

CS FOR SENATE BILL NO. 349(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/12/94  
Referred: Rules

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act amending Alaska Rule of Criminal Procedure 6(r) relating to  
2 admissibility of hearsay evidence by peace officers before the grand jury."

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

4 \* Section 1. FINDINGS AND PURPOSE. The legislature finds that existing court rules  
5 require each peace officer with essential information on a criminal investigation to personally  
6 appear before a grand jury to present evidence about the investigation. The legislature further  
7 finds that oftentimes an individual officer may have only a minor piece of evidence to present,  
8 but court rules still require that officer to personally appear and testify even though the  
9 evidence could be presented by a supervising officer or other officer on the investigating team.  
10 The legislature also finds that this requirement takes peace officers away from other essential  
11 duties to protect the public. The legislature finds that the purpose of the amendment to Alaska  
12 Rule of Criminal Procedure 6(r) made by this Act is to allow the grand jury to be fully  
13 informed about the evidence available on a criminal case through testimony of lead peace  
14 officers, while allowing officers who played a minor role in the investigation not to personally

1 appear and testify so that they can continue to perform their vital duties on the street to protect  
2 the public.

3 \* Sec. 2. Alaska Rule of Criminal Procedure 6(r) is amended to read:

4 (r) ADMISSIBILITY OF EVIDENCE.

5 (1) Evidence which would be legally admissible at trial shall be  
6 admissible before the grand jury. In appropriate cases, however, witnesses may be  
7 presented to summarize admissible evidence if the admissible evidence will be  
8 available at trial. Except as stated in subparagraphs (2) and (3) [SUBPARAGRAPH  
9 (2)], hearsay evidence shall not be presented to the grand jury absent compelling  
10 justification for its introduction. If hearsay evidence is presented to the grand jury, the  
11 reasons for its use shall be stated on the record.

12 (2) In a prosecution for an offense under AS 11.41.410 - 11.41.440 or  
13 11.41.455, hearsay evidence of a statement related to the offense, not otherwise  
14 admissible, made by a child who is the victim of the offense may be admitted into  
15 evidence before the grand jury if

16 (i) the circumstances of the statement indicate its reliability;

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

19 (iii) additional evidence is introduced to corroborate the  
20 statement; and

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

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

25 (i) the individual presenting the hearsay evidence is a peace  
26 officer; and

27 (ii) the hearsay evidence consists of the statements and  
28 observations made by another peace officer in the course of an  
29 investigation.

30 (4) If the testimony presented by a peace officer under paragraph  
31 (3) of this section is inaccurate because of intentional, grossly negligent, or

1 negligent misstatements or omissions, then the court shall dismiss an indictment  
2 resulting from the testimony if the defendant shows that the inaccuracy prejudices  
3 substantial rights of the defendant.

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

6 \* Sec. 3. This Act takes effect only if sec. 2 of this Act receives the two-thirds majority  
7 vote of each house required by art. IV, sec. 15, of the Constitution of the State of Alaska.