

SB

349

WALTER J. HICKEL
GOVERNOR



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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 9, 1994

349

*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.

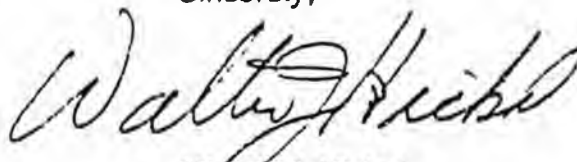
The Honorable Rick Halford
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As the federal courts in Alaska routinely prove, Alaska's hearsay rule does not provide any greater protection of the constitutional rights of Alaskans than does the federal practice. The present state court rule unnecessarily 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,

A handwritten signature in cursive script, reading "Walter J. Hickel".

Walter J. Hickel
Governor

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
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
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

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)

Prepared by: Brant McGee, Public Advocate Phone: 274-1684
 Division: Office of Public Advocacy Date: _____
 Approved by Commissioner: Nancy Bear Usura Date: 2/17/94
 Agency: Administration

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL

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.)

Prepared By: Lee Ann Lucas Phone: 465-4322
 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-

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

Prepared by: Richard I. Pegues, Director Phone: 465-3672
Division: Administrative Services Division 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.

FISCAL NOT

No. 3

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Bill Version: SB 349

(S) Publish Date: 3-9-94

Revision Data: _____ 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
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

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)

Prepared by: John Salemi, Public Defender Phone: 264-4400
 Division: Public Defender Agency Date: _____
 Approved by Commissioner: Nancy Bear Usura Date: 2/18/94
 Agency: Administration

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