

Offered: 4/8/85
Referred: Judiciary

Original sponsors: Kerttula, V.Fischer,
Halford and Faiks

1 IN THE SENATE
2
3 CS FOR SENATE BILL NO. 3 (HESS)
4 IN THE LEGISLATURE OF THE STATE OF ALASKA
5 FOURTEENTH LEGISLATURE - FIRST SESSION
6 A BILL
7 For an Act entitled: "An Act relating to hearsay evidence in prosecutions
8 for certain sexual offenses; and amending Rule 6(r),
9 Alaska Rules of Criminal Procedure."
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:
12 Sec. 12.40.110. HEARSAY EVIDENCE IN PROSECUTIONS FOR SEXUAL
13 OFFENSES. (a) In a prosecution for an offense under AS 11.41.410 -
14 11.41.440 or 11.41.455, hearsay evidence of a statement related to the
15 offense, not otherwise admissible, made by a child under the age of 10
16 may be admitted into evidence before the grand jury if
17 (1) the circumstances of the statement indicate its reliability; and
18 (2) the child
19 (A) testifies at the grand jury proceeding; or
20 (B) is unavailable as a witness, the grand jury members are informed of the reason for the child's unavailability,
21 and there is additional evidence introduced to corroborate the
22 statement.
23 (b) In this section,
24 (1) "statement" means an oral or written assertion or
25 nonverbal conduct if the nonverbal conduct is intended as an assertion;
26 (2) "unavailable" means the child
27 (A) is unable to attend or testify at the hearing
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1 because of death or a then existing physical or mental illness or
2 infirmity;

3 (B) is likely to suffer substantial psychological,
4 emotional, or physical harm if required to testify; or

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

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

12 * Sec. 2. AS 12.40.110, added by sec. 1 of this Act, has the effect of
13 amending Rule 6(r), Alaska Rules of Criminal Procedure, by making certain
14 hearsay evidence admissible in grand jury proceedings for certain sexual
15 offenses without requiring compelling justification.