

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 960

Amending Criminal Rule 38.1(a)
concerning telephonic testimony
before the grand jury.

IT IS ORDERED:

Criminal Rule 38.1(a) is amended to provide:

(a) In any proceeding at which the defendant's presence is required under Criminal Rule 38(a), as modified by Rule 38.2, the defendant may waive the right to be present and request to participate by the telephone. The defendant's waiver of the right to be physically present may be obtained orally on the record or in writing. The court may allow telephonic participation of one or more parties, counsel, or the judge at any proceeding in its discretion. The court may allow telephonic participation of witnesses at bail hearings, omnibus hearings, probation revocation hearings or at trial with the consent of the prosecution and the defendant. The court may allow telephonic participation of witnesses at other hearings in its discretion.

A motion to allow telephonic testimony in a grand jury proceeding must be submitted to the presiding judge of the judicial district or the presiding judge's designee. The motion must be accompanied by an affidavit of the prosecuting attorney which states the reasons telephonic testimony is requested. If telephonic testimony is allowed,

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the prosecuting attorney is responsible for ensuring that
the requirements of Civil Rule 99(b)(3) are followed.

DATED: March 30, 1989

EFFECTIVE DATE: July 15, 1989

Chief Justice Matthews

Justice Rabinowitz

Justice Burke

Justice Compton

Justice Moore