

Offered: 4/26/85  
Referred: Finance

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

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

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CS FOR SENATE BILL NO. 3 (Judiciary)

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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For an Act entitled: "An Act relating to hearsay evidence in prosecutions  
for certain sexual offenses; and amending Rule 6(r),  
Alaska Rules of Criminal Procedure."

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

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

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Sec. 12.40.110. HEARSAY EVIDENCE IN PROSECUTIONS FOR SEXUAL

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OFFENSES. (a) In a prosecution for an offense under AS 11.41.410 -  
11.41.440 or 11.41.455, hearsay evidence of a child's statement  
related to the offense, not otherwise admissible, may be admitted into  
evidence before the grand jury if

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

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(2) the child is under 10 years of age when the hearsay  
evidence is sought to be admitted; and

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(3) 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 members 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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1 (2) "unavailable" means the child  
2 (A) 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 (B) is likely to suffer substantial psychological,  
6 emotional, or physical harm if required to testify; or  
7 (C) 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 \* Sec. 2. AS 12.40.110, added by sec. 1 of this Act, has the effect of  
15 amending Rule 6(r), Alaska Rules of Criminal Procedure, by making certain  
16 hearsay evidence admissible in grand jury proceedings for certain sexual  
17 offenses without requiring compelling justification.