.

(b) It is not a violation of (a) of this section if a prosecutor or judicial officer

(1) informs a grand jury of its ability to refer matters to an ombudsman;

(2) explains potential consequences of a grand jury investigation, including a grand jury investigation's interference with an investigation by law enforcement;

(3) advises a grand jury of the time commitment that may be required to investigate a matter brought before it;

(4) gives instructions or explains procedure to the grand jury for another reason before or during an investigation.

(c) Obstructing a grand jury is a class A misdemeanor.

Sec. 12.40.130. Prosecutorial misconduct. If a grand jury investigation concerns possible prosecutorial misconduct or misconduct on the part of an employee or agent of the Department of Law so that having a prosecuting attorney or the Department of Law proceed with an investigation would create an appearance of impropriety or conflict, the prosecuting attorney shall immediately advise the attorney general. The attorney general shall appoint a neutral attorney to assist the grand jury in its investigation and the preparation of its report.

Sec. 12.40.140. Citizen investigation requests. If a citizen who is not serving on a grand jury believes a matter of public welfare or safety should be investigated by a grand jury, the citizen may speak with a prosecuting attorney. The prosecuting attorney shall make arrangements for the citizen to speak with the grand jury under AS 12.40.070. A majority of grand jury members shall determine whether an investigation into the citizen's concern is warranted.

Sec. 12.40.150. Reports. A grand jury shall make a report only upon the concurrence of a majority of the total number of grand jurors on the grand jury. A foreperson shall sign the grand jury report. A grand jury report may include allegations of criminal conduct.

Sec. 12.40.160. Subpoena power. While conducting an investigation and preparing a report concerning a matter of public welfare or safety, a grand jury may, upon approval of a majority of the grand jurors, issue a subpoena to compel testimony from witnesses or to compel the production of documents. A subpoena may be issued only after due consideration by the grand jury of the reasonableness of the proposed subpoena and the necessity of the anticipated testimony or documents.

Sec. 12.40.170. Due Process. If, while conducting an investigation, a grand jury requests or receives information that may be considered prejudicial or inadmissible in court, the prosecuting attorney shall inform the grand jury of the ramifications and emphasize that inclusion of the information may jeopardize the validity of an indictment issued by the grand jury. If the grand jury proceeds with the investigation despite the inclusion of prejudicial or inadmissible evidence, the grand jury may request that any indictment based on that investigation be transferred to another grand jury. The grand jury has a right to continue the investigation and produce a grand jury report containing recommendations related to matters of public welfare or safety.

Sec. 12.40.180. Replacement grand jury. If a grand jury requests that an indictment be brought before another grand jury under AS 12.40.170, a new grand jury shall be convened to pursue the indictment and the court may extend the time limit for preliminary examination to 20 days.

Sec. 12.40.190. Peace officer testimony. If the testimony presented by a peace officer to a grand jury is inaccurate because of intentional or negligent misstatements or omissions and the defendant shows that the inaccuracy prejudices substantial rights of the defendant, the court shall dismiss an indictment resulting from the testimony."

Renumber the following bill sections accordingly.

Page 11, following line 7:

Insert new bill sections to read:

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

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

(e) Felonies - Other Requirements at First Appearance.

(1) If the charge against the defendant is a felony, the defendant shall not be called upon to plead.

(2) The judicial officer shall inform the defendant of the right to a preliminary examination. A defendant is entitled to a preliminary examination if the defendant is charged with a felony for which the defendant has not been indicted, unless

(A) the defendant waives the preliminary examination, or

(B) an information has been filed against the defendant with the defendant's consent in the superior court.

(3) If the defendant after having had the opportunity to consult with counsel waives preliminary examination, the judicial officer shall forthwith hold the defendant to answer in the superior court.

(4) If the defendant does not waive preliminary examination, the judicial officer shall schedule a preliminary examination. Such examination shall be held within a reasonable time, but in no event later than

(A) 10 days following the initial appearance, if the defendant is in custody, or

(B) 20 days following the initial appearance, if the defendant is not in custody or if a replacement grand jury has been impaneled pursuant to AS 12.40.180. With the consent of the defendant and upon a showing of good cause, taking into account the public interest in prompt disposition of criminal cases, the judicial officer may extend the time limits specified in this subsection one or more times. In the absence of consent by the defendant, the judicial officer may extend these time limits only upon a showing that extraordinary circumstances exist and that delay is indispensable to the interest of justice."

Renumber the following bill sections accordingly.

Page 11, line 10:
Delete "6(r)"
Insert "6(s)"

Page 11, line 12:
Delete "(r)"
Insert "(s)"

Page 11, lines 13 - 14:
Delete "Evidence which the prosecutor believes
would be legally admissible at trial shall be
admissible before"
Insert "All evidence or information may be
presented to [EVIDENCE WHICH WOULD BE LEGALLY
ADMISSIBLE AT TRIAL SHALL BE ADMISSIBLE BEFORE]"

Page 12, line 23:
Delete "(3)"

Page 12, lines 26 - 28:
Delete all material and insert:
"(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 12, following line 28:
Insert new bill sections to read:
"*** Sec. 24.** The uncodified law of the State of
Alaska is amended by adding a new section to read:
DIRECT COURT RULE AMENDMENT. Rule 6.1(a), Alaska
Rules of Criminal Procedure, is amended to read:
(a) **Authority to Investigate and Issue Reports.**
A grand jury is constitutionally authorized to
investigate and make reports and recommendations
concerning the public welfare or safety. [AN ISSUE
CONCERNS THE PUBLIC WELFARE OR SAFETY, AND THEREFORE
IS WITHIN THE SCOPE OF A GRAND JURY'S INVESTIGATIVE
AUTHORITY, WHEN
(1) THE INVESTIGATION OF THE ISSUE COULD
FURTHER A PUBLIC POLICY OF THE STATE;
(2) THE OUTCOME OF THE INVESTIGATION COULD
REASONABLY BE EXPECTED TO BENEFIT A LARGE NUMBER OF
PEOPLE, RATHER THAN TO BENEFIT ONLY AN INDIVIDUAL OR
SMALL GROUP OF INDIVIDUALS; AND

(3) THE ISSUE INVOLVES A MATTER OF GENERAL IMPORTANCE TO A LARGE NUMBER OF PEOPLE, RATHER THAN TO AN INDIVIDUAL OR A SMALL GROUP OF INDIVIDUALS.]

* **Sec. 25.** The uncodified law of the State of Alaska is amended by adding a new section to read:

INDIRECT COURT RULE AMENDMENTS. The provisions of secs. 1, 2, and 4 - 12 of this Act have the effect of changing Rules 6 and 6.1, Alaska Rules of Criminal Procedure, by changing the procedure for grand jury proceedings, the duties and authority of a grand jury, and the evidence that may be presented to a grand jury.

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

REPEAL OF COURT RULES. Rules 6.1(b)(2) and (3), Alaska Rules of Criminal Procedure, are repealed."

Renumber the following bill sections accordingly.

Page 13, line 1:

Delete "sec. 2"

Insert "sec. 3"

Page 13, line 2:

Delete "sec. 3"

Insert "sec. 13"

Page 13, lines 2 - 3:

Delete "sec. 9"

Insert "sec. 19"

Page 13, line 5:

Delete "sec. 4"

Insert "sec. 14"

Delete "sec. 5"

Insert "sec. 15"

Page 13, line 6:

Delete "sec. 6"

Insert "sec. 16"

Page 13, line 9:

Delete "sec. 7"

Insert "sec. 17"

Page 13, line 13:

Delete "sec. 7"

Insert "sec. 17"

Page 13, line 16:

Delete "sec. 8"

Insert "sec. 18"

Page 13, line 18:

Following "(f)":

Insert "Rule 5(e), Alaska Rules of Criminal Procedure, as amended by sec. 22 of this Act, and"

Delete "6(r)"

Insert "6(s)"

Delete "sec. 12"

Insert "sec. 23"

Page 13, line 23, following "EFFECT.":

Insert "(a) Rule 5(e), Alaska Rules of Criminal Procedure, as amended by sec. 22 of this Act, takes effect only if sec. 22 of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

(b) "

Page 13, line 24:

Delete "sec. 12" in both places

Insert "sec. 23" in both places

Page 13, following line 25:

Insert new subsections to read:

"(c) Rule 6.1(a), Alaska Rules of Criminal Procedure, as amended by sec. 24 of this Act, takes effect only if sec. 24 of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

(d) Sections 1, 2, and 4 - 12 of this Act take effect only if sec. 25 of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

(e) The repeal of Rules 6.1(b)(2) and (3), Alaska Rules of Criminal Procedure, by sec. 26 of this Act takes effect only if sec. 26 of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska."