

**CS FOR HOUSE BILL NO. 252(FIN)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTIETH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

**Offered: 4/3/98**

**Referred: Rules**

**Sponsor(s): REPRESENTATIVE RYAN**

**SENATORS Donley, Leman, Halford, Green, Taylor, Pearce, Kelly, Lincoln, Ward, Duncan, Mackie**

**A BILL**

**FOR AN ACT ENTITLED**

**1 "An Act relating to criminal records; relating to notice about and registration of**  
**2 sex offenders and child kidnappers; and amending Rules 11(c) and 32(c), Alaska**  
**3 Rules of Criminal Procedure; and providing for an effective date."**

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

**5 \* Section 1.** AS 11.56 is amended by adding a new section to read:

**6 Sec. 11.56.835. Failure to register as a sex offender or child kidnapper in**  
**7 the first degree.** (a) A person commits the crime of failure to register as a sex  
**8 offender or child kidnapper in the first degree if the person violates AS 11.56.840**

**9 (1) and the person has been previously convicted of a crime under this**  
**10 section or AS 11.56.840 or a law or ordinance of this or another jurisdiction with**  
**11 elements similar to a crime under this section or AS 11.56.840; or**

**12 (2) with intent to escape detection or identification and, by escaping**  
**13 detection or identification, to facilitate the person's commission of a sex offense or**  
**14 child kidnapping.**

(b) In a prosecution under (a)(2) of this section, the fact that the defendant, for a period of at least one year, failed to register as a sex offender or child kidnapper, failed to file the annual or quarterly written verification or changed the sex offender's or child kidnapper's address and did not file the required notice of change of address, is prima facie evidence that the defendant intended to escape detection or identification and, by escaping detection or identification, to facilitate the person's commission of a sex offense or child kidnapping.

(c) In this section, "child kidnapping" and "sex offense" have the meanings given in AS 12.63.100.

(d) Failure to register as a sex offender or child kidnapper in the first degree is a class C felony.

\* **Sec. 2.** AS 11.56.840 is amended to read:

**Sec. 11.56.840. Failure to register as a sex offender or child kidnapper in the second degree.** (a) A person commits the crime of failure to register as a sex offender or child kidnapper in the second degree if the person [WHO] knowingly fails to (1) register, (2) file the written notice of change of address, [OR] (3) file the annual or quarterly written verification, or (4) supply all of the information required to be submitted under (1) - (3) of this subsection [NOTICE OR STATEMENT], as required in AS 12.63.010.

**(b) Failure to register as a sex offender or child kidnapper in the second degree is** [, IS GUILTY OF] a class A misdemeanor.

\* **Sec. 3.** AS 12.55.135(e) is amended to read:

(e) If a defendant is sentenced under (c), [OR] (d), or (g) of this section,  
 (1) execution of sentence may not be suspended and probation or parole may not be granted until the minimum term of imprisonment has been served;  
 (2) imposition of a sentence may not be suspended except upon condition that the defendant be imprisoned for no less than the minimum term of imprisonment provided in the section; and  
 (3) the minimum term of imprisonment may not otherwise be reduced.

\* **Sec. 4.** AS 12.55.135 is amended by adding a new subsection to read:

(g) A defendant convicted of failure to register as a sex offender or child

kidnapper in the second degree under AS 11.56.840 shall be sentenced to a minimum term of imprisonment of 35 days.

\* **Sec. 5.** AS 12.55.148 is amended to read:

**Sec. 12.55.148. Judgment for sex offenses or child kidnappings.** (a) When a defendant is convicted of a sex offense **or child kidnapping** by a court of this state, the written judgment must set out the requirements of AS 12.63.010 **and, if it can be determined by the court, whether that conviction will require the offender or kidnapper to register for life or a lesser period under AS 12.63.**

(b) In this section, "sex offense" **and "child kidnapping" have** [HAS] the **meanings** [MEANING] given in AS 12.63.100.

\* **Sec. 6.** AS 12.62.900(23) is amended to read:

(23) "serious offense" means a conviction **for a violation or for an attempt, solicitation, or conspiracy to commit a violation** [FOR A FELONY OFFENSE, A CRIME INVOLVING DOMESTIC VIOLENCE, OR A VIOLATION OR ATTEMPTED VIOLATION] of any of the following laws, or of the laws of another jurisdiction with substantially similar elements:

(A) **a felony offense;**

(B) **a crime involving domestic violence;**

(C) AS 11.41.410 - 11.41.470;

(D) [(B)] **AS 11.51.130** [AS 11.51.130(a)(1) - (3)];

(E) [(C)] AS 11.61.110(a)(7) **or 11.61.125;**

(F) [(D)] AS 11.66.100 - 11.66.130; or

(G) **former AS 11.15.120, former 11.15.134, or assault with the intent to commit rape under former AS 11.15.160;**

(H) [(E)] former AS 11.40.080, 11.40.110, 11.40.130, or 11.40.200 - 11.40.420, if committed before January 1, 1980;

\* **Sec. 7.** AS 12.63.010(a) is amended to read:

(a) A sex offender **or child kidnapper** who is physically present in the state shall register as provided in this section. The sex offender **or child kidnapper** shall register [WITHIN]

(1) **within the 30-day period before** [SEVEN DAYS OF] release from

1 an in-state correctional facility;

2 (2) by the next working day following [SEVEN DAYS OF]  
 3 conviction for a sex offense or child kidnapping if the sex offender is not  
 4 incarcerated at the time of conviction [SENTENCED TO A TERM OF  
 5 INCARCERATION]; or

6 (3) by the next working day [14 DAYS] of becoming physically  
 7 present in the state [, EXCEPT THE SEX OFFENDER SHALL REGISTER WITHIN  
 8 SEVEN DAYS OF BECOMING PHYSICALLY PRESENT IN THE STATE IF THE  
 9 SEX OFFENDER

10 (A) IS A PROBATIONER OR PAROLEE BEING  
 11 SUPERVISED BY THE STATE AS THE RECEIVING STATE UNDER  
 12 AS 33.36.110 - 33.36.120; OR

13 (B) HAS BEEN RELEASED FROM AN OUT-OF-STATE  
 14 CORRECTIONAL FACILITY WHERE THE SEX OFFENDER WAS  
 15 SERVING A TERM OF INCARCERATION FOR A SEX OFFENSE  
 16 CONVICTION IN THIS STATE].

17 \* Sec. 8. AS 12.63.010(b) is amended to read:

18 (b) A sex offender or child kidnapper required to register under (a) of this  
 19 section shall register with the Department of Corrections if the sex offender or  
 20 child kidnapper is incarcerated or in person at the Alaska state trooper post or  
 21 municipal police department located nearest to where the sex offender or child  
 22 kidnapper resides at the time of registration. To fulfill the registration requirement,  
 23 the sex offender or child kidnapper shall

24 (1) complete a registration form that includes, at a minimum,

25 (A) the sex offender's or child kidnapper's name, address,  
 26 place of employment, date of birth; [.]

27 (B) each conviction for a sex offense or child kidnapping for  
 28 which the duty to register has not terminated under AS 12.63.020, date of sex  
 29 offense or child kidnapping convictions, place and court of sex offense or  
 30 child kidnapping convictions, whether the sex offender or child kidnapper  
 31 has been unconditionally discharged from the conviction for a sex offense

or child kidnapping and the date of the unconditional discharge; if the sex offender or child kidnapper asserts that the offender or kidnapper has been unconditionally discharged, the offender or kidnapper shall supply proof of that discharge acceptable to the department;

(C) all aliases used; [,]

(D) [AND] driver's license number;

(E) description, license numbers, and vehicle identification numbers of motor vehicles the sex offender or child kidnapper has access to regardless of whether that access is regular or not;

(F) any identifying features of the sex offender or child kidnapper;

(G) anticipated changes of address; and

(H) a statement concerning whether the offender or kidnapper has had treatment for a mental abnormality or personality disorder since the date of conviction for an offense requiring registration under this chapter;

(2) allow the Alaska state troopers, Department of Corrections, or municipal police to take a complete set of the sex offender's or child kidnapper's fingerprints and to take the sex offender's or child kidnapper's photograph.

\* **Sec. 9.** AS 12.63.010(c) is amended to read:

(c) If a sex offender or child kidnapper changes residence [WITHIN THE STATE] after having registered under (a) of this section, the sex offender or child kidnapper shall provide written notice of the change by the next working day following the change to the Alaska state trooper post or municipal police department located nearest to the new residence or, if the residence change is out of state, to the central registry [WITHIN 10 DAYS OF THE CHANGE].

\* **Sec. 10.** AS 12.63.010(d) is amended to read:

(d) A sex offender or child kidnapper required to register (1) for 15 years under (a) of this section and AS 12.63.020(a)(2) shall, annually, during the term of a duty to register under AS 12.63.020, on a date set by the department at the time of the sex offender's or child kidnapper's initial

1 registration, provide written verification [NOTICE] to the department, in the manner  
 2 required by the department, of the sex offender's or child kidnapper's address  
 3 and notice of any changes to the information previously [INITIALLY] provided under  
 4 (b)(1) of this section;

5 (2) for life under (a) of this section and AS 12.63.020(a)(1) shall, not  
 6 less than quarterly, on a date set by the department, provide written verification  
 7 to the department, in the manner required by the department, of the sex  
 8 offender's or child kidnapper's address and any changes to the information  
 9 previously provided under (b)(1) of this section [, OR IF THERE ARE NO  
 10 CHANGES, A STATEMENT TO THAT EFFECT].

11 \* **Sec. 11.** AS 12.63.010 is amended by adding a new subsection to read:

12 (f) The registration form required to be submitted under (b) of this section and  
 13 the annual or quarterly verifications must be sworn to by the offender or kidnapper and  
 14 contain an admonition that a false statement shall subject the offender or kidnapper to  
 15 prosecution for perjury.

16 \* **Sec. 12.** AS 12.63.020 is amended to read:

17 **Sec. 12.63.020. Duration of sex offender or child kidnapper duty to**  
 18 **register.** (a) The duty of a sex offender or child kidnapper to comply with the  
 19 requirements of AS 12.63.010 for each sex offense or child kidnapping

20 (1) continues for the lifetime of a sex offender or child kidnapper  
 21 convicted of

22 (A) one aggravated sex offense; or

23 (B) two or more sex offenses, two or more child kidnappings,  
 24 or one sex offense and one child kidnapping;

25 (2) ends 15 years following the sex offender's or child kidnapper's  
 26 unconditional discharge from a conviction for a single sex offense that is not an  
 27 aggravated sex offense or for a single child kidnapping if the sex offender or child  
 28 kidnapper has supplied proof that is acceptable to the department of the  
 29 unconditional discharge; the registration period under this paragraph

30 (A) is tolled for each year that a sex offender or child  
 31 kidnapper

(i) fails to comply with the requirements of this chapter;

(ii) is incarcerated for the offense or kidnapping for which the offender or kidnapper is required to register or for any other offense;

(B) may include the time a sex offender or child kidnapper was absent from this state if the sex offender or child kidnapper has complied with any sex offender or child kidnapper registration requirements of the jurisdiction in which the offender or kidnapper was located and if the sex offender or child kidnapper provides the department with proof of the compliance while the sex offender or child kidnapper was absent from this state; and

(C) continues for a sex offender or child kidnapper who has not supplied proof acceptable to the department of the offender's or kidnapper's unconditional discharge for the sex offense or child kidnapping requiring registration.

(b) The department shall adopt, by regulation, procedures to notify a sex offender or child kidnapper who, on the registration form under AS 12.63.010, lists a conviction for a sex offense or child kidnapping that is a violation of a former law of this state or a law of another jurisdiction, of the duration of the offender's or kidnapper's duty under (a) of this section for that sex offense or child kidnapping. As a part of the regulations, the department shall require the offender or kidnapper to supply proof acceptable to the department of unconditional discharge and the date it occurred.

\* Sec. 13. AS 12.63 is amended by adding a new section to read:

**Sec. 12.63.030. Notification of other jurisdictions.** (a) If a sex offender or child kidnapper notifies the department that the sex offender or child kidnapper is moving from the state, the department shall notify the Federal Bureau of Investigation and the state where the sex offender or child kidnapper is moving of the sex offender's or child kidnapper's intended address.

(b) If a sex offender or child kidnapper fails to register or to verify the sex

offender's or child kidnapper's address and registration under this chapter, or the department does not know the location of a sex offender or child kidnapper required to register under this chapter, the department shall immediately notify the Federal Bureau of Investigation.

\* **Sec. 14.** AS 12.63.100(2) is amended to read:

(2) "sex offender **or child kidnapper**" means a person convicted of a sex offense **or child kidnapping** in this state or another jurisdiction regardless of whether the conviction occurred before, after, or on **the effective date of this Act** [AUGUST 10, 1994];

\* **Sec. 15.** AS 12.63.100(3) is amended to read:

(3) "sex offense" means a crime, or an attempt, **solicitation, or conspiracy** to commit a crime, under **the following statutes or a similar law of another jurisdiction:**

(A) AS 11.41.410 - 11.41.438, **11.41.440(a)(2)**, 11.41.450, **or** 11.41.455;

(B) [,] AS 11.61.125;

(C) [,] AS 11.66.110 **or 11.66.130(a)(2) if the person who was induced or caused to engage in prostitution was 16 or 17 years of age at the time of the offense; or**

(D) [,] former AS 11.15.120, **former** [OR] 11.15.134, **or assault with the intent to commit rape under former AS 11.15.160**, [OR] former AS 11.40.110, or 11.40.200 [, OR A SIMILAR LAW IN ANOTHER JURISDICTION];

\* **Sec. 16.** AS 12.63.100 is amended by adding new paragraphs to read:

(5) "aggravated sex offense" means a crime, or an attempt, solicitation, or conspiracy to commit a crime, under AS 11.41.410, 11.41.434, or a similar law of another jurisdiction;

(6) "child kidnapping" means a crime or an attempt, solicitation, or conspiracy to commit a crime, under AS 11.41.300, or a similar law of another jurisdiction, if the victim was under 18 years of age at the time of the offense.

\* **Sec. 17.** AS 18.65.087(a) is amended to read:



(a) The Department of Public Safety shall maintain a central registry of sex offenders and child kidnappers [REQUIRED TO REGISTER UNDER AS 12.63.010] and shall adopt regulations necessary to carry out the purposes of this section and AS 12.63. A post of the Alaska state troopers or a municipal police department that receives registration or change of address information under AS 12.63.010 shall forward the information within five working days of receipt to the central registry of sex offenders and child kidnappers. Unless the sex offender or child kidnapper provides proof satisfactory to the department that the sex offender or child kidnapper is not physically present in the state or that the time limits described in AS 12.63.010 have passed, the Department of Public Safety may enter and maintain in the registry information described in AS 12.63.010 about a sex offender or child kidnapper that the department obtains from

(1) the sex offender or child kidnapper under AS 12.63;

(2) a post of the Alaska state troopers or a municipal police department under (a) of this section;

(3) a court judgment under AS 12.55.148;

(4) the Department of Corrections under AS 33.30.012 or 33.30.035;

(5) the Federal Bureau of Investigation or another sex offender registration agency outside this state if the information indicates that a sex offender or child kidnapper is believed to be residing or planning to reside in the state or cannot be located;

(6) a criminal justice agency in the state or another jurisdiction;

(7) the department's central repository under AS 12.62; information entered in the registry from the repository is not subject to the requirements of AS 12.62.160(c)(3) or (4); or

(8) another reliable source as defined in regulations adopted by the department.

\* Sec. 18. AS 18.65.087(b) is amended to read:

(b) Information about a sex offender or child kidnapper that is contained in the central registry, including sets of fingerprints, is confidential and not subject to public disclosure except as to the sex offender's or child kidnapper's name, aliases,

address, photograph, **physical description, description of motor vehicles, license numbers of motor vehicles, and vehicle identification numbers of motor vehicles,** place of employment, date of birth, crime for which convicted, date of conviction, place and court of conviction, [AND] length **and conditions** of sentence, **and a statement as to whether the offender or kidnapper is in compliance with requirements of AS 12.63 or cannot be located.**

\* Sec. 19. AS 18.65.087(d) is amended to read:

(d) The Department of Public Safety

(1) shall adopt regulations to

(A) allow a sex offender **or child kidnapper** to review sex offender **or child kidnapper** registration information that refers to that sex offender **or child kidnapper**, and if the sex offender **or child kidnapper** believes the information is inaccurate or incomplete, to request the department to correct the information; if the department finds the information is inaccurate or incomplete, the department shall correct or supplement the information;

(B) ensure the appropriate circulation to law enforcement agencies of information contained in the central registry;

**(C) ensure the anonymity of members of the public who request information under this section;**

(2) shall provide to **the Department of Corrections and** municipal police departments the forms and directions necessary to allow sex offenders **and child kidnappers** to comply with AS 12.63.010;

(3) may adopt regulations to establish fees to be charged for registration under AS 12.63.010 and for information requests; the fee for registration shall be based upon the actual costs of performing the registration and maintaining the central registry but may not be set at a level whereby registration is discouraged; the fee for an information request may not be greater than \$10;

(4) shall remove from the central registry of sex offenders **and child kidnappers** under this section information about a sex offender **or child kidnapper** required to register under AS 12.63.020(a)(2) at the end of the sex offender's **or child kidnapper's** duty to register if the offender **or kidnapper** has not been convicted of

another sex offense or child kidnapping and the offender or kidnapper has supplied proof of unconditional discharge acceptable to the department; in this paragraph, "sex offense" and "child kidnapping" have [HAS] the meanings [MEANING] given in AS 12.63.100.

\* **Sec. 20.** AS 18.65.087 is amended by adding new subsections to read:

(e) The name, address, and other identifying information of a member of the public who makes an information request under this section is not a public record under AS 09.25.100 - 09.25.220.

(f) When a sex offender or child kidnapper registers under AS 12.63, the Department of Public Safety shall make reasonable attempts to verify that the sex offender or child kidnapper is residing at the registered address. Reasonable attempts at verifying an address include sending certified mail, return receipt requested, to the offender or kidnapper at the registered address. The department shall make reasonable efforts to locate an offender or kidnapper who cannot be located at the registered address.

(g) The department, at least quarterly, shall compile a list of those persons with a duty to register under AS 12.63.010 who have failed to register, whose addresses cannot be verified under (f) of this section, or who otherwise cannot be located. The department shall post this list on the Internet and request the public's assistance in locating these persons.

\* **Sec. 21.** AS 33.30.012 is amended to read:

**Sec. 33.30.012. Notice of release, parole, community placement, work release placement, furlough, or escape of sex offender or child kidnapper.** (a) Within 30 [AT THE EARLIEST POSSIBLE DATE, AND IN NO EVENT LATER THAN 10] days before release of a sex offender or child kidnapper with a duty to register under AS 12.63, the commissioner shall complete the registration of the sex offender or child kidnapper if the offender or kidnapper has not previously registered. The commissioner shall take the sex offender's or child kidnapper's photograph, and determine if legible fingerprints of the sex offender or child kidnapper have been previously provided to the Department of Public Safety; if legible fingerprints for the sex offense or child kidnapping have not previously

1 been provided to the Department of Public Safety, the commissioner shall obtain  
 2 the sex offender's or child kidnapper's fingerprints in the manner required by the  
 3 Department of Public Safety and shall immediately forward the fingerprints to the  
 4 department. When completing the registration or taking the photograph under  
 5 this subsection, the commissioner shall also send written notice of release, parole,  
 6 community placement, work release placement, or furlough of a sex offender or child  
 7 kidnapper [SPECIFIC INMATE CONVICTED OF A SEX OFFENSE] to:

8 (1) the chief of police of the community, if any, in which the inmate  
 9 will reside;

10 (2) the Alaska state trooper post located nearest to where the inmate  
 11 will reside; [AND]

12 (3) the village public safety officer of the rural community without a  
 13 municipal police department or Alaska state trooper post in which the inmate will  
 14 reside; and

15 (4) the central registry of sex offenders and child kidnappers.

16 (b) If an inmate convicted of a sex offense or child kidnapping escapes from  
 17 a correctional facility, the commissioner shall immediately notify the Department of  
 18 Public Safety and the chief of police of the community and the Alaska state trooper  
 19 post located closest to where the inmate resided immediately before the inmate's arrest  
 20 and conviction.

21 \* **Sec. 22.** AS 33.30.035 is amended to read:

22 **Sec. 33.30.035. Notice to sex offenders or child kidnappers of registration**  
 23 **and other requirements [REQUIREMENT].** The department shall provide written  
 24 notice to a sex offender or child kidnapper of the registration, verification, and  
 25 change of address requirements of AS 12.63.010 [,] and shall obtain a written  
 26 [SIGNED ACKNOWLEDGMENT OF] receipt of notice from the sex offender or  
 27 child kidnapper (1) at the time of the sex offender's or child kidnapper's release  
 28 from a state correctional facility; (2) immediately after taking supervision of a sex  
 29 offender or child kidnapper under the Interstate Corrections Compact or  
 30 AS 33.36.110. The department shall forward the written receipt to the  
 31 Department of Public Safety, along with a description of any identifying features

of the offender or kidnapper, the anticipated address of the offender or kidnapper, and a statement concerning whether the offender or kidnapper has received treatment for the offender's or kidnapper's mental abnormality or personality disorder related to the sex offense or child kidnapping. In this section, "sex offense" and "child kidnapping" have the meanings given in AS 12.63.100.

\* **Sec. 23.** AS 33.30.901(13) is amended to read:

(13) "sex offender or child kidnapper," "sex offense," and "child kidnapping" have [" HAS] the meanings [MEANING] given in AS 12.63.100; [.]

\* **Sec. 24.** COURT RULES. (a) The provisions of AS 12.55.148, as amended by sec. 5 of this Act, have the effect of changing Rules 11(c) and 32(c), Alaska Rules of Criminal Procedure, relating to judgment and sentences for defendants convicted of sex offenses or child kidnappings.

(b) In this section, "sex offense" and "child kidnapping" have the meanings given in AS 12.63.100, as amended by secs. 15 and 16 of this Act.

\* **Sec. 25.** APPLICABILITY. (a) A sex offender or child kidnapper with, before the effective date of this Act, (1) one conviction for an aggravated sex offense, (2) two or more convictions for a sex offense or child kidnapping, or (3) one conviction for a child kidnapping and one conviction for a sex offense, regardless of whether the offender or kidnapper has been unconditionally discharged from that conviction or convictions, shall register under AS 12.63.010, as amended by secs. 7 - 11 of this Act, by the 60th day after the effective date of this Act. A sex offender or child kidnapper with only one conviction for a sex offense that is not an aggravated sex offense or only one conviction for a child kidnapping, and who was unconditionally discharged from that offense before July 1, 1984, does not have to register under this Act. A sex offender or child kidnapper with only one conviction for a sex offense that is not an aggravated sex offense or only one conviction for a child kidnapping who was required to register under sec. 12, ch. 41, SLA 1994, shall continue to register as provided by AS 12.63.010, as amended by secs. 7 - 11 of this Act.

(b) A conviction for a sex offense or child kidnapping before the effective date of this Act is a sex offense or child kidnapping for purposes of the duration of registration requirement of AS 12.63.020(a), as amended by sec. 12 of this Act.

1           (c) In this section, "aggravated sex offense," "sex offender or child kidnapper," "sex  
2 offense," and "child kidnapping" have the meanings given in AS 12.63.100, as amended by  
3 secs. 14 - 16 of this Act.

4       \* **Sec. 26.** This Act takes effect January 1, 1999.