

**HOUSE CS FOR CS FOR SENATE BILL NO. 211(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/12/96

Referred: Rules

Sponsor(s): SENATORS ELLIS, Salo, Pearce, Lincoln, Donley, Phillips, Duncan, Taylor, Leman, Kelly, Torgerson, Sharp, Zharoff

REPRESENTATIVES Robinson, Kelly, Parnell, B.Davis, Ogan, James, Nicholia

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to sexual assault and sexual abuse; and relating to  
2 endangering the welfare of vulnerable adults."

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

4 \* Section 1. AS 11.41.410(a) is amended to read:

5 (a) An offender commits the crime of sexual assault in the first degree if

6 (1) the offender engages in sexual penetration with another person  
7 without consent of that person;

8 (2) the offender attempts to engage in sexual penetration with another  
9 person without consent of that person and causes serious physical injury to that person;

10 (3) the offender engages in sexual penetration with another person

11 (A) who the offender knows is mentally incapable; and

12 (B) who is in [ENTRUSTED TO] the offender's care

13 (i) by authority of law; or

14 (ii) in a facility or program that is required by law to be

1 licensed by the state [DEPARTMENT OF HEALTH AND SOCIAL  
2 SERVICES]; or

3 (4) the offender engages in sexual penetration with a person who the  
4 offender knows is unaware that a sexual act is being committed and

5 (A) the offender is a health care worker; and

6 (B) the offense takes place during the course of professional  
7 treatment of the victim.

8 \* **Sec. 2.** AS 11.41.420(a) is amended to read:

9 (a) An offender commits the crime of sexual assault in the second degree if

10 (1) the offender engages in sexual contact with another person without  
11 consent of that person;

12 (2) the offender engages in sexual contact with a person

13 (A) who the offender knows is mentally incapable; and

14 (B) who is in [ENTRUSTED TO] the offender's care

15 (i) by authority of law; or

16 (ii) in a facility or program that is required by law to be  
17 licensed by the state [DEPARTMENT OF HEALTH AND SOCIAL  
18 SERVICES];

19 (3) the offender engages in sexual penetration with a person who the  
20 offender knows is

21 (A) mentally incapable;

22 (B) incapacitated; or

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

24 (4) the offender engages in sexual contact with a person who the  
25 offender knows is unaware that a sexual act is being committed and

26 (A) the offender is a health care worker; and

27 (B) the offense takes place during the course of professional  
28 treatment of the victim.

29 \* **Sec. 3.** AS 11.51 is amended by adding new sections to read:

30 ARTICLE 2. VULNERABLE ADULTS.

31 Sec. 11.51.200. ENDANGERING THE WELFARE OF A VULNERABLE

ADULT IN THE FIRST DEGREE. (a) A person commits the crime of endangering the welfare of a vulnerable adult in the first degree if the person

(1) intentionally abandons the vulnerable adult in any place under circumstances creating a substantial risk of physical injury to the vulnerable adult and the vulnerable adult is in the person's care

(A) by contract or authority of law; or

(B) in a facility or program that is required by law to be licensed by the state; or

(2) violates AS 11.51.210 and, as a result of the violation, the vulnerable adult suffers serious physical injury.

(b) Endangering the welfare of a vulnerable adult in the first degree is a class C felony.

Sec. 11.51.210. ENDANGERING THE WELFARE OF A VULNERABLE ADULT IN THE SECOND DEGREE. (a) A person commits the crime of endangering the welfare of a vulnerable adult in the second degree if the person fails without lawful excuse to provide support for the vulnerable adult and the vulnerable adult is in the person's care

(1) by contract or authority of law; or

(2) in a facility or program that is required by law to be licensed by the state.

(b) As used in this section "support" includes necessary food, care, clothing, shelter, and medical attention. There is no failure to provide medical attention to a vulnerable adult if the vulnerable adult is provided treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination of which the vulnerable adult is a member or adherent, provided the vulnerable adult consents to the treatment through spiritual means only, and the treatment is administered by an accredited practitioner of the church or denomination.

(c) Endangering the welfare of a vulnerable adult in the second degree is a class A misdemeanor.

Sec. 11.51.220. DEFINITION OF VULNERABLE ADULT. In AS 11.51.200

**1** - 11.51.210, "vulnerable adult" has the meaning given in AS 47.24.900.