

**CS FOR SENATE BILL NO. 35(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/10/19

Referred: Finance

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to sexual assault; eliminating marriage as a defense to certain crimes of**  
2 **sexual assault; relating to sexual abuse of a minor; relating to enticement of a minor;**  
3 **relating to unlawful exploitation of a minor; relating to indecent exposure; relating to**  
4 **harassment; relating to indecent viewing or production of a picture; relating to the**  
5 **distribution of child pornography; relating to sentencing; relating to prior convictions;**  
6 **amending the definitions of 'most serious felony,' 'sexual felony,' 'sex offense,' and 'sex**  
7 **offender'; relating to the automated victim notification system; relating to the duty to**  
8 **register as a sex offender or child kidnapper; relating to reporting of child abuse or**  
9 **neglect; and providing for an effective date."**

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

11 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
12 to read:

1           LEGISLATIVE FINDINGS AND INTENT FOR SECS. 21, 22, AND 29 OF THIS  
2 ACT. (a) The legislature finds that the legislature did not intend, by enacting ch. 90, SLA  
3 2003, and the legislature does not now intend by enacting this Act, to place a limitation on  
4 which previous convictions may be considered when imposing a sentence under  
5 AS 12.55.125(i), as amended by sec. 21 of this Act.

6           (b) It is the intent of the legislature that AS 12.55.145(a), as amended by sec. 22 of  
7 this Act, overturn the decision of the Alaska Court of Appeals in *Williams v. State*, 418 P.3d  
8 870 (Alaska Ct. App. 2018) to the extent that the decision held that, when imposing a  
9 sentence under AS 12.55.125(i), as amended by sec. 21 of this Act, a prior felony conviction  
10 should not be considered if 10 or more years has elapsed between the date of the defendant's  
11 unconditional discharge on the immediately preceding offense and the date the defendant  
12 committed the present offense unless the prior conviction was for an unclassified or class A  
13 felony.

14           (c) It is the intent of the legislature that all prior felony convictions be considered  
15 when imposing a sentence under AS 12.55.125(i), as amended by sec. 21 of this Act,  
16 regardless of the amount of time that has passed since each conviction.

17           (d) The legislature finds that

18                   (1) protecting the public from sex offenders serves a compelling governmental  
19 interest, and that the release of certain information about sex offenders to public agencies and  
20 the general public assists in protecting the public;

21                   (2) a sex offender who is required to register as a sex offender in the state  
22 where the person was convicted may relocate to this state for various reasons;

23                   (3) the Alaska Supreme Court's narrow interpretation of the state's sex  
24 offender registration requirements in its decision in *State, Department of Public Safety v.*  
25 *Doe*, 425 P.3d 115 (Alaska 2018) hinders the state's ability to protect the public from sex  
26 offenders who may come to this state in that it requires a person to register as a sex offender  
27 in this state only if that person has been convicted of an offense that is similar to a sex offense  
28 as defined in AS 12.63.100, as amended by sec. 29 of this Act.

29           (e) It is the intent of the legislature to overturn *State, Department of Public Safety v.*  
30 *Doe*, 425 P.3d 115 (Alaska 2018) to the extent that the decision held that a sex offender  
31 required to register in another jurisdiction is not required to register in the state unless the

1 person's underlying conviction is similar to a sex offense as defined in AS 12.63.100, as  
 2 amended by sec. 29 of this Act. Additionally, it is the intent of the legislature to give  
 3 reciprocity to other jurisdictions and require a sex offender who is physically present in the  
 4 state and is required to register as a sex offender in another jurisdiction to register as a sex  
 5 offender in the state regardless of whether the person's underlying conviction is similar to a  
 6 sex offense as defined in AS 12.63.100, as amended by sec. 29 of this Act.

7 (f) It is the intent of the legislature that the Department of Public Safety make  
 8 additional resources available to expand investigations of online exploitation of children.

9 \* **Sec. 2.** AS 11.41.420(a) is amended to read:

10 (a) An offender commits the crime of sexual assault in the second degree if

11 (1) the offender engages in sexual contact with another person without  
 12 consent of that person;

13 (2) the offender engages in sexual contact with a person

14 (A) who the offender knows is mentally incapable; and

15 (B) who is in the offender's care

16 (i) by authority of law; or

17 (ii) in a facility or program that is required by law to be  
 18 licensed by the state;

19 (3) the offender engages in sexual penetration with a person who [THE  
 20 OFFENDER KNOWS] is

21 (A) mentally incapable;

22 (B) incapacitated; or

23 (C) unaware that a sexual act is being committed; or

24 (4) the offender engages in sexual contact with a person who the  
 25 offender knows is unaware that a sexual act is being committed and

26 (A) the offender is a health care worker; and

27 (B) the offense takes place during the course of professional  
 28 treatment of the victim.

29 \* **Sec. 3.** AS 11.41.425(a) is amended to read:

30 (a) An offender commits the crime of sexual assault in the third degree if the  
 31 offender

1 (1) engages in sexual contact with a person who [THE OFFENDER  
2 KNOWS] is

3 (A) mentally incapable;

4 (B) incapacitated; or

5 (C) unaware that a sexual act is being committed;

6 (2) while employed in a state correctional facility or other placement  
7 designated by the commissioner of corrections for the custody and care of prisoners,  
8 engages in sexual penetration with a person who the offender knows is committed to  
9 the custody of the Department of Corrections to serve a term of imprisonment or  
10 period of temporary commitment;

11 (3) engages in sexual penetration with a person 18 or 19 years of age  
12 who the offender knows is committed to the custody of the Department of Health and  
13 Social Services under AS 47.10 or AS 47.12 and the offender is the legal guardian of  
14 the person;

15 (4) while employed in the state by a law enforcement agency as a  
16 peace officer, or while acting as a peace officer in the state, engages in sexual  
17 penetration with a person with reckless disregard that the person is in the custody or  
18 the apparent custody of the offender, or is committed to the custody of a law  
19 enforcement agency;

20 (5) while employed by the state or a municipality of the state as a  
21 probation officer or parole officer, or while acting as a probation officer or parole  
22 officer in the state, engages in sexual penetration with a person with reckless disregard  
23 that the person is on probation or parole; or

24 (6) while employed as a juvenile probation officer or as a juvenile  
25 facility staff, engages in sexual penetration with a person 18 or 19 years of age with  
26 reckless disregard that the person is committed to the custody or probationary  
27 supervision of the Department of Health and Social Services.

28 \* **Sec. 4.** AS 11.41.432(b) is amended to read:

29 (b) Except as provided in **(d)** [(a)] of this section, in a prosecution under  
30 **AS 11.41.410 - 11.41.427** [AS 11.41.410 OR 11.41.420], it is not a defense that the  
31 victim was, at the time of the alleged offense, the legal spouse of the defendant.

1 \* **Sec. 5.** AS 11.41.432 is amended by adding a new subsection to read:

2 (d) It is a defense to a crime charged under AS 11.41.425(a)(2) - (5) or  
3 11.41.427 that the offender is married to the person and neither party has filed with the  
4 court for separation, divorce, or dissolution of the marriage.

5 \* **Sec. 6.** AS 11.41.438(b) is amended to read:

6 (b) **Except as provided in (c) of this section, sexual** [SEXUAL] abuse of a  
7 minor in the third degree is a class C felony, **punishable as provided in**  
8 **AS 12.55.125(e).**

9 \* **Sec. 7.** AS 11.41.438 is amended by adding a new subsection to read:

10 (c) Sexual abuse of a minor in the third degree is a class C felony, punishable  
11 under AS 12.55.125(i), if, at the time of the offense, the victim was at least six years  
12 younger than the offender.

13 \* **Sec. 8.** AS 11.41.452(a) is amended to read:

14 (a) A person commits the crime of [ONLINE] enticement of a minor if the  
15 person, being 18 years of age or older, knowingly **communicates** [USES A  
16 COMPUTER TO COMMUNICATE] with another person to entice, solicit, or  
17 encourage the person to engage in an act described in AS 11.41.455(a)(1) - (7) and

18 (1) the other person is a child under 16 years of age; or

19 (2) the person believes that the other person is a child under 16 years  
20 of age.

21 \* **Sec. 9.** AS 11.41.452(d) is amended to read:

22 (d) Except as provided in (e) of this section, [ONLINE] enticement **of a minor**  
23 is a class B felony.

24 \* **Sec. 10.** AS 11.41.452(e) is amended to read:

25 (e) **Enticement of a minor** [ONLINE ENTICEMENT] is a class A felony if  
26 the defendant was, at the time of the offense, required to register as a sex offender or  
27 child kidnapper under AS 12.63 or a similar law of another jurisdiction.

28 \* **Sec. 11.** AS 11.41.455(c) is amended to read:

29 (c) Unlawful exploitation of a minor is [A]

30 (1) **a class A** [CLASS B] felony; or

31 (2) **an unclassified** [CLASS A] felony if the

1                    (A) person has been previously convicted of unlawful  
 2 exploitation of a minor in this jurisdiction or a similar crime in this or another  
 3 jurisdiction; or

4                    (B) minor who is exploited is under 13 years of age at the  
 5 time the exploitation occurs.

6 \* **Sec. 12.** AS 11.41.458 is amended to read:

7                    **Sec. 11.41.458. Indecent exposure in the first degree.** (a) An offender  
 8 commits the crime of indecent exposure in the first degree if the offender violates  
 9 AS 11.41.460(a) [, THE OFFENSE OCCURS WITHIN THE OBSERVATION OF A  
 10 PERSON UNDER 16 YEARS OF AGE], and

11                    (1) while committing the act constituting the offense, the offender  
 12 knowingly masturbates; or

13                    (2) the offender has been previously convicted under

14                                    (A) this section;

15                                    (B) AS 11.41.460(a); or

16                                    (C) a law or ordinance of this or another jurisdiction with  
 17 elements similar to a crime listed under (A) or (B) of this paragraph.

18                    (b) Indecent exposure in the first degree

19                                    (1) is a class C felony; or

20                                    (2) is a class B felony if the offense occurs within the observation of  
 21 a person under 16 years of age.

22 \* **Sec. 13.** AS 11.61.120(a) is amended to read:

23                    (a) A person commits the crime of harassment in the second degree if, with  
 24 intent to harass or annoy another person, that person

25                    (1) insults, taunts, or challenges another person in a manner likely to  
 26 provoke an immediate violent response;

27                    (2) telephones another and fails to terminate the connection with intent  
 28 to impair the ability of that person to place or receive telephone calls;

29                    (3) makes repeated telephone calls at extremely inconvenient hours;

30                    (4) makes an anonymous or obscene telephone call, an obscene  
 31 electronic communication, or a telephone call or electronic communication that

1 threatens physical injury or sexual contact;

2 (5) subjects another person to offensive physical contact;

3 (6) except as provided in AS 11.61.116, publishes or distributes  
4 electronic or printed photographs, pictures, or films that show the genitals, anus, or  
5 female breast of the other person or show that person engaged in a sexual act; [OR]

6 (7) repeatedly sends or publishes an electronic communication that  
7 insults, taunts, challenges, or intimidates a person under 18 years of age in a manner  
8 that places the person in reasonable fear of physical injury; or

9 **(8) under circumstances not proscribed under AS 11.41.455 or**  
10 **AS 11.61.125, repeatedly sends to another person, publishes, or distributes**  
11 **electronic or printed photographs, pictures, or films that show the genitals of any**  
12 **person.**

13 \* Sec. 14. AS 11.61.123(a) is amended to read:

14 (a) A person commits the crime of indecent viewing or **production of a**  
15 **picture** [PHOTOGRAPHY] if, in the state, the person knowingly

16 **(1) views, or views** [PRODUCES] a picture of, the private exposure of  
17 the genitals, anus, or female breast of another person and the **viewing**

18 **(A) is of a person who** [VIEW OR PRODUCTION IS  
19 WITHOUT THE KNOWLEDGE OR CONSENT OF

20 (1) THE PARENT OR GUARDIAN OF THE PERSON VIEWED,  
21 OR WHO IS SHOWN IN THE PICTURE, IF THE PERSON WHO IS VIEWED OR  
22 SHOWN] is under 16 years of age; or

23 **(B) occurs without the knowledge or consent of** [AND (2)]  
24 the person viewed or shown in the picture, if the person viewed or shown is at  
25 least **16** [13] years of age; or

26 **(2) produces a picture of the private exposure of the genitals, anus,**  
27 **or female breast of another person and the production**

28 **(A) is of a person who is under 16 years of age; or**

29 **(B) occurs without the knowledge or consent of the person**  
30 **shown in the picture if the person shown is at least 16 years of age.**

31 \* Sec. 15. AS 11.61.123(c) is amended to read:

1 (c) This section does not apply to **the** viewing or **production of a picture**  
 2 [PHOTOGRAPHY] conducted by a law enforcement agency for a law enforcement  
 3 purpose.

4 \* **Sec. 16.** AS 11.61.123(d) is amended to read:

5 (d) In a prosecution under this section, it is an affirmative defense that the  
 6 viewing or **production of a picture** [PHOTOGRAPHY] was conducted as a security  
 7 surveillance system, notice of the viewing or **production** [PHOTOGRAPHY] was  
 8 posted, and any viewing or use of pictures produced is done only in the interest of  
 9 crime prevention or prosecution.

10 \* **Sec. 17.** AS 11.61.123(f) is amended to read:

11 (f) Indecent viewing or **production of a picture** [PHOTOGRAPHY] is a

12 **(1) class B felony if the person violates (a)(2) of this section and the**  
 13 **person shown in the picture was, at the time of the production of the picture, a**  
 14 **minor;**

15 **(2)** [(1)] class C felony if the person

16 **(A) violates (a)(1) of this section and the person** viewed

17 **(i)** [OR SHOWN IN A PICTURE] was, at the time of  
 18 the viewing [OR PRODUCTION OF THE PICTURE], a minor;

19 **(ii) in a picture was, at the time of the production of**  
 20 **the picture, a minor; or**

21 **(B) violates (a)(2) of this section and the person shown in a**  
 22 **picture was, at the time of the production of the picture, an adult;**

23 **(3)** [(2)] class A misdemeanor if the person **violates (a)(1) of this**  
 24 **section and the person** viewed

25 **(A)** [OR SHOWN IN A PICTURE] was, at the time of the  
 26 viewing [OR PRODUCTION OF THE PICTURE], an adult; **or**

27 **(B) in a picture was, at the time of the production of the**  
 28 **picture, an adult.**

29 \* **Sec. 18.** AS 11.61.123 is amended by adding a new subsection to read:

30 (g) The provisions of this section do not apply to acts

31 (1) that may reasonably be construed to be normal caretaker

1 responsibilities for a child, interactions with a child, or affection for a child; or

2 (2) performed for the purpose of administering a recognized and lawful  
3 form of treatment that is reasonably adapted to promoting the physical or mental  
4 health of the person being treated.

5 \* **Sec. 19.** AS 11.81.900(b) is amended by adding a new paragraph to read:

6 (68) "semen" means fluid produced in the male reproductive organs,  
7 which may include spermatozoa.

8 \* **Sec. 20.** AS 12.55.015 is amended by adding a new subsection to read:

9 (l) In making a determination under (a)(12) of this section for a defendant  
10 convicted of a crime involving a sex offense as defined in AS 12.63.100 or a crime  
11 involving domestic violence as defined in AS 18.66.990, there is a presumption that,  
12 unless the court finds on the record that contact between a defendant and the victim of  
13 the offense is necessary, the court shall order the defendant to have no contact, either  
14 directly or indirectly, with the victim until the defendant is unconditionally discharged.

15 \* **Sec. 21.** AS 12.55.125(i) is amended to read:

16 (i) A defendant convicted of

17 (1) sexual assault in the first degree, sexual abuse of a minor in the  
18 first degree, **unlawful exploitation of a minor under AS 11.41.455(c)(2)**, or sex  
19 trafficking in the first degree under AS 11.66.110(a)(2) may be sentenced to a definite  
20 term of imprisonment of not more than 99 years and shall be sentenced to a definite  
21 term within the following presumptive ranges, subject to adjustment as provided in  
22 AS 12.55.155 - 12.55.175:

23 (A) if the offense is a first felony conviction, the offense does  
24 not involve circumstances described in (B) of this paragraph, and the victim  
25 was

26 (i) less than 13 years of age, 25 to 35 years;

27 (ii) 13 years of age or older, 20 to 30 years;

28 (B) if the offense is a first felony conviction and the defendant  
29 possessed a firearm, used a dangerous instrument, or caused serious physical  
30 injury during the commission of the offense, 25 to 35 years;

31 (C) if the offense is a second felony conviction and does not

1 involve circumstances described in (D) of this paragraph, 30 to 40 years;

2 (D) if the offense is a second felony conviction and the  
3 defendant has a prior conviction for a sexual felony, 35 to 45 years;

4 (E) if the offense is a third felony conviction and the defendant  
5 is not subject to sentencing under (F) of this paragraph or (I) of this section, 40  
6 to 60 years;

7 (F) if the offense is a third felony conviction, the defendant is  
8 not subject to sentencing under (I) of this section, and the defendant has two  
9 prior convictions for sexual felonies, 99 years;

10 (2) unlawful exploitation of a minor under **AS 11.41.455(c)(1)**,  
11 [AS 11.41.455(c)(2), ONLINE] enticement of a minor under AS 11.41.452(e), or  
12 attempt, conspiracy, or solicitation to commit sexual assault in the first degree, sexual  
13 abuse of a minor in the first degree, or sex trafficking in the first degree under  
14 AS 11.66.110(a)(2) may be sentenced to a definite term of imprisonment of not more  
15 than 99 years and shall be sentenced to a definite term within the following  
16 presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

17 (A) if the offense is a first felony conviction, the offense does  
18 not involve circumstances described in (B) of this paragraph, and the victim  
19 was

20 (i) under 13 years of age, 20 to 30 years;

21 (ii) 13 years of age or older, 15 to 30 years;

22 (B) if the offense is a first felony conviction and the defendant  
23 possessed a firearm, used a dangerous instrument, or caused serious physical  
24 injury during the commission of the offense, 25 to 35 years;

25 (C) if the offense is a second felony conviction and does not  
26 involve circumstances described in (D) of this paragraph, 25 to 35 years;

27 (D) if the offense is a second felony conviction and the  
28 defendant has a prior conviction for a sexual felony, 30 to 40 years;

29 (E) if the offense is a third felony conviction, the offense does  
30 not involve circumstances described in (F) of this paragraph, and the defendant  
31 is not subject to sentencing under (I) of this section, 35 to 50 years;

1 (F) if the offense is a third felony conviction, the defendant is  
 2 not subject to sentencing under (I) of this section, and the defendant has two  
 3 prior convictions for sexual felonies, 99 years;

4 (3) sexual assault in the second degree, sexual abuse of a minor in the  
 5 second degree, [ONLINE] enticement of a minor under AS 11.41.452(d), **indecent**  
 6 **exposure in the first degree under AS 11.41.458(b)(2)** [UNLAWFUL  
 7 EXPLOITATION OF A MINOR UNDER AS 11.41.455(c)(1)], or distribution of  
 8 child pornography under AS 11.61.125(e)(2) may be sentenced to a definite term of  
 9 imprisonment of not more than 99 years and shall be sentenced to a definite term  
 10 within the following presumptive ranges, subject to adjustment as provided in  
 11 AS 12.55.155 - 12.55.175:

12 (A) if the offense is a first felony conviction **and does not**  
 13 **involve the circumstances described in (B) of this paragraph**, five to 15  
 14 years;

15 (B) **if the offense is a first conviction under**  
 16 **AS 11.61.125(e)(2), the defendant hosted, created, or helped host or create**  
 17 **a mechanism for multi-party sharing or distribution of child**  
 18 **pornography, or received a financial benefit or had a financial interest in**  
 19 **a child pornography sharing or distribution mechanism, 10 - 25 years;**

20 (C) if the offense is a second felony conviction and does not  
 21 involve circumstances described in (D) [(C)] of this paragraph, 10 to 25 years;

22 (D) [(C)] if the offense is a second felony conviction and the  
 23 defendant has a prior conviction for a sexual felony, 15 to 30 years;

24 (E) [(D)] if the offense is a third felony conviction and does not  
 25 involve circumstances described in (F) [(E)] of this paragraph, 20 to 35 years;

26 (F) [(E)] if the offense is a third felony conviction and the  
 27 defendant has two prior convictions for sexual felonies, 99 years;

28 (4) sexual assault in the third degree, **sexual abuse of a minor in the**  
 29 **third degree under AS 11.41.438(c)**, incest, indecent exposure in the first degree  
 30 **under AS 11.41.458(b)(1), indecent viewing or production of a picture under**  
 31 **AS 11.61.123(f)(1) or (2)**, possession of child pornography, distribution of child

1 pornography under AS 11.61.125(e)(1), or attempt, conspiracy, or solicitation to  
 2 commit sexual assault in the second degree, sexual abuse of a minor in the second  
 3 degree, unlawful exploitation of a minor, or distribution of child pornography, may be  
 4 sentenced to a definite term of imprisonment of not more than 99 years and shall be  
 5 sentenced to a definite term within the following presumptive ranges, subject to  
 6 adjustment as provided in AS 12.55.155 - 12.55.175:

7 (A) if the offense is a first felony conviction **and does not**  
 8 **involve the circumstances described in (B) of this paragraph**, two to 12  
 9 years;

10 (B) **if the offense is a first felony conviction under**  
 11 **AS 11.61.125(e)(1), four to 12 years;**

12 (C) if the offense is a second felony conviction and does not  
 13 involve circumstances described in (D) [(C)] of this paragraph, eight to 15  
 14 years;

15 (D) [(C)] if the offense is a second felony conviction and the  
 16 defendant has a prior conviction for a sexual felony, 12 to 20 years;

17 (E) [(D)] if the offense is a third felony conviction and does not  
 18 involve circumstances described in (F) [(E)] of this paragraph, 15 to 25 years;

19 (F) [(E)] if the offense is a third felony conviction and the  
 20 defendant has two prior convictions for sexual felonies, 99 years.

21 \* **Sec. 22.** AS 12.55.145(a) is amended to read:

22 (a) For purposes of considering prior convictions in imposing sentence under

23 (1) AS 12.55.125(c), (d), or (e),

24 (A) a prior conviction may not be considered if a period of 10  
 25 or more years has elapsed between the date of the defendant's unconditional  
 26 discharge on the immediately preceding offense and commission of the present  
 27 offense unless the prior conviction was for an unclassified or class A felony;

28 (B) a conviction in this or another jurisdiction of an offense  
 29 having elements similar to those of a felony defined as such under Alaska law  
 30 at the time the offense was committed is considered a prior felony conviction;

31 (C) two or more convictions arising out of a single, continuous

1 criminal episode during which there was no substantial change in the nature of  
2 the criminal objective are considered a single conviction unless the defendant  
3 was sentenced to consecutive sentences for the crimes; offenses committed  
4 while attempting to escape or avoid detection or apprehension after the  
5 commission of another offense are not part of the same criminal episode or  
6 objective;

7 (2) AS 12.55.125(l),

8 (A) a conviction in this or another jurisdiction of an offense  
9 having elements similar to those of a most serious felony is considered a prior  
10 most serious felony conviction;

11 (B) commission of and conviction for offenses relied on as  
12 prior most serious felony offenses must occur in the following order:  
13 conviction for the first offense must occur before commission of the second  
14 offense, and conviction for the second offense must occur before commission  
15 of the offense for which the defendant is being sentenced;

16 (3) AS 12.55.135(g),

17 (A) a prior conviction may not be considered if a period of five  
18 or more years has elapsed between the date of the defendant's unconditional  
19 discharge on the immediately preceding offense and commission of the present  
20 offense unless the prior conviction was for an unclassified or class A felony;

21 (B) a conviction in this or another jurisdiction of an offense  
22 having elements similar to those of a crime against a person or a crime  
23 involving domestic violence is considered a prior conviction;

24 (C) two or more convictions arising out of a single, continuous  
25 criminal episode during which there was no substantial change in the nature of  
26 the criminal objective are considered a single conviction unless the defendant  
27 was sentenced to consecutive sentences for the crimes; offenses committed  
28 while attempting to escape or avoid detection or apprehension after the  
29 commission of another offense are not part of the same criminal episode or  
30 objective;

31 (4) AS 12.55.125(i),

1 (A) a conviction in this or another jurisdiction of an offense  
2 having elements similar to those of a sexual felony is a prior conviction for a  
3 sexual felony;

4 (B) a felony conviction in another jurisdiction making it a  
5 crime to commit any lewd and lascivious act **on** [UPON] a child under the age  
6 of 16 years, with the intent of arousing, appealing to, or gratifying the sexual  
7 desires of the defendant or the victim is a prior conviction for a sexual felony;

8 (C) two or more convictions arising out of a single, continuous  
9 criminal episode during which there was no substantial change in the nature of  
10 the criminal objective are considered a single conviction unless the defendant  
11 was sentenced to consecutive sentences for the crimes; offenses committed  
12 while attempting to escape or avoid detection or apprehension after the  
13 commission of another offense are not part of the same criminal episode or  
14 objective;

15 **(D) a conviction in this or another jurisdiction of an offense**  
16 **having elements similar to those of a felony defined as such under Alaska**  
17 **law at the time the offense was committed is considered a prior felony**  
18 **conviction;**

19 (5) AS 12.55.135(a),

20 (A) a prior conviction may not be considered if a period of five  
21 or more years has elapsed between the date of the defendant's unconditional  
22 discharge on the immediately preceding offense and commission of the present  
23 offense unless the prior conviction was for an unclassified or class A felony;

24 (B) a conviction in this or another jurisdiction of an offense  
25 having elements similar to those of a felony or misdemeanor defined as such  
26 under Alaska law at the time the offense was committed is considered a prior  
27 conviction;

28 (C) two or more convictions arising out of a single, continuous  
29 criminal episode during which there was no substantial change in the nature of  
30 the criminal objective are considered a single conviction unless the defendant  
31 was sentenced to consecutive sentences for the crimes; offenses committed

1 while attempting to escape or avoid detection or apprehension after the  
 2 commission of another offense are not part of the same criminal episode or  
 3 objective.

4 \* **Sec. 23.** AS 12.55.185(10) is amended to read:

5 (10) "most serious felony" means

6 (A) arson in the first degree, sex trafficking in the first degree  
 7 under AS 11.66.110(a)(2), [ONLINE] enticement of a minor under  
 8 AS 11.41.452(e), or any unclassified or class A felony prescribed under  
 9 AS 11.41; or

10 (B) an attempt, or conspiracy to commit, or criminal  
 11 solicitation under AS 11.31.110 of, an unclassified felony prescribed under  
 12 AS 11.41;

13 \* **Sec. 24.** AS 12.55.185(16) is amended to read:

14 (16) "sexual felony" means sexual assault in the first degree, sexual  
 15 abuse of a minor in the first degree, sex trafficking in the first degree, sexual assault in  
 16 the second degree, sexual abuse of a minor in the second degree, **sexual abuse of a**  
 17 **minor in the third degree under AS 11.41.438(c)**, unlawful exploitation of a minor,  
 18 **indecent viewing or production of a picture under AS 11.61.123(f)(1) or (2)**,  
 19 distribution of child pornography, sexual assault in the third degree, incest, indecent  
 20 exposure in the first degree, possession of child pornography, [ONLINE] enticement  
 21 of a minor, and felony attempt, conspiracy, or solicitation to commit those crimes;

22 \* **Sec. 25.** AS 12.61.050 is amended by adding a new subsection to read:

23 (c) Through the automated victim notification system established in (a) of this  
 24 section, the Department of Corrections shall notify a victim of a sex offense as defined  
 25 in AS 12.63.100 or a crime involving domestic violence as defined in AS 18.66.990 of  
 26 the option to request a protective order under AS 18.65.850 or AS 18.66.100 and  
 27 provide contact information for state victim resources, including the Council on  
 28 Domestic Violence and Sexual Assault, the Alaska Network on Domestic Violence  
 29 and Sexual Assault, the Office of Victims' Rights, and the Violent Crimes  
 30 Compensation Board. This notification must occur when the offender of the victim is  
 31 released from incarceration or when the order under AS 12.55.015(l) expires,

1           whichever is later.

2   \* **Sec. 26.** AS 12.63.010(d) is amended to read:

3           (d) A sex offender or child kidnapper required to register

4                   (1) for 15 years under (a) of this section and **AS 12.63.020**  
5 [AS 12.63.020(a)(2)] shall, annually, during the term of a duty to register under  
6 AS 12.63.020, on a date set by the department at the time of the sex offender's or child  
7 kidnapper's initial registration, provide written verification to the department, in the  
8 manner required by the department, of the sex offender's or child kidnapper's address  
9 and notice of any changes to the information previously provided under (b)(1) of this  
10 section;

11                   (2) for life under (a) of this section and **AS 12.63.020**  
12 [AS 12.63.020(a)(1)] shall, not less than quarterly, on a date set by the department,  
13 provide written verification to the department, in the manner required by the  
14 department, of the sex offender's or child kidnapper's address and any changes to the  
15 information previously provided under (b)(1) of this section.

16 \* **Sec. 27.** AS 12.63.020 is amended to read:

17           **Sec. 12.63.020. Duration of sex offender or child kidnapper duty to**  
18 **register.** (a) The duty of a sex offender or child kidnapper to comply with the  
19 requirements of AS 12.63.010 **is as follows:**

20                   **(1) for a sex offender or child kidnapper, as that term is defined in**  
21 **AS 12.63.100(6)(A), for each sex offense or child kidnapping, the duty**

22                           **(A)** [(1)] continues for the lifetime of a sex offender or child  
23 kidnapper convicted of

24                                   **(i)** [(A)] one aggravated sex offense; or

25                                   **(ii)** [(B)] two or more sex offenses, two or more child  
26 kidnappings, or one sex offense and one child kidnapping; for purposes  
27 of this section, a person convicted of indecent exposure before a person  
28 under 16 years of age under AS 11.41.460 more than two times has  
29 been convicted of two or more sex offenses;

30                           **(B)** [(2)] ends 15 years following the sex offender's or child  
31 kidnapper's unconditional discharge from a conviction for a single sex offense

1 that is not an aggravated sex offense or for a single child kidnapping if the sex  
 2 offender or child kidnapper has supplied proof that is acceptable to the  
 3 department of the unconditional discharge; the registration period under this  
 4 **subparagraph**

5 **(i)** [PARAGRAPH (A)] is tolled for each year that a sex  
 6 offender or child kidnapper [(i)] fails to comply with the requirements  
 7 of this chapter **or** [; (ii)] is incarcerated for the offense or kidnapping  
 8 for which the offender or kidnapper is required to register or for any  
 9 other offense;

10 **(ii)** [(B)] may include the time a sex offender or child  
 11 kidnapper was absent from this state if the sex offender or child  
 12 kidnapper has complied with any sex offender or child kidnapper  
 13 registration requirements of the jurisdiction in which the offender or  
 14 kidnapper was located and if the sex offender or child kidnapper  
 15 provides the department with proof of the compliance while the sex  
 16 offender or child kidnapper was absent from this state; and

17 **(iii)** [(C)] continues for a sex offender or child  
 18 kidnapper who has not supplied proof acceptable to the department of  
 19 the offender's or kidnapper's unconditional discharge for the sex  
 20 offense or child kidnapping requiring registration;

21 **(2) for a sex offender or child kidnapper, as that term is defined in**  
 22 **AS 12.63.100(6)(B), the duty continues for the period determined by the**  
 23 **department under (b) of this section.**

24 (b) The department shall adopt, by regulation,

25 **(1)** procedures to notify a sex offender or child kidnapper

26 **(A)** who, on the registration form under AS 12.63.010, lists a  
 27 conviction for a sex offense or child kidnapping that is a violation of a former  
 28 law of this state or a law of another jurisdiction, of the duration of the  
 29 offender's or kidnapper's duty under (a) of this section for that sex offense or  
 30 child kidnapping;

31 **(B) as that term is defined in AS 12.63.100(6)(B), of the**

1 duration of the sex offender or child kidnapper's duty under (a) of this  
 2 section; in adopting regulations under this subparagraph, the department  
 3 shall

4 (i) consider the period of registration required in the  
 5 other jurisdiction; and

6 (ii) provide for tolling of the registration period if  
 7 the sex offender or child kidnapper fails to comply with the  
 8 requirements of this chapter or is incarcerated;

9 (2) a requirement that an [. AS A PART OF THE REGULATIONS,  
 10 THE DEPARTMENT SHALL REQUIRE THE] offender or kidnapper [TO] supply  
 11 proof acceptable to the department of unconditional discharge and the date it occurred.

12 \* **Sec. 28.** AS 12.63.100(6) is amended to read:

13 (6) "sex offender or child kidnapper" means

14 (A) a person convicted of a sex offense or child kidnapping in  
 15 this state or another jurisdiction regardless of whether the conviction occurred  
 16 before, after, or on January 1, 1999; or

17 (B) a person who is required to register as a sex offender or  
 18 child kidnapper under the laws of another jurisdiction;

19 \* **Sec. 29.** AS 12.63.100(7) is amended to read:

20 (7) "sex offense" means

21 (A) a crime under AS 11.41.100(a)(3), or a similar law of  
 22 another jurisdiction, in which the person committed or attempted to commit a  
 23 sexual offense, or a similar offense under the laws of the other jurisdiction; in  
 24 this subparagraph, "sexual offense" has the meaning given in  
 25 AS 11.41.100(a)(3);

26 (B) a crime under AS 11.41.110(a)(3), or a similar law of  
 27 another jurisdiction, in which the person committed or attempted to commit  
 28 one of the following crimes, or a similar law of another jurisdiction:

29 (i) sexual assault in the first degree;

30 (ii) sexual assault in the second degree;

31 (iii) sexual abuse of a minor in the first degree; or

1 (iv) sexual abuse of a minor in the second degree;

2 (C) a crime, or an attempt, solicitation, or conspiracy to commit  
3 a crime, under the following statutes or a similar law of another jurisdiction:

4 (i) AS 11.41.410 - 11.41.438;

5 (ii) AS 11.41.440(a)(2);

6 (iii) AS 11.41.450 - 11.41.458;

7 (iv) AS 11.41.460 or AS 26.05.900(c) if the indecent  
8 exposure is before a person under 16 years of age and the offender has  
9 previously been convicted under AS 11.41.460 or AS 26.05.900(c);

10 (v) AS 11.61.125 - 11.61.128;

11 (vi) AS 11.66.110, 11.66.130(a)(2)(B), or  
12 AS 26.05.900(b) if the person who was induced or caused to engage in  
13 prostitution was under 20 years of age at the time of the offense;

14 (vii) former AS 11.15.120, former 11.15.134, or assault  
15 with the intent to commit rape under former AS 11.15.160, former  
16 AS 11.40.110, or former 11.40.200;

17 (viii) AS 11.61.118(a)(2) if the offender has a previous  
18 conviction for that offense;

19 (ix) AS 11.66.100(a)(2) if the offender is subject to  
20 punishment under AS 11.66.100(e);

21 (x) AS 26.05.890 if the person engaged in sexual  
22 penetration or sexual contact with the victim;

23 (xi) AS 26.05.890 if, at the time of the offense, the  
24 victim is under a duty to obey the lawful orders of the offender,  
25 regardless of whether the offender is in the direct chain of command  
26 over the victim;

27 (xii) AS 26.05.893 if the person engaged in sexual  
28 penetration or sexual contact with the victim;

29 (xiii) AS 26.05.900(a)(1) - (4) if the victim is under 18  
30 years of age at the time of the offense; [OR]

31 (xiv) AS 26.05.900 if, at the time of the offense, the

1 victim is under a duty to obey the lawful orders of the offender,  
 2 regardless of whether the offender is in the direct chain of command  
 3 over the victim; or

4 **(xv) AS 11.61.123 if the offender is subject to**  
 5 **punishment under AS 11.61.123(f)(1) or (2);**

6 (D) an offense, or an attempt, solicitation, or conspiracy to  
 7 commit an offense, under AS 26.05.935(b), or a similar law of another  
 8 jurisdiction, if the member of the militia commits one of the following  
 9 enumerated offenses punishable under Article 134, 10 U.S.C. 934 (Uniform  
 10 Code of Military Justice):

11 (i) child pornography; or

12 (ii) pandering and prostitution if the person who is  
 13 induced, enticed, caused, or procured to engage in a sexual act is under  
 14 20 years of age at the time of the offense; **or**

15 **(E) an offense in which the person is required to register as**  
 16 **a sex offender under the laws of another jurisdiction;**

17 \* **Sec. 30.** AS 44.19.647(a) is amended to read:

18 (a) The commission shall submit to the governor and the legislature an annual  
 19 report. The report must include

20 (1) a description of its proceedings for the previous calendar year;

21 (2) a summary of savings and recommendations on how savings from  
 22 criminal justice reform should be reinvested to reduce recidivism;

23 (3) performance metrics and outcomes from the recommendations the  
 24 commission made in its December 2015 report, including recidivism rates, defined as

25 (A) the percentage of inmates who return to prison within three  
 26 years after release, broken down by offense type and risk level; and

27 (B) the percentage of inmates who return to prison within three  
 28 years after release for a new criminal conviction, broken down by offense type  
 29 and risk level; [AND]

30 (4) recommendations for additional reforms, which may include  
 31 recommendations for legislative and administrative action; **and**

**(5) data reported by the Department of Law under AS 44.23.040.**

1  
2 \* **Sec. 31.** AS 44.23.020 is amended by adding a new subsection to read:

3 (k) The attorney general, in consultation with the commissioner of public  
4 safety, shall

5 (1) develop a tool to track felony sex offenses reported to the  
6 Department of Public Safety by geographic location; the tracking tool must include a  
7 means to record the reason a reported offense was not referred for prosecution or, if  
8 referred, the reason the offense was not prosecuted and, if applicable, the reason a sex  
9 offense charged as a felony resulted in a conviction of an offense other than a sex  
10 offense under a plea agreement;

11 (2) develop regulations and procedures to implement the requirements  
12 established under (1) of this subsection; and

13 (3) provide training for the implementation of the regulations and  
14 procedures established under (2) of this subsection in each state department as  
15 necessary.

16 \* **Sec. 32.** AS 44.23.040 is amended by adding a new subsection to read:

17 (b) The Department of Law, in consultation with the Department of Public  
18 Safety, shall gather and report data on felony sex offenses to the Alaska Judicial  
19 Council. The data must include

20 (1) the number of felony sex offenses reported to the Department of  
21 Public Safety that were not referred for prosecution;

22 (2) the number of felony sex offenses referred for prosecution that  
23 were not prosecuted;

24 (3) the number of felony sex offenses that resulted in a conviction for a  
25 crime other than a sex offense; and

26 (4) the number of sex offenses referred for prosecution that were  
27 charged as a felony and, under a plea agreement, resulted in a conviction for a crime  
28 other than a sex offense.

29 \* **Sec. 33.** AS 47.17.020(a) is amended to read:

30 (a) The following persons who, in the performance of their occupational  
31 duties, their appointed duties under (8) of this subsection, or their volunteer duties

1 under (9) of this subsection, have reasonable cause to suspect that a child has suffered  
 2 harm as a result of child abuse or neglect shall immediately report the harm to the  
 3 nearest office of the department **and, if the harm appears to be a result of a**  
 4 **suspected sex offense, shall immediately report the harm to the nearest law**  
 5 **enforcement agency:**

- 6 (1) practitioners of the healing arts;
- 7 (2) school teachers and school administrative staff members, including  
 8 athletic coaches, of public and private schools;
- 9 (3) peace officers and officers of the Department of Corrections;
- 10 (4) administrative officers of institutions;
- 11 (5) child care providers;
- 12 (6) paid employees of domestic violence and sexual assault programs,  
 13 and crisis intervention and prevention programs as defined in AS 18.66.990;
- 14 (7) paid employees of an organization that provides counseling or  
 15 treatment to individuals seeking to control their use of drugs or alcohol;
- 16 (8) members of a child fatality review team established under  
 17 AS 12.65.015(e) or 12.65.120 or the multidisciplinary child protection team created  
 18 under AS 47.14.300; [.]
- 19 (9) volunteers who interact with children in a public or private school  
 20 for more than four hours a week.

21 \* **Sec. 34.** AS 47.17.020(e) is amended to read:

22 (e) The department shall immediately notify the nearest law enforcement  
 23 agency if the department

24 (1) concludes that the harm was caused by a person who is not  
 25 responsible for the child's welfare;

26 (2) is unable to determine

27 (A) who caused the harm to the child; or

28 (B) whether the person who is believed to have caused the  
 29 harm has responsibility for the child's welfare; or

30 (3) concludes that the report involves

31 (A) possible criminal **sex abuse or sex offenses** [CONDUCT]

1 under AS 11.41.410 - 11.41.458, AS 11.61.116, 11.61.118(a)(2),  
 2 11.61.120(a)(6), 11.61.123, or 11.61.128, including sex offenses committed  
 3 by a minor against a minor; or

4 (B) abuse or neglect that results in the need for medical  
 5 treatment of the child.

6 \* **Sec. 35.** AS 47.17.020(g) is amended to read:

7 (g) A person required to report child abuse or neglect under (a) of this section  
 8 who makes the report to the person's job supervisor or to another individual working  
 9 for the entity that employs the person is not relieved of the obligation to make a [THE]  
 10 report [TO THE DEPARTMENT AS] required under (a) of this section.

11 \* **Sec. 36.** AS 47.17.022(b) is amended to read:

12 (b) Each department of the state and school district that employs persons  
 13 required to report abuse or neglect of children shall provide

14 (1) initial training required by this section to each new employee  
 15 within 45 days after the first day of employment, and to any existing employee who  
 16 has not received equivalent training;

17 (2) annual training relating to the requirements for reporting a  
 18 suspected sex offense under AS 47.17.020; and

19 (3) [(2)] appropriate in-service training required by this section as  
 20 determined by the department or school district.

21 \* **Sec. 37.** AS 47.17.290 is amended by adding a new paragraph to read:

22 (18) "sex offense" has the meaning given in AS 12.63.100.

23 \* **Sec. 38.** AS 11.41.432(a)(2) is repealed.

24 \* **Sec. 39.** The uncodified law of the State of Alaska is amended by adding a new section to  
 25 read:

26 APPLICABILITY. (a) The following sections apply to offenses committed on or after  
 27 the effective date of those sections:

28 (1) AS 11.41.420(a), as amended by sec. 2 of this Act;

29 (2) AS 11.41.425(a), as amended by sec. 3 of this Act;

30 (3) AS 11.41.432(b), as amended by sec. 4 of this Act;

31 (4) AS 11.41.438(b), as amended by sec. 6 of this Act;

- 1 (5) AS 11.41.438(c), enacted by sec. 7 of this Act;
- 2 (6) AS 11.41.452(a), as amended by sec. 8 of this Act;
- 3 (7) AS 11.41.452(d), as amended by sec. 9 of this Act;
- 4 (8) AS 11.41.452(e), as amended by sec. 10 of this Act;
- 5 (9) AS 11.41.455(c), as amended by sec. 11 of this Act;
- 6 (10) AS 11.41.458, as amended by sec. 12 of this Act;
- 7 (11) AS 11.61.120(a), as amended by sec. 13 of this Act;
- 8 (12) AS 11.61.123(a), as amended by sec. 14 of this Act;
- 9 (13) AS 11.61.123(f), as amended by sec. 17 of this Act;
- 10 (14) AS 11.61.123(g), enacted by sec. 18 of this Act;
- 11 (15) AS 11.61.900(b)(68), enacted by sec. 19 of this Act;
- 12 (16) AS 12.55.125(i), as amended by sec. 21 of this Act;
- 13 (17) AS 12.55.145(a), as amended by sec. 22 of this Act;
- 14 (18) AS 12.55.185(10), as amended by sec. 23 of this Act;
- 15 (19) AS 12.55.185(16), as amended by sec. 24 of this Act.

16 (b) The following sections apply to the duty to register as a sex offender for offenses  
17 committed on or after the effective date of those sections:

- 18 (1) AS 12.63.010(d), as amended by sec. 26 of this Act;
- 19 (2) AS 12.63.020, as amended by sec. 27 of this Act;
- 20 (3) AS 12.63.100(6), as amended by sec. 28 of this Act;
- 21 (4) AS 12.63.100(7), as amended by sec. 29 of this Act.

22 (c) AS 11.61.432(a)(2), repealed by sec. 38 of this Act, applies to offenses committed  
23 on or after the effective date of sec. 38 of this Act.

24 \* **Sec. 40.** The uncodified law of the State of Alaska is amended by adding a new section to  
25 read:

26 TRANSITION: REGULATIONS. The Department of Law, the attorney general, the  
27 Department of Public Safety, and the commissioner of public safety may adopt regulations  
28 necessary to implement the changes made by secs. 31 and 32 of this Act. The regulations take  
29 effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the  
30 relevant provision of this Act implemented by the regulation.

31 \* **Sec. 41.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 REVISOR'S INSTRUCTION. The revisor of statutes is requested to change the  
3 heading of AS 11.61.123 from "Indecent viewing or photography" to "Indecent viewing or  
4 production of a picture."

5 \* **Sec. 42.** Section 40 of this Act takes effect immediately under AS 01.10.070(c).

6 \* **Sec. 43.** Sections 30 - 32 of this Act take effect July 1, 2020.

7 \* **Sec. 44.** Section 33 of this Act takes effect September 1, 2020.

8 \* **Sec. 45.** Except as provided in secs. 42 - 44 of this Act, this Act takes effect July 1, 2019.