

Offered: 4/3/85
Referred: Judiciary and
Finance

Original sponsor: Phillips

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

1 IN THE HOUSE

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CS FOR HOUSE BILL NO. 67 (HESS)

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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FOURTEENTH LEGISLATURE - FIRST SESSION

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A BILL

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For an Act entitled: "An Act relating to the admissibility of hearsay
evidence of certain statements by children before
grand juries; and amending Rule 6(r), Alaska Rules of
Criminal Procedure."

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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. AS 12.40 is amended by adding a new section to read:

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Sec. 12.40.110. ADMISSIBILITY OF CERTAIN STATEMENTS BY CHILDREN

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BEFORE GRAND JURIES. (a) Hearsay evidence of a statement related to
the offense, not otherwise admissible, made by a child under the age
of 12 may be admitted into evidence before the grand jury if

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(1) the circumstances of the statement indicate its reliability; and

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(2) the child

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(A) testifies at the grand jury proceeding; or

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(B) is unavailable as a witness, the grand jury mem-

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bers are informed of the reason for the child's unavailability,
and there is additional evidence introduced to corroborate the
statement.

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(b) In this section,

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(1) "statement" means an oral or written assertion, or
nonverbal conduct if the nonverbal conduct is intended as an asser-
tion;

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(2) "unavailable" means the child

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(A) has a lack of memory of the subject matter of the

1 statement being offered;

2 (B) is unable to attend or testify at the hearing
3 because of death or a then existing physical or mental illness or
4 infirmity;

5 (C) is likely to suffer substantial psychological,
6 emotional, or physical harm if required to testify; or

7 (D) is absent from the hearing and beyond the juris-
8 diction of the court to compel appearance and the proponent of
9 the statement has exercised reasonable diligence in attempting to
10 procure the child's attendance.

11 (c) A child is not unavailable under this section if the un-
12 availability is due to the procurement or wrongdoing of the proponent
13 of the statement to prevent the child from attending or testifying.

14 (d) Prior to the admission of hearsay evidence before the grand
15 jury under this section, the superior court shall hold an in camera
16 hearing on the record to determine the admissibility of the evidence.

17 The court shall enter an appropriate order concerning admissibility.

18 * Sec. 2. AS 12.40.110, added by sec. 1 of this Act, has the effect of
19 amending Rule 6(r), Alaska Rules of Criminal Procedure, by making certain
20 hearsay evidence admissible in grand jury proceedings without requiring
21 compelling justification.