

**S B**

**3 4 9**

(7)

Date Referred: April 15, 1994

HOUSE COMMITTEE REPORT  
FURTHER REFERRALS:

Judiciary  
waived  
4/22/94

Date of Committee Action: 4-28-94

The STATE AFFAIRS Committee considered:

CSSB 349(JUD)

CS FOR SENATE BILL NO. 349(JUD)

GRAND JURY EVIDENCE BY POLICE OFFICERS

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

RECOMMENDATIONS:

be replaced with \_\_\_\_\_ [ ] the same title

[ ] have attached amendments(s)

[] do pass

[ ] do not pass

[ ] no recommendations

[ ] individual recommendations

[ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): \_\_\_\_\_ (Dept)

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Date)

[ ] fiscal impact \_\_\_\_\_

[ ] fiscal note(s) \_\_\_\_\_

[ ] zero fiscal note \_\_\_\_\_

[] zero fiscal note(s) Adm (2) LAW

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Al Vezar</i>	X	<i>Harley Olberg</i>		✓	
<i>Pete Holt</i>	X	<i>Betty D. Davis</i>		X	
<i>Jeff Sanders</i>	✓	<i>John Adams</i>		X	
<i>Larry L. Davis</i>	✓				

*Al Vezar*  
CHAIRMAN'S SIGNATURE

# FISCAL NOT

 No. 4

 STATE OF ALASKA  
 1994 LEGISLATIVE SESSION

 Bill Version: SB 349

 (S) Publish Date: 3-9-94

 Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: "An Act relating to admissibility of hearsay..." BRU: Office of Public Advocacy  
 Component: Office of Public Advocacy

 Sponsor: \_\_\_\_\_  
 Requestor: Governor COMPONENT SERIAL NO. 43

### Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0
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### FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

 Estimate of current year (FY94) cost: none

#### POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

date \_\_\_\_\_ Comte Aide (initial) \_\_\_\_\_

Changes in CS SB 349 (Jud)  
 have no fiscal impact. This  
 fiscal note is appropriate.

4/12/94
LB

 Prepared by: Brant McGee, Public Advocate Phone: 274-1684  
 Division: Office of Public Advocacy Date: \_\_\_\_\_

 Approved by Commissioner: Nancy Bear Usera Date: 2/17/94  
 Agency: Administration

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# FISCAL NOT No. 3

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

Rpt. Version: SB 349  
(S) Publish Date: 3-9-94

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
Title: "An Act relating to admissibility of hearsay..." BRJ: Public Defender Agency  
Component: Public Defender Agency

Sponsor: \_\_\_\_\_  
Requestor: Governor COMPONENT SERIAL NO. 1631

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
Total	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY94) cost: none

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

date \_\_\_\_\_ Comte Aide (initial) \_\_\_\_\_  
Changes in CS SB 349 (JUB)  
have no fiscal impact. This  
fiscal note is appropriate.  
4/12/94 \_\_\_\_\_

Prepared by: John Salemi, Public Defender Phone: 264-4400  
Division: Public Defender Agency Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usera Date: 2/18/94  
Agency: Administration

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# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

No. 2  
Version: SB 349  
(S) Publish Date: 3-9-94

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
Title: Hearsay Evidence BRU: AST  
Component: Detachments  
Sponsor: Rules by Request  
Requestor: Governor COMPONENT SERIAL NO. 799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ( )	-0-	-0-	-0-	-0-	-0-	-0-
<small>Revenue Code</small>						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 94) impact: \$ \_\_\_\_\_

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

date \_\_\_\_\_ Comte Aide (initial) \_\_\_\_\_  
Changes in CS SB 349 (JUD)  
have no fiscal impact. This  
fiscal note is appropriate.

Prepared By: Lee Ann Lucas Phone: 465-4377  
Division: Commissioner's Office Date: 2/22/94  
Approved by Commissioner: [Signature] Date: 2/22/94  
Agency: Richard L. Burton, Dept. of Public Safety

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FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

Bill Version: SB 349  
(S) Publish Date: 3-9-94

Revision Date: February 16, 1994  
Title: "...relating to admissibility of hearsay evidence by peace officers before a grand jury."  
Sponsor: Rules/Request of Governor  
Requestor: Governor's Office

Department Affected: Department of Law  
BRU: Prosecution  
Component: All  
COMPONENT SERIAL NO. 0085 through 0090

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING:

1002 Federal						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year (FY94) impact: -0-

date Comte Aide (initial)

ANALYSIS: (Attach a separate page if necessary.)  
Please see the attached analysis.

Changes in CS SB349 (JUD)  
have no fiscal impact. This  
fiscal note is appropriate.

4/12/94

Prepared by: Richard I. Pegues, Director  
Division: Administrative Services Division

Phone: 465-3672  
Date: February 16, 1994

Approved by Commissioner: Bruce M. Botelho, Attorney General  
Agency: Department of Law

Date: February 16, 1994

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FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. \_\_\_\_\_

ANALYSIS CONTINUATION:

This bill amends Alaska Rule of Criminal Procedure 6(r) to permit peace officers to testify before a grand jury as to what their fellow officers saw or heard - for example, as to the contents of their fellow officers' official police reports.

The language in Rule 6(r) presently prohibits virtually all hearsay testimony before the grand jury. Consequently, if several officers were involved in an investigation, all must testify before the grand jury even if the involvement of some was minor or insignificant. The change proposed in the bill is similar to testimony already permitted by the federal courts in Alaska. For instance, the lead case agent on a particular investigation testifies before the federal grand jury about the entire scope of what was learned during the investigation. If 12 law enforcement agents were involved, the federal court rules do not require all 12 agents to personally appear and testify before the grand jury. The federal rules allow for just one case agent to appear and testify before the grand jury leaving the other 11 agents available on the street to fight crime. The bill seeks the same result for Alaska's peace officers, and that is to return them to the street to fight crime. The bill will not have a fiscal impact for the Department of Law. It will make far more efficient use of law enforcement officers' time.

**GOVERNOR HICKEL'S  
BILL TO PUT POLICE BACK ON THE STREET  
(SB 349 & HB 523)**

This bill will put Alaska's police back on the street by amending Criminal Rule 6(r) to allow one police officer to testify at grand jury as to what their fellow officers heard, said, or did in the course of a criminal investigation. This will reduce the number of officers that are routinely tied up in court when a case is presented to a grand jury.

In Alaska's federal courts, the lead agent on a particular case simply comes before the grand jury, and testifies about the full scope of what was learned during the course of an investigation. If twelve FBI agents were involved, they don't call all twelve agents in before the grand jury. They just call in the lead agent--and leave the other eleven free to be out on the street fighting crime.

Not so in Alaska's state courts. Because hearsay is generally not allowed in the grand jury, the lead police or trooper investigator cannot simply testify about what he or she learned from fellow cops. They can't even tell the grand jury about what they heard over the radio--all of their fellow cops have to be called off the job and into court to testify about it in person.

As the federal courts in Alaska routinely prove, this expensive and unnecessary rule does absolutely nothing to protect the constitutional rights of Alaska's citizens. All it does is pull dozens of cops and troopers off patrol week in and week out. They cool their heels in the D.A.'s office or the courthouse, invariably spending many wasted hours simply waiting around to testify.

The language in Criminal Rule 6(r)(1), which presently prohibits virtually all hearsay testimony in the grand jury, should be amended to permit peace officers to testify as to what their fellow officers saw or heard. This simple, constitutional rule change can reduce grand jury costs to the State--and at the same time free up more police. Let's save money and put Alaska's police and troopers back out on the street where they belong--fighting crime.

to file  
WALTER J. HICKEL  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

Law 0033  
P. O. Box 110001  
Juneau, Alaska 99811-0001  
(907) 465-3500

SB 349

March 9, 1994

The Honorable Rick Halford  
President of the Senate  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that amends Alaska Rule of Criminal Procedure 6(r) to allow one peace officer, such as an Alaska state trooper or police officer, to testify at grand jury as to what another peace officer heard, said, or did in the course of a criminal investigation. This will reduce the number of peace officers that must be involved and required to testify when a case is presented to a grand jury, especially when the peace officers may have only played a minor role in the investigation.

In federal courts in Alaska, the lead case agent on a particular investigation simply comes before the federal grand jury and testifies about the entire scope of what was learned during the course of an investigation. If 12 law enforcement agents were involved, the federal court rules do not require all 12 agents to personally appear and testify before the grand jury. The federal rules allow for just one case agent to appear and testify before the grand jury -- leaving the other 11 agents available on the street to fight crime.

This is not the situation in Alaska's state courts. Because hearsay evidence is generally not allowed to be presented before the grand jury in criminal cases, the lead peace officer investigating the case cannot simply testify about what that officer learned from fellow officers conducting the investigation. The lead officer cannot even testify before the grand jury about what that officer heard over police radio -- the police dispatcher who made the particular radio transmission must be called into court to testify about the statement in person. It frequently takes many work hours to prepare, and to be present, to testify.

The Honorable Rick Halford

March 9, 1994

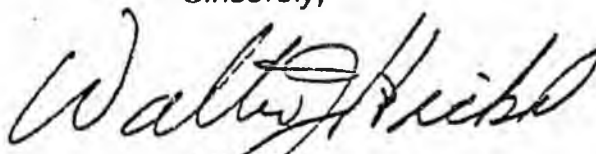
Page 2

As the federal courts in Alaska routinely prove, Alaska's hearsay rule does not provide any greater protection of the constitutional rights of Alaskans than does the federal practice. The present state court rule unnecessarily pulls dozens of peace officers off patrol every month simply to wait around to testify.

The language in Alaska Rule of Criminal Procedure 6(r), which presently prohibits virtually all hearsay testimony in the grand jury, should be amended to permit peace officers to testify as to what their fellow officers saw or heard -- for example, as to the contents of their fellow officers' official police reports. The state is presently facing a projected decline in revenue. This simple, constitutional, rule change can reduce grand jury costs to the state by allowing one officer, rather than many, to present the relevant evidence, at the same time freeing up nontestifying officers to do essential public protection duties. If this bill is enacted, we could save money and keep Alaska's police and troopers out on the street fighting crime, without affecting the quality of evidence presented to the grand jury.

I urge your favorable action on this bill.

Sincerely,



Walter J. Hickel  
Governor

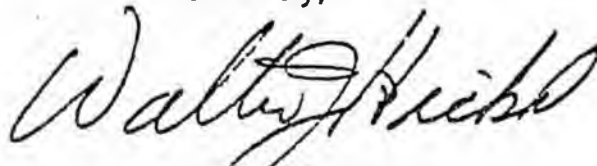
The Honorable Rick Halford  
March 9, 1994  
Page 2

As the federal courts in Alaska routinely prove. Alaska's hearsay rule does not provide any greater protection of the constitutional rights of Alaskans than does the federal practice. The present state court rule unnecessarily pulls dozens of peace officers off patrol every month simply to wait around to testify.

The language in Alaska Rule of Criminal Procedure 6(r), which presently prohibits virtually all hearsay testimony in the grand jury, should be amended to permit peace officers to testify as to what their fellow officers saw or heard -- for example, as to the contents of their fellow officers' official police reports. The state is presently facing a projected decline in revenue. This simple, constitutional, rule change can reduce grand jury costs to the state by allowing one officer, rather than many, to present the relevant evidence, at the same time freeing up nontestifying officers to do essential public protection duties. If this bill is enacted, we could save money and keep Alaska's police and troopers out on the street fighting crime, without affecting the quality of evidence presented to the grand jury.

I urge your favorable action on this bill.

Sincerely,



Walter J. Hickel  
Governor

File 58-349

TO: REP. AL VEZEY  
CHAIRMAN, HOUSE STATE AFFAIRS COMMITTEE

FROM: ED McNALLY, DEPUTY ATTORNEY GENERAL (tel.: 269-6333)

DATE: WEDNESDAY, APRIL 20th, 1994

RE: WAIVING SB 349 & SB 353 THROUGH STATE AFFAIRS

Thank you for your leadership in working to enact tough, common sense, anti-crime legislation this Session, and for shepherding HB 523 (permitting police hearsay in the Grand Jury) through State Affairs in March.

Here's what's up: Today both HB 523 (police hearsay) and HB 528 (balancing jury selection) have cleared all House Committees and are awaiting a vote on the floor of the House, where Rep. Brian Porter is serving as floor manager.

But in the meantime, the identical Senate versions of these two bills have been passed out by the full Senate, and are now awaiting action before House State Affairs. The bills are:

SB 349	(police hearsay)	Identical to your HB 523
SB 353	(jury selection)	Identical to your HB 528

Both of these two bills, in their "HB" form, are currently awaiting a full up-or-down vote in the House. Even the minority supports them (the bills were endorsed by the police and by the Anchorage Daily News) and everyone says both bills will pass. But a full vote on the "HB" versions will merely send the two bills back over to the Senate -- where they've already passed.

**HERE'S OUR REQUEST:** A better result would be for you (supported by Rep. Porter and Rep. Barnes) to move instead for the full House to vote to waive SB 349 (HB 523) and SB 353 (HB 528) through State Affairs. Followed by a vote to also waive them through Judiciary (where the identical HB versions have already been considered and passed out), they could then be enacted by the House and -- bingo -- we have two smart new laws on the books that will fight crime, save money and put more police on the streets in Fairbanks and elsewhere -- two new laws for which you should and will receive credit.

*Rep. Vezev - This is a follow-up on Harry Davis' call earlier today. We'd like to walk with you and support you in any way we can.  
Many thanks - Ed McNally*