



Governor Michael J. Dunleavy
STATE OF ALASKA

January 22, 2019

The Honorable Cathy Giessel
Senate President
Alaska State Senate
State Capitol Room 111
Juneau, AK 99801

Dear Senate President Giessel:

Under the authority of Article III, Section 18, of the Alaska Constitution, I am transmitting a bill making several amendments to current law to address Alaska's high rate of sexual assault and sexual abuse of minors, including recognizing changes in technology, clarifying the sentencing ranges for sex offenders, parole eligibility for certain offenders, and tightening sex offender registration requirements.

In this evolving digital age, predators have access to countless means of communication for the purpose of victimizing others. This legislation will position the State and its judicial system to protect the public within the ever-expanding economy of technology. As an example, under current law, it is illegal to entice or solicit sexual acts from a minor via computer. However, as technology has advanced, means of communication is no longer limited to a single device. The method of communication should be irrelevant. Our laws must focus on the *content* of the communication. Therefore, the bill proposes to make it illegal to entice or solicit sexual acts from a minor regardless of the method of communication. The bill also makes knowingly viewing or producing an indecent image of an adult or a child a registerable sex offense. This conduct is inherently predatory and can be more appropriately addressed through our sex offense laws. Additionally, the bill criminalizes repeatedly sending unwanted images of genitalia to another person: yet another example of technology being misused as a form of harassment. This change would update our laws to reflect new technology, thus allowing the State to address this offensive conduct.

The bill also makes certain crimes that are sexual in nature punishable as sex offenses. The bill adds conduct causing a victim to come into unwanted contact with semen to the definition of "sexual contact" thereby subjecting this conduct to the same punishments as other sex offenses. Recent cases have highlighted the need to correct this gap in the law, so the State can better address the true criminal nature of this conduct. Further, under current law, sexual abuse of a

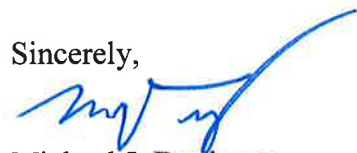
minor in the third degree – that is, sexual contact with a person who is 13, 14, or 15 and at least four years younger than the offender, is not sentenced as a sexual felony. The bill proposes to sentence sexual abuse of a minor in the third degree as a sexual felony, subject to the enhanced sentencing range, when there is a six-year age difference between the offender and the victim. This distinction will allow for the current lower sentencing structure for those cases in which the offender and victim are closer in age and an enhanced sentencing range as the age difference grows wider.

While State law has long prevented a person from using marriage as a defense to most forms of sexual assault where consent is an issue, current law still allows an individual to use marriage as a defense to the crime of sexual assault if the person engages in sexual activity with their spouse when they know that their spouse is mentally incapable, incapacitated, or unaware that the sexual act is being committed. The bill would remove this section of law and prevent a person from using marriage as a defense if they engage in this kind of conduct. Intimate partner sexual violence is all too common in this state. Removing this defense will strengthen Alaska's sexual assault laws and assist in addressing our intolerable rates of intimate partner violence.

The bill also addresses several recent court decisions which have effectively reduced punishments for sex offenders in Alaska. The bill clarifies that when an offender is being sentenced for a sexual felony, all of the offender's prior felonies, both non-sexual and sexual, will count when determining the appropriate presumptive sentencing range. It is important that all felony criminal history regardless of nature is considered when determining an appropriate sentence. The bill also clarifies that those offenders who are ineligible for good time credit are also ineligible for discretionary parole. It makes little sense for a person to be deemed so dangerous that they are not eligible for statutory good time, but, at the same time, allow them to be eligible for discretionary parole. Finally, the bill requires sex offenders, who have been convicted and required to register as a sex offender in another state, to register in Alaska regardless of whether Alaska has a similar offense in statute. This is a matter of reciprocity and improves the State's ability to protect the public from sex offenders who may come to this state.

I urge your prompt and favorable action on this measure.

Sincerely,



Michael J. Dunleavy
Governor

Enclosure