

SENATE BILL NO. 12

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - FIRST SESSION

BY SENATOR MICCICHE

Introduced: 1/16/19

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to assault in the first degree; relating to sex offenses; and relating to**
2 **credit toward a sentence of imprisonment for time spent in a treatment program or**
3 **under electronic monitoring."**

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

5 * **Section 1.** AS 11.41.200(a) is amended to read:

6 (a) A person commits the crime of assault in the first degree if

7 (1) that person recklessly causes serious physical injury to another by
8 means of a dangerous instrument;

9 (2) with intent to cause serious physical injury to another, the person
10 causes serious physical injury to any person;

11 (3) the person knowingly engages in conduct that results in serious
12 physical injury to another under circumstances manifesting extreme indifference to the
13 value of human life; [OR]

14 (4) that person recklessly causes serious physical injury to another by

1 repeated assaults using a dangerous instrument, even if each assault individually does
 2 not cause serious physical injury; or

3 **(5) that person knowingly causes another to become unconscious**
 4 **by means of a dangerous instrument; in this paragraph, "dangerous instrument"**
 5 **has the meaning given in AS 11.81.900(b)(15)(B).**

6 * Sec. 2. AS 11.41.425(a) is amended to read:

7 (a) An offender commits the crime of sexual assault in the third degree if the
 8 offender

9 (1) engages in sexual contact with a person who the offender knows is

10 (A) mentally incapable;

11 (B) incapacitated; or

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

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

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

22 (4) while employed in the state by a law enforcement agency as a
 23 peace officer, or while acting as a peace officer in the state, engages in sexual
 24 penetration with a person with reckless disregard that the person is in the custody or
 25 the apparent custody of the offender, or is committed to the custody of a law
 26 enforcement agency;

27 (5) while employed by the state or a municipality of the state as a
 28 probation officer or parole officer, or while acting as a probation officer or parole
 29 officer in the state, engages in sexual penetration with a person with reckless disregard
 30 that the person is on probation or parole; [OR]

31 (6) while employed as a juvenile probation officer or as a juvenile

1 facility staff, engages in sexual penetration with a person 18 or 19 years of age with
 2 reckless disregard that the person is committed to the custody or probationary
 3 supervision of the Department of Health and Social Services; or

4 (7) engages in masturbation in the presence of another person and
 5 ejaculates on that person without the consent of that person.

6 * **Sec. 3.** AS 11.41.438(a) is amended to read:

7 (a) An offender commits the crime of sexual abuse of a minor in the third
 8 degree if

9 (1) being 17 years of age or older, the offender engages in sexual
 10 contact with a person who is 13, 14, or 15 years of age and at least four years younger
 11 than the offender; or

12 (2) the offender masturbates in the presence of a person

13 (A) under 18 years of age and ejaculates on that person,

14 and the

15 (i) offender is the victim's natural parent,
 16 stepparent, adoptive parent, or legal guardian;

17 (ii) victim at the time of the offense is residing in the
 18 same household as the offender and the offender has authority over
 19 the victim; or

20 (iii) offender occupies a position of authority in
 21 relation to the victim; or

22 (B) under 16 years of age and ejaculates on that person,
 23 and the victim is at least three years younger than the offender.

24 * **Sec. 4.** AS 12.10.010(b) is amended to read:

25 (b) Except as otherwise provided by law or in (a) of this section, a person may
 26 not be prosecuted, tried, or punished for an offense unless the indictment is found or
 27 the information or complaint is instituted not later than

28 (1) 10 years after the commission of a felony offense in violation of
 29 AS 11.41.120 - 11.41.330, 11.41.425(a)(1) or (5) - (7) [11.41.425(a)(1),
 30 11.41.425(a)(5), 11.41.425(a)(6)], or 11.41.450 - 11.41.458; or

31 (2) five years after the commission of any other offense.

1 * **Sec. 5.** AS 12.55.027 is amended by adding a new subsection to read:

2 (i) Notwithstanding other provisions of this section, a court may not grant
3 credit toward a sentence of imprisonment for time spent in a treatment program or
4 under electronic monitoring if the sentence imposed is for a sex offense as defined in
5 AS 12.63.100.

6 * **Sec. 6.** AS 12.55.027(g)(3) is repealed.

7 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 APPLICABILITY. AS 11.41.200(a), as amended by sec. 1 of this Act,
10 AS 11.41.425(a), as amended by sec. 2 of this Act, AS 11.41.438(a), as amended by sec. 3 of
11 this Act, AS 12.10.010(b), as amended by sec. 4 of this Act, and AS 12.55.027(i), added by
12 sec. 5 of this Act, apply to offenses committed on or after the effective date of secs. 1 - 5 of
13 this Act.