

COMMITTEE REPORT

SENATE

FURTHER:

4/26/85

Date _____

Mr. President

The Committee on FINANCE considered SB 3 admissibility of certain hearsay evidence in grand jury proceedings for certain sexual offenses and amending Rule 6(r), Alaska Rules of Criminal Procedure.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Chairman

Chairman recommendation

COMMITTEE REPORT
SENATE

FURTHER:

FINANCE

4/8/65

Date

4 25 15

Mr. President

The Committee on JUDICIARY considered SP 3

admissibility of certain hearsay evidence in grand jury proceedings for certain sexual offenses and amending Rule 6(r), Alaska Rules of Criminal Procedure.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for 25B Judiciary
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Chairman

Chairman recommendation

COMMITTEE REPORT
SENATE

FURTHER: JUDICIARY
FINANCE

1/14/85

Date 4-4-85

Mr. President

The Committee on HESS considered SB 3

admissibility of certain hearsay evidence in grand jury proceedings for certain sexual offenses and amending rule 6(r), Alaska Rules of Criminal Procedure

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 3
new title
- ~~do pass~~ and recommends do pass
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

[Signature]

[Signature]

[Signature]

[Signature]
Chairman recommendation

Offered: 4/26/85
Referred: Finance

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

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 3 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

10 • Section 1. AS 12.40 is amended by adding a new section to read:

11 Sec. 12.40.11G. HEARSAY EVIDENCE IN PROSECUTIONS FOR SEXUAL
12 OFFENSES. (a) In a prosecution for an offense under AS 11.41.410 -
13 11.41.440 or 11.41.455, hearsay evidence of a child's statement
14 related to the offense, not otherwise admissible, may be admitted into
15 evidence before the grand jury if:

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

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

19 (3) the child

20 (A) testifies at the grand jury proceeding; or

21 (B) is unavailable as a witness, the grand jury mem-
22 bers are informed of the reason for the child's unavailability,
23 and there is additional evidence introduced to corroborate the
24 statement.

25 (b) In this section,

26 (1) "statement" means an oral or written assertion or
27 nonverbal conduct if the nonverbal conduct is intended as an assertion;
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COMMITTEE COPY

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.
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Offered: 4/8/85
Referred: Judiciary

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

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 3 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

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

11 Sec. 12.40.110. HEARSAY EVIDENCE IN PROSECUTIONS FOR SEXUAL
12 OFFENSES. (a) In a prosecution for an offense under AS 11.41.410 -
13 11.41.440 or 11.41.455, hearsay evidence of a statement related to the
14 offense, not otherwise admissible, made by a child under the age of 10
15 may be admitted into evidence before the grand jury if

16 (1) the circumstances of the statement indicate its relia-
17 bility; and

18 (2) the child

19 (A) testifies at the grand jury proceeding; or

20 (B) is unavailable as a witness, the grand jury mem-
21 bers are informed of the reason for the child's unavailability,
22 and there is additional evidence introduced to corroborate the
23 statement.

24 (b) In this section,

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

28 (2) "unavailable" means the child

29 (A) is unable to attend or testify at the hearing
S

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.

Introduced: 1/14/85
Referred: Health, Education and
Social Services, Judiciary
and Finance

BY KERTTULA, V. FISCHER,
HALFORD AND FAIKS

1 IN THE SENATE

2 SENATE BILL NO. 3

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEFNTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the admissibility of certain
7 hearsay evidence in grand jury proceedings for cer-
8 tain sexual offenses and amending Rule 6(r), Alaska
9 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. EVIDENCE IN PROCEEDINGS FOR CERTAIN SEXUAL
13 OFFENSES. In a grand jury proceeding for an offense under AS 11.41.-
14 410 - 11.41.440 or 11.41.455, hearsay evidence of a statement of a
15 child younger than 16 years of age, describing contact establishing
16 the offense, is admissible whether or not the hearsay evidence would
17 be admissible at trial.

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

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COMMITTEE COPY

ALASKA STATE LEGISLATURE

...14th Legislature . . . FIRST Session

SENATE ..BILL..... NO.3....

By NEETULA, V. FISCHER.....
GALFORD, FAIKS

"An Act relating to the admis-
sibility of certain hearsay
evidence in grand jury proceed-
ings for certain sexual offenses
and amending Rule 6(r), Alaska
Rules of Criminal Procedure."

Introduced in the Senate ..1/14., 19⁸⁵..

HISTORY IN THE SENATE

19 85

Read first time and referred
to Committee on

1 14

Hess, Judiciary and
Finance

4 8

Reported back with HESS
recommendation that

*replace
w/ks, new bill, 5 do pass to Tot.
4-26 Sub: Replace w/CS (pub) 3 do pass
to Finance.
FIN*

Read second time and

Read third time and

PASS Effective Date
Yeas Yeas
Nays Nays
Absent Absent
Excused Excused

Reconsideration

PASS Effective Date
Yeas Yeas
Nays Nays
Absent Absent
Excused Excused

Reported correctly engrossed
Signed by President
Sent to House

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19

Read first time and referred
to Committee on

Reported back with
recommendation that

Read second time and

Read third time and

PASS Effective Date
Yeas Yeas
Nays Nays
Absent Absent
Excused Excused

Reconsideration

PASS Effective Date
Yeas Yeas
Nays Nays
Absent Absent
Excused Excused

Reported correctly engrossed
Signed by Speaker
Returned to Senate

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19

Received from House

To enrolling

Reported correctly enrolled

Sent to Governor

..... by Governor

Filed with Lt. Governor

Chapter No.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CS SB No. 3
 Title: An Act relating to hearsay evidence
 Sponsor: HESS
 Requestor: _____
 Date of Request: 4/8/85

FISCAL DETAIL

Agency Affected: Health and Social Services
 Program Category Affected: _____
Social Services
 BRU, Program or Subprogram(s) Affected: _____
Social Services, Juvenile Custody BRU's

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	-0-	-0-	0	0	0
CAPITAL	0	-0-	-0-	0	0	0
REVENUE	0	-0-	-0-			

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	-0-	-0-	0	0	0

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME		-0-				
PART-TIME		-0-				
TEMPORARY		-0-				

ANALYSIS: Attach a separate page if necessary

N/A

Prepared By: Michael L. Price Phone: 465-3170
 Division: Family and Youth Services Date: 4/25/85

Approved by Commissioner: John R. Poy Date: 4-25-85
 Agency: Health & Social Services

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

24 APR 3 (HESS)

JCP

POSITION PAPER

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 3

For an act entitled "An Act relating to the admissibility of certain hearsay evidence in grand jury proceedings for certain sexual offenses and amending Rule 6(r), Alaska Rules of Criminal Procedure".

This bill would allow admission at grand jury proceedings of hearsay statements of children under 10 years of age relating to sexual offenses. The bill would provide a means for admitting evidence from children at grand jury proceedings while protecting those children from additional emotional trauma. The bill may also increase the likelihood of successful prosecution of sexual offenses committed against children.

The department is extremely pleased that the Legislature has addressed the problem and offered a solution to reduce child sexual abuse in Alaska. The department supports CS SB 3 and supports admitting certain hearsay evidence by children but believes that the hearsay exception should apply to children under 13 years of age. The trauma to a child between 10 and 12 years of age may be as damaging as the trauma to a child under 10 years of age. The older child more clearly understands what is happening and the social and legal implications.

The criminal statutes in Title 11 also make a distinction between a child under or over 13 years of age. For example if a person 16 years or older sexually penetrates a minor under the age of 13 he/she will be charged with sexual assault in the first degree, an unclassified felony. Should the same person sexually penetrate a minor who is "13, 14, or 15 years of age and at least three years younger than the offender", that person will be charged with sexual assault of a minor in the second degree, a class B felony. Similarly if a person 16 years or older has sexual contact with a minor under the age of 13 that person will be charged with sexual assault in the second degree. Should the same

person have sexual contact with a minor who is "13, 14, or 15 years of age and at least three years younger than the offender", that person will be charged with sexual assault in the third degree, a class C felony. The department suggests that Senate Bill 3 be consistent with the Title 11 age classification.

RECOMMENDED: Michael L. Price
Michael L. Price, Director
Division of Family
and Youth Services

DATE: April 25, 1985

APPROVED: John R. Pugh
John R. Pugh, Commissioner
Department of Health
and Social Services

DATE: 4-25-85

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 3
 Title: An Act relating.....
hearsay evidence in grand jury...
 Sponsor: Sen Kerttula
 Requestor: _____
 Date of Request: 1/18/85

FISCAL DETAIL

Agency Affected: Health and Social Services
 Program Category Affected: _____
 BRU, Program or Subprogram(s) Affected:
Social Services, Juvenile Custody

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-				

CAPITAL	-0-	-0-				
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REVENUE	-0-	-0-				
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-				

POSITIONS:

FULL-TIME	-0-	-0-				
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

N/A

Prepared By: Michael L. Price *Michael L. Price* Phone: 465-3170
 Division: Family and Youth Services Date: 1/18/85

Approved by Commissioner: J. A. Boy Date: 1/22/85 *JCC*
 Agency: Health & Social Services

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

POSITION PAPER
SENATE BILL NO. 3

For an act entitled "An Act relating to the admissibility of certain hearsay evidence in grand jury proceedings for certain sexual offenses and amending Rule 6(r), Alaska Rules of Criminal Procedure".

This bill would allow admission at grand jury proceedings of hearsay statements of children under 16 years of age relating to sexual offenses. The bill would provide a means for admitting evidence from children at grand jury proceedings while protecting those children from additional emotional trauma. The bill may also increase the likelihood of successful prosecution of sexual offenses committed against children.

The department is extremely pleased that the legislators have addressed the problem and offered a solution to reduce child sexual abuse in Alaska. The department supports admitting certain hearsay evidence by children under 16 years old but believes that SB 3 should adopt the language in the Governor's Child Protection packet (HB 88). Section 5 of HB 88 defines under what conditions the hearsay evidence can be admitted. Section 5 states that there must be some indication of reliability of the hearsay statement and that either the child testifies at the grand jury proceeding or is unavailable (Sec. 12.40.055(a)(1)(2)). The bill then defines unavailability (Sec. 12.40.055(b)(2)). The Governor's bill also defines the child's "statement" to include non-verbal conduct. (Sec. 12.40.055(b)(1)). SB 3 does not define statement nor does the bill address availability or reliability of the witness.

HB 88 addresses potential legal issues and may better withstand a constitutional challenge than would SB 3.

The department supports the concept in SB 3 but prefers the language in HB 88.

RECOMMENDED: Michael L. Price
Michael L. Price, Director
Division of Family
and Youth Services

DATE: 1/21/85

APPROVED: John R. Pugh
John R. Pugh, Commissioner
Department of Health
and Social Services

DATE: 1/22/85

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 3
 Title: Admissability of Hearsay Evidence
 Sponsor: Sen. Kerttula
 Requestor: Sen. HESS
 Date of Request: 1-23-85

FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Administration of Justice
 BRU, Program or Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

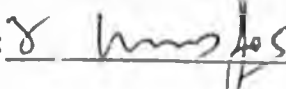
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Paul Conger Phone: 465-4338
 Division: Administrative Services Date: 1-23-85

Approved by Commissioner:  Date: 1/23/85
 Agency: Public Safety

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

SB 3
Fiscal Note Attachment
01/23/85

No additional costs are directly associated with passage of this legislation. However, it should be noted that the Governor's Requested CIP budget contains a \$59,700 Sexual Assault Investigation Equipment Purchase project. This project was submitted in anticipation of passage of this type legislation.

The project involves the purchase of video taping equipment to record interviews with victims. This equipment would be located in the eleven Alaska State Troopers posts throughout the state.

COMMITTEE REPORT
SENATE

FURTHER: FINANCE

4/8/85

Date 4-25-85

Mr. President

The Committee on JUDICIARY considered SB 3
admissibility of certain hearsay evidence in grand jury proceedings for
certain sexual offenses and amending Rule 6(r), Alaska Rules of Criminal
Procedure.

and (a majority of the committee) (the committee) reports it back with
the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB3 (Judiciary)
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATION

1 [Signature]
 1 [Signature]

[Signature]
 Chairman
Do Pass
 Chairman recommendation

COMMITTEE REPORT
SENATE

FURTHER: JUDICIARY
FINANCE

1/14/85

Date 4-4-85

Mr. President

The Committee on HESS considered SB 3

admissibility of certain hearsay evidence in grand jury proceedings for certain sexual offenses and amending Rule 6(r), Alaska Rules of Criminal Procedure

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 3
- ~~new title~~
- ~~same title~~ and recommends May Do Pass
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Edna Reiter

Allen Sturgulewski

Joe Greenhorn

Paul Frank

Dittus Johnson
Chairman

Do Pass
Chairman recommendation

Offered: 4/26/85
Referred: Finance

Original sponsors: Korttula, V. Fischer,
Halford and Folks

1 IN THE SENATE.

BY THE JUDICIARY COMMITTEE

2

CS FOR SENATE BILL NO. 3 (Judiciary)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to hearsay evidence in prosecutions
7 for certain sexual offenses, and amending Rule 4(r),
8 Alaska Rules of Criminal Procedure."

9

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

10

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

11

Sec. 12.40.110. HEARSAY EVIDENCE IN PROSECUTIONS FOR SEXUAL

12

OFFENSES. (a) In a prosecution for an offense under AS 11.41.410,

13

11.41.440 or 11.41.455, hearsay evidence of a child's statement

14

related to the offense, not otherwise admissible, may be admitted into

15

evidence before the grand jury if

16

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

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bility;

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(2) the child is under 10 years of age when the hearsay

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evidence is sought to be admitted; and

20

(3) the child

21

(A) testifies at the grand jury proceeding, or

22

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

23

bers are informed of the reason for the child's unavailability,

24

and there is additional evidence introduced to corroborate the

25

statement

26

(b) In this section,

27

(1) "statement" means an oral or written assertion or

28

nonverbal conduct if the nonverbal conduct is intended as an asser-

29

tion.

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 jurisdic-
8 tion 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 612, 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.

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
27 (2) "unavailable" means the child
28 (A) is unable to attend or testify at the hearing
29

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.

Introduced: 1/14/85
Referred: Health, Education and
Social Services, Judiciary
and Finance

BY KERTTULA, V. FISCHER,
HALFORD AND FAIKS

1 IN THE SENATE

2

SENATE BILL NO. 3

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the admissibility of certain

7 hearsay evidence in grand jury proceedings for cer-

8 tain sexual offenses and amending Rule 6(r), Alaska

9 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. EVIDENCE IN PROCEEDINGS FOR CERTAIN SEXUAL

13 OFFENSES. In a grand jury proceeding for an offense under AS 11.41.-

14 410 - 11.41.440 or 11.41.455, hearsay evidence of a statement of a

15 child younger than 16 years of age, describing contact establishing

16 the offense, is admissible whether or not the hearsay evidence would

17 be admissible at trial.

18 * Sec. 2. Section 1 of this Act has the effect of amending Rule 6(r),

19 Alaska Rules of Criminal Procedure, by making certain hearsay evidence

20 admissible in grand jury proceedings for certain sexual offenses without

21 requiring compelling justification.