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Gardner  
2/15/12

**CS FOR SENATE BILL NO. 110( )**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

**BY**

**Offered:**

**Referred:**

**Sponsor(s): SENATORS WIELECHOWSKI, McGuire**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to human trafficking; and relating to sentencing in criminal cases**  
2 **involving sex offenses."**

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

4 **\* Section 1.** AS 11.41 is amended by adding a new section to read:

5 **Sec. 11.41.355. Human trafficking in the first degree.** (a) A person commits  
6 the crime of human trafficking in the first degree if the person violates AS 11.41.360  
7 by compelling, enticing, or inducing another person to engage in sexual conduct, adult  
8 entertainment, or an act described in AS 11.41.455(a)(1) - (7), and the other person  
9 compelled or induced is under 18 years of age.

10 (b) Human trafficking in the first degree is an unclassified felony.

11 **\* Sec. 2.** AS 11.41.360(a) is amended to read:

12 (a) A person commits the crime of human trafficking in the **second** [FIRST]  
13 degree if **being 18 years of age or older** the person compels, **entices**, or induces  
14 another person **under 18 years of age and at least four years younger than the**

1 **offender** to come to this state **or move from one place to another over a distance**  
2 **greater than 100 miles inside the state** to engage in sexual conduct, adult  
3 entertainment, or labor in the state by force or threat of force against any person, or by  
4 deception.

5 \* **Sec. 3.** AS 11.41.360(c) is amended to read:

6 (c) Human trafficking in the **second** [FIRST] degree is a class A felony.

7 \* **Sec. 4.** AS 11.41.365 is amended to read:

8 **Sec. 11.41.365. Human trafficking in the third [SECOND] degree.** (a) A  
9 person commits the crime of human trafficking in the **third** [SECOND] degree if the  
10 person obtains a benefit from the commission of human trafficking under  
11 **AS 11.41.355 or 11.41.360** [AS 11.41.360,] with reckless disregard that the benefit is  
12 a result of the trafficking.

13 (b) Human trafficking in the **third** [SECOND] degree is a class B felony.

14 \* **Sec. 5.** AS 11.41.370 is amended by adding new paragraphs to read:

15 (4) "adult entertainment" means the conduct described in  
16 AS 23.10.350(f)(1) - (3);

17 (5) "sexual conduct" has the meaning given in AS 11.66.150.

18 \* **Sec. 6.** AS 11.81.250(a) is amended to read:

19 (a) For purposes of sentencing under AS 12.55, all offenses defined in this  
20 title, except murder in the first and second degree, attempted murder in the first  
21 degree, solicitation to commit murder in the first degree, conspiracy to commit murder  
22 in the first degree, murder of an unborn child, sexual assault in the first degree, sexual  
23 abuse of a minor in the first degree, misconduct involving a controlled substance in the  
24 first degree, promoting prostitution in the first degree under AS 11.66.110(a)(2),  
25 **human trafficking in the first degree under AS 11.41.355**, and kidnapping, are  
26 classified on the basis of their seriousness, according to the type of injury  
27 characteristically caused or risked by commission of the offense and the culpability of  
28 the offender. Except for murder in the first and second degree, attempted murder in the  
29 first degree, solicitation to commit murder in the first degree, conspiracy to commit  
30 murder in the first degree, murder of an unborn child, sexual assault in the first degree,  
31 sexual abuse of a minor in the first degree, misconduct involving a controlled

1 substance in the first degree, promoting prostitution in the first degree under  
2 AS 11.66.110(a)(2), human trafficking in the first degree under AS 11.41.355, and  
3 kidnapping, the offenses in this title are classified into the following categories:

4 (1) class A felonies, which characteristically involve conduct resulting  
5 in serious physical injury or a substantial risk of serious physical injury to a person;

6 (2) class B felonies, which characteristically involve conduct resulting  
7 in less severe violence against a person than class A felonies, aggravated offenses  
8 against property interests, or aggravated offenses against public administration or  
9 order;

10 (3) class C felonies, which characteristically involve conduct serious  
11 enough to deserve felony classification but not serious enough to be classified as A or  
12 B felonies;

13 (4) class A misdemeanors, which characteristically involve less severe  
14 violence against a person, less serious offenses against property interests, less serious  
15 offenses against public administration or order, or less serious offenses against public  
16 health and decency than felonies;

17 (5) class B misdemeanors, which characteristically involve a minor  
18 risk of physical injury to a person, minor offenses against property interests, minor  
19 offenses against public administration or order, or minor offenses against public health  
20 and decency;

21 (6) violations, which characteristically involve conduct inappropriate  
22 to an orderly society but which do not denote criminality in their commission.

23 \* **Sec. 7.** AS 12.55.085(f) is amended to read:

24 (f) The court may not suspend the imposition of sentence of a person who

25 (1) is convicted of a violation of AS 11.41.100 - 11.41.220, 11.41.260  
26 - 11.41.320, 11.41.355 - 11.41.365 [11.41.360 - 11.41.370], 11.41.410 - 11.41.530,  
27 AS 11.46.400, or AS 11.61.125 - 11.61.128;

28 (2) uses a firearm in the commission of the offense for which the  
29 person is convicted; or

30 (3) is convicted of a violation of AS 11.41.230 - 11.41.250 or a felony  
31 and the person has one or more prior convictions for a misdemeanor violation of

1 AS 11.41 or for a felony or for a violation of a law in this or another jurisdiction  
2 having similar elements to an offense defined as a misdemeanor in AS 11.41 or as a  
3 felony in this state; for the purposes of this paragraph, a person shall be considered to  
4 have a prior conviction even if that conviction has been set aside under (e) of this  
5 section or under the equivalent provision of the laws of another jurisdiction.

6 \* **Sec. 8.** AS 12.55.125(i) is amended to read:

7 (i) A defendant convicted of

8 (1) sexual assault in the first degree, sexual abuse of a minor in the  
9 first degree, [OR] promoting prostitution in the first degree under AS 11.66.110(a)(2),  
10 **or human trafficking in the first degree under AS 11.41.355** may be sentenced to a  
11 definite term of imprisonment of not more than 99 years and shall be sentenced to a  
12 definite term within the following presumptive ranges, subject to adjustment as  
13 provided in AS 12.55.155 - 12.55.175:

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

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

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

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

22 (C) if the offense is a second felony conviction and does not  
23 involve circumstances described in (D) of this paragraph, 30 to 40 years;

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

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

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

1 (2) unlawful exploitation of a minor under AS 11.41.455(c)(2), online  
2 enticement of a minor under AS 11.41.452(e), or attempt, conspiracy, or solicitation to  
3 commit sexual assault in the first degree, sexual abuse of a minor in the first degree,  
4 [OR] promoting prostitution in the first degree under AS 11.66.110(a)(2), **or human**  
5 **trafficking in the first degree under AS 11.41.355** may be sentenced to a definite  
6 term of imprisonment of not more than 99 years and shall be sentenced to a definite  
7 term within the following presumptive ranges, subject to adjustment as provided in  
8 AS 12.55.155 - 12.55.175:

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

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

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

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

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

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

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

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

27 (3) sexual assault in the second degree, sexual abuse of a minor in the  
28 second degree, online enticement of a minor under AS 11.41.452(d), unlawful  
29 exploitation of a minor under AS 11.41.455(c)(1), or distribution of child pornography  
30 under AS 11.61.125(e)(2) may be sentenced to a definite term of imprisonment of not  
31 more than 99 years and shall be sentenced to a definite term within the following

presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(A) if the offense is a first felony conviction, five to 15 years;

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

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

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

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

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

(A) if the offense is a first felony conviction, two to 12 years;

(B) if the offense is a second felony conviction and does not involve circumstances described in (C) of this paragraph, eight to 15 years;

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

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

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

\* Sec. 9. AS 12.63.100(6) is amended to read:

(6) "sex offense" means

(A) a crime under AS 11.41.100(a)(3), or a similar law of another jurisdiction, in which the person committed or attempted to commit a

1 sexual offense, or a similar offense under the laws of the other jurisdiction; in  
2 this subparagraph, "sexual offense" has the meaning given in  
3 AS 11.41.100(a)(3);

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

7 (i) sexual assault in the first degree;

8 (ii) sexual assault in the second degree;

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

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

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

13 (i) AS 11.41.410 - 11.41.438;

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

15 (iii) AS 11.41.450 - 11.41.458;

16 (iv) AS 11.41.460 if the indecent exposure is before a  
17 person under 16 years of age and the offender has a previous conviction  
18 for that offense;

19 (v) AS 11.61.125 - 11.61.128;

20 (vi) AS 11.66.110 or 11.66.130(a)(2) if the person who  
21 was induced or caused to engage in prostitution was 16 or 17 years of  
22 age at the time of the offense;

23 (vii) former AS 11.15.120, former 11.15.134, or assault  
24 with the intent to commit rape under former AS 11.15.160, former  
25 AS 11.40.110, or former 11.40.200; or

26 (viii) AS 11.61.118(a)(2) if the offender has a previous  
27 conviction for that offense; or

28 **(ix) AS 11.41.355;**

29 \* **Sec. 10.** AS 11.41.360(b)(1) and 11.41.360(b)(3) are repealed.