

STATE OF ALASKA

DEPARTMENT OF LAW CRIMINAL DIVISION

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CSHB 127(JUD)

The House Judiciary Committee made the following changes:

Section 7 adopts a new crime of sending an explicit image of a minor, commonly called “sexting”. The House Judiciary made several changes to it, including the following

- removed the class C felony and made placing the image on a website available to the public a class A misdemeanor;
- added the culpable mental state that the defendant must distribute the image with the intent to annoy or humiliate the person whose image is being sent;
- removes the requirement that the distribution be without the consent of the parents or legal guardian of the minor.

Distribution of indecent material to minors (removed in committee) – HB 127 included amendments to AS 11.61.128(a), which prohibits the distribution of indecent material to minors. The amendments in the original bill clarified the culpable mental states for the offense. This change was in response to suggestions by the ACLU, and they simply clarified what otherwise would have been read into the statute under the general provisions of AS 11.81.610. Although AS 11.81.610 provides that specific culpable mental states must be read into criminal statutes in Title 11, sometimes it is helpful to include them in the substantive statute for ease in understanding the law.

Section 13 is an addition to the bill that was made in House Judiciary at the request of the Department of Law. It redrafts the law enacted last year allowing the Attorney General to issue administrative subpoenas for law enforcement to obtain limited information from an Internet service provider if there is probable cause to believe that an Internet service account has been used in connection with the crimes of online enticement of a minor, unlawful exploitation of a minor, distribution of child pornography, possession of child pornography, or distribution of indecent material to a minor. The sectional description of CSHB 127(JUD) describes the changes in detail.

Section 14 was added to the bill in House Judiciary at the request of the Department of Law and the Division of Juvenile Justice. It provides that the crime of unlawful exploitation of a minor, which is raised to a class A felony in the bill, is not included in the crimes that are automatically waived to adult court if committed by a 16 or 17 year old offender.