

# ALASKA STATE LEGISLATURE



## House Bill 5

### Version F

"An Act relating to sexual abuse of a minor; relating to sexual assault; relating to the code of military justice; relating to consent; relating to the testing of sexual assault examination kits; and providing for an effective date."

### Sectional Analysis

#### Section 1:

*AS 11.41.410. Sexual assault in the first degree.*

Establishes sexual assault in the first degree. Amends subsection (a)(1) to make sexual assault in the first degree encompass sexual penetration without consent by the use of force/implied use of force against a person.

#### Section 2:

*AS 11.41.420. Sexual assault in the second degree.*

Establishes sexual assault in the second degree. Amends subsection (a)(1) to make sexual assault in the second degree encompass sexual contact without consent by the use of force/implied use of force against a person. Amends subsection (a)(5) to make sexual assault in the second degree encompass sexual penetration without consent under circumstances not proscribed in sec. 1.

#### Section 3:

*AS 11.41.425. Sexual assault in the third degree.*

Establishes sexual assault in the third degree. Amends subsection (a)(7) to make sexual assault in the third degree encompass sexual contact without consent, excluding an offender knowingly causing a person to come into contact with semen. This change was recommended in Senate Judiciary to reflect changes as a result of HB 14 in the 31<sup>st</sup> Legislature.

#### Section 4:

*AS 11.41.445. General provisions.*

Adds a new subsection (c) that establishes: an expression of lack of consent means there is no consent; absence of verbal or physical resistance does not establish consent; consent may be express or inferred; consent may be revoked or withdrawn at any time; a clear verbal refusal establishes a revocation of prior consent; lack of consent may be overridden by subsequent consent prior to the conduct at issue; a person who is incapacitated as a result of an act of the defendant cannot consent.

#### Section 5:

*AS 11.41.470. Definitions.*

Adds a definition of "consent" to mean "a freely given, reversible agreement specific to the conduct at issue." This section also defines "freely given" to mean "agreement to cooperate in the act was positively expressed by word or action.

Section 6:

*AS 11.56.765. Failure to report a violent crime committed against a child.*

Adds the definition of consent found in sec. 5.

Section 7:

*AS 11.56.767. Failure to report a violent crime committed against an adult.*

Adds the definition of consent found in sec. 5.

Section 8:

*AS 26.05.900. Other sexual misconduct; indecent viewing, visual recording, or broadcasting.*

Adds the definition of consent found in sec. 5.

Section 9:

*AS 44.41.065. Sexual assault examination kits.*

Amends subsection (a)(2)(1) to decrease the time allowed for law enforcement agencies to ensure that laboratories conduct serological or DNA test on sexual examination kit from one year to six months from the laboratory receiving the sexual assault examination kit.

Section 10:

Repeals AS 11.41.470(10), AS 11.56.765(c)(4), AS 11.56.767(c)(4), and AS 26.05.900(e)(8). These statutes contain the previous definition of consent.

Section 11:

*Uncodified law - applicability*

Amends uncodified law to state that modifications and repeals apply to offenses committed on or after the effective date of the bill.

Section 12:

*Effective Date*

Makes sec. 9 effective on July 1, 2023.