

IN THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 1338

Amending Criminal Rule 6(r) to
include changes made by chapter
81 SLA 1998.

IT IS ORDERED:

1. Paragraph (r) of Criminal Rule 6 is amended to read:

(r) **Admissibility of Evidence.**

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

(2) In a prosecution for an offense under ~~AS 11.41.410 — 11.41.440 or 11.41.455~~ AS 11.41.410 - 11.41.458, hearsay evidence of a statement related to the offense, not otherwise admissible, made by a child who is the victim of the offense may be admitted into evidence before the grand jury if

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

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

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

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

* * * *

2. The following note is added at the end of Criminal Rule 6:

Note to SCO 1338: Criminal Rule 6(r)(2) was amended by § 21 ch. 81 SLA 1998 to allow hearsay evidence of a statement made by a child to be admitted before the grand jury in a prosecution for first degree indecent exposure as well as the other sex offenses defined in AS 11.41. Section 1 of this order is adopted for the sole reason that the legislature has mandated the amendment.

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DATED: August 13, 1998

EFFECTIVE DATE: June 11, 1998

/s/
Chief Justice Matthews

/s/
Justice Compton

/s/
Justice Eastaugh

/s/
Justice Fabe

/s/
Justice Bryner