



# ALASKA STATE LEGISLATURE

## Senate Judiciary Committee

SEN. MATT CLAMAN

Chairman

State Capitol, Room 429

Juneau, AK 99801

907.465.4919

Senator Jesse Kiehl, Vice Chair

Senator Gary Stevens

Senator Löki Tobin

Senator Cathy Tilton

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### House Bill 239

### Sectional Analysis — Work Draft Version G

#### Sections 1-6

Sections 1 through 6 amends multiple statutes to update the definition of a minor, raising the age from 16 years of age to 18 years of age in cases related to specific criminal offenses.

**Sec. 1:** *AS 09.55.650 Claim based on sexual abuse to a minor under 16 years of age.*

**Sec. 2:** *AS.11.41.100 Murder in the first degree.*

**Sec. 3:** *AS.11.41.110 Murder in the second degree.*

**Sec. 4:** *AS.11.41.220 Assault in the third degree.*

Amends AS 11.41.220(a) to specify a person commits the crime of assault in the third degree if that person is at least **18** years of age, knowingly causes physical injury to a person who is under 18 years of age but at least 12 years of age **and is at least two years younger than the offender.**

**Sec. 5:** *AS.11.41.220 Assault in the third degree.*

Amends AS 11.41.220(b) to specify that in prosecution under (a)(3) of this legislation, it is an affirmative defense that the defendant reasonably believed the victim to be **18** years of age or older, unless the victim was under 13 years of age at the time of the alleged offense.

**Sec. 6:** *AS.11.41.260 Stalking in the first degree.*

#### Section 7

*AS 11.41.410 Sexual assault in the first degree.*

Amends AS 11.41.420(a) to update the definition of sexual assault in the first degree by a health care worker to remove the stipulation that the offender must know that a victim is unaware that sexual act is being committed.

#### Section 8

*AS 11.41.420 Sexual assault in the second degree.*

Amends AS 11.41.420(b) to update the definition of sexual assault in the second degree by a health care worker to remove the stipulation that the offender must know that a victim is unaware that sexual act is being committed.

#### Section 9

*AS 11.41.434 Sexual abuse of a minor in the first degree.*

Amends AS 11.41.434(a) to update the definition of sexual abuse of a minor in the first degree if a person 18 years of age.

## **Section 10**

*AS 11.41.436 Sexual abuse of a minor in the second degree.*

Amends AS 11.41.434(a) by adding a provision that an offender commits sexual abuse of a minor in the second degree if they engage in sexual penetration with a person who is 16 or 17 years of age and at least 6 years younger than the offender.

Amends AS 11.41.434(a)(4) by adding **(8)** to add contact with semen to the list of conduct that can constitute unlawful exploitation when the person is knowingly inducing or recording a child under 18.

## **Section 11**

*AS 11.41.438 Sexual abuse of a minor in the third degree.*

Amends AS 11.41.428(a) by adding a provision that an offender commits sexual abuse of a minor in the third degree if they engage in sexual contact with a person who is 16 or 17 years of age and at least six years younger than the offender.

## **Sections 12**

*As 11.41.452 Enticement of a minor.*

Amends AS 11.41.452(a) by replacing “a person” with an “offender” when outlining commitment of the crime of enticement of a minor. Updates the definition of a minor, changing the threshold from 16 years of age to 18 years of age and at least six years younger than the offender.

## **Section 13**

*As 11.41.452 Enticement of a minor.*

Amends AS 11.41.452(b) by updating the definition of a minor from 16 years of age to 18 years of age.

## **Section 14**

*As 11.41.452 Enticement of a minor.*

Amends AS 11.41.452(c) to include new (8), as defined in section 10.

## **Section 15**

*As 11.41.452 Enticement of a minor.*

Amends AS 11.41.452(e) by replacing “defendant” with “offender” when outlining requirements to register as a sex offender of child kidnapper.

## **Section 16**

*AS 11.41.455 Unlawful exploitation of a minor.*

Amends AS 11.41.455(a) to include new (8), as defined in section 10.

## **Section 17**

*AS 11.41.458 Indecent exposure in the first degree.*

Amends 11.41.458(b) by updating the definition of a minor from 16 years of age to 18 years of age.

## **Section 18**

*AS 11.41.460 Indecent exposure in the second degree*

Amends 11.41.460(b) by updating the definition of a minor from 16 years of age to 18 years of age.

## **Section 19**

*11.46 Offenses Against Property.*

11.46 is amended by adding new **Sec 11.46.115. Organized Theft.**

AS 11.46.115(a) and (b) establishes the new crime of organized theft. A person is guilty of organized theft if the person commits a felony level theft (value of over \$750) in concert with three or more other persons who have committed two or more felony level thefts for the benefit of, at the direction of, or in association with the group. Organized theft is classified as a class A felony.

## **Section 20**

*AS 11.46.130 Theft in the second degree.*

AS 11.46130(a) is amended to include property that is medical records or other medical information.

## **Section 21**

*AS 11.46.140 Theft in the third degree.*

AS 11.46.140(a) is amended to include the theft of mail.

## **Section 22**

*AS 11.51.100 Endangering the welfare of a child in the first degree.*

As 11.51.100(a) is amended by updating the definition of a minor from 16 years of age to 18 years of age.

## **Section 23**

*AS 11.61.116 Sending an explicit image of a minor.*

AS 11.61.116(a) is amended by updating the definition of a minor from 16 years of age to 18 years of age.

## **Section 24**

*AS 11.61.118 Harassment in the first degree.*

AS 11.61.118(a) is amended by excluding the criminal conduct described in section 16.

## **Section 25**

*AS 11.61.120 Harassment in the second degree.*

AS 11.61.120(a) is amended by excluding possession and distribution of generated child sexual abuse material (CSAM)

## **Section 26**

*AS 11.61 Offenses Against Public Order.*

AS 11.61 is amended by adding new **Sec. 11.61.121 Distribution of generated obscene child sexual abuse material.** AS 11.61.121 establishes distribution of generated CSAM, including advertising, soliciting, or offering it as a class B felony, and a class A felony for repeat offenders.

AS 11.61 is amended by adding new **Sec. 11.61.122 Possession of generated obscene child sexual abuse material.** AS 11.61.122 establishes possession of generated CSAM, defined as obscene material depicting a child under 18 years of age engaged in conduct that would constitute unlawful exploitation of a minor under AS 11.41.455, as a class C felony. This section includes safe-harbor protection for internet service providers acting in the normal course of business to detect/remove the material.

## **Section 27 & 28**

*AS 11.61.124 Solicitation or production of an indecent picture of a minor*

AS 11.61.124(a) and (b) are amended by updating the definition of a minor from 16 years of age to 18 years of age.

## **Section 29**

*AS 11.61.125 Distribution of child sexual abuse material.*

AS 11.61.125(e) is amended to add new AS 11.61.121 to the list of prior conviction that elevate the offense to a class A felony.

## **Section 30**

*AS 11.61.125 Possession of child sexual abuse material.*

AS 11.61.127(a) is amended by updating the definition of possession of child sexual abuse material and clarifies that the material must depict conduct involving an actual child or a manipulated image of an actual child.

## **Section 31**

*AS 11.61.127 Possession of child sexual abuse material.*

AS 11.61.127(b) is amended by exempting workers who detect, prevent, and report CSAM that is not computer generated from prosecution when working to do so.

## **Sections 32-35**

*AS 11.61.128 Distribution of indecent material to minors.*

Sections 32 through 25 amend AS 11.61.128 subsections (a), (b), (c), and (e) by replacing “person” and “defendant” with “offender” and updating the definition of a minor, raising the age from 16 years of age to 18 years of age.

## **Section 36**

*AS 11.61.129 Forfeiture of property used in indecent viewing or production of a picture or child sexual abuse material.*

AS 11.61.129(a) is amended to expand forfeiture to property used in the pursuit of distributing or possessing generated CSAM in the list of property that may be forfeited to the state.

## **Section 37**

*AS 11.66.100 Prostitution.*

AS 11.66.100(c) is amended by adding reporting possession or distribution of generated CSAM to law enforcement to the “safe harbor” list under which a sex worker cannot be prosecuted for prostitution.

## **Section 38**

*Sec. 11.71.100 Controlled Substances Advisory Committee.*

AS 11.71.100(a) is amended to place the Controlled Substance Advisory Committee under the division of the Department of Commerce, Community, and Economic Development with responsibility for corporations, business, and professional licensing.

## **Section 39**

*Sec. 12.10.010 General time limitations*

AS 12.10.010 is amended by adding distribution of generated obscene CSAM to the list of offenses with no statute of limitations.

#### **Section 40**

*Sec. 12.45.046 Testimony of children in criminal proceedings.*

AS 12.45.046(a) is amended by updating the definition of a minor, raising the age from 16 years of age to 18 years of age.

#### **Section 41**

*Sec. 12.55.078 Suspending entry of judgement*

AS 12.55.078 (f) is amended by adding possession and distribution of generated CSAM to the list of charges for which a court cannot defer prosecution or suspend judgement.

#### **Section 42**

*Sec. 12.55.085 Suspending imposition of sentence.*

AS 12.55.085(f) is amended by adding possession and distribution of generated CSAM to the list of charges for which a court cannot suspend imposition of sentence.

#### **Section 43**

*Sec. 12.55.100 Conditions of probation.*

AS 12.55.100(e) is amended by adding possession and distribution of generated CSAM to the list of offenses that can result in technological, social, and residence restrictions while on probation.

#### **Section 44-46**

*Sec. 12.55.125 Sentences of imprisonment for felonies.*

AS 12.55.125(b) and (d) are amended by updating the definition of a minor, raising the age from 16 years of age to 18 years of age. AS 12.55.125(i) is amended by setting sentencing limits and presumptions for the new crimes of possession and distribution of generated CSAM on par with those for possession or distribution of CSAM that is not computer-generated.

#### **Section 47**

*Sec. 12.55.127 Consecutive and concurrent terms of imprisonment.*

AS 12.55.127(c) is amended by establishing that when a defendant is convicted of aggravated criminally negligent homicide under AS 11.41.130(b)(2) or criminally negligent homicide of an unborn child under AS 11.41.170(b)(2), a consecutive term of imprisonment shall be imposed for some additional term of imprisonment for each additional crime under AS 28.35.050 or 28.35.060.

#### **Section 48**

*Sec. 12.55.127 Consecutive and concurrent terms of imprisonment.*

AS 12.55.127(d) is amended by requiring a consecutive sentence for each additional count when a defendant is sentenced for multiple generated CSAM or non-generated CSAM offenses.

#### **Section 49**

*Sec. 12.55.145 Prior convictions.*

AS 12.55.145(a) is amended by updating the definition of a minor, raising the age from 16 years of age to 18 years of age.

## **Section 50**

*Sec. 12.55.155 Factors in aggravation and mitigation.*

AS 12.55.155(c) is amended by updating the definition of a minor, raising the age from 16 years of age to 18 years of age.

## **Section 51**

*Sec. 12.55.185 Definitions*

AS 12.55.185(16) is amended by adding “**distribution of generated obscene child sexual abuse material, possession of generated obscene child sexual abuse material,**” to the definition of “sexual felony”.

## **Section 52**

*Sec. 12.61.010 Rights of victims.*

AS 12.61.010 (a) is amended by adding (16) to include the right to be notified of location and testing date of a sexual assault examination kit that is collected from the victim.

## **Section 53 & 54**

*Sec. 12.62.160 Release and use of criminal justice information; fees.*

AS 12.62.160(b) is amended by replacing “assure” with “ensure” in (7) and by adding “**or criminal justice information as describes in (f) of this section**” to describe conditions around which an individual’s criminal record may be released. New (f) is added to establish that an agency may not release criminal justice information for low-level, non-violent, marijuana possession charges which are no longer crimes under current statute so long as the offender was 21 years of age or older at the time of offense, was not convicted of any other criminal charges in the case, and requests the agency not release the records.

## **Section 55**

*Sec. 12.62.900 Definitions.*

AS 12.62.900(22) is amended by adding conforming changes and by adding distribution of generated CSAM in the definition of “serious offense”.

## **Section 56**

*Sec. 12.63.020 Duration of sex offender or child kidnapper duty to register.*

AS 12.63.020(a) is amended by updating the definition of a minor, raising the age from 16 years of age to 18 years of age.

## **Section 57**

*Sec. 12.63.100 Definitions.*

AS 12.63.100(7) is amended by updating the definition of a minor, raising the age from 16 years of age to 18 years of age in the definition of a “sex offense”. New Sec. 11.61.121 Distribution of generated obscene child sexual abuse material and Sec. 11.61.122 Possession of generated obscene child sexual abuse material are also added to (7).

## **Section 59**

*Sec. 18.66.250 Definitions.*

AS 18.66.250(5) is amended by adding “**tribal**” government agencies to the definition of “victim counseling center”.

## **Section 60**

*Sec. 28.15.046 Licensing of school bus drivers.*

AS 28.15.046(c) is amended by adding generated CSAM offenses to the list of disqualifying convictions for school bus driver licenses.

## **Section 61-63**

*Sec. 28.35.060 Duty of operator to give information and render assistance*

AS 28.35.060(b) is amended to create felony charges for the failure to render assistance when the accident causes injury under (c) or death under (d). Sec. 62 amends AS 28.35.060(c) to specify the charge of failure to render assistance with an injury is a class B felony under Title 12. Sec. 63 adds (d) is added to establish the penalty for failing to render reasonable assistance by the operator when death occurs to a class A felony under Title 12 with a presumptive sentence of seven to eleven years if found guilty of criminally negligent homicide under AS 11.41.130 or AS 11.41.170 for the same action.

## **Section 64**

*Section 28.35 Offenses and Accidents.*

AS 28.35 is amended by adding new **Sec. 28.35.248 Airbag fraud**. This section establishes and defines airbag fraud as knowingly selling, offering for sale, installing, reinstalling, or manufacturing a counterfeit or nonfunctioning airbag or device that is intended to conceal a counterfeit or nonfunctioning airbag, or intentionally selling, leasing or trading a vehicle that the person knows has a counterfeit or nonfunctioning airbag.

This section establishes airbag fraud as a class A misdemeanor or a class C felony if death or serious physical injury to another person occurs as a result of the counterfeit or nonfunctioning airbag. This section establishes that the liability of any party in a civil action is not precluded. Provides that this legislation does not create a duty to inspect a vehicle for a counterfeit or nonfunctioning airbag before its sale.

This section excludes a person installing, reinstalling, or replacing an airbag on a vehicle used solely for police work; an owner or employee of a motor vehicle dealership or the owner of a vehicle who does not have knowledge that the vehicle's airbag is counterfeit or nonfunctioning; a person who transfers a vehicle title to an insurance company to satisfy an insurance claim; or an insurance company that sells or otherwise disposes of a vehicle as authorized by law or regulation

## **Sections 65-70**

*Section 44.41.065 Sexual assault examination kits.*

AS 44.41.065(a) is amended by requiring that within 14 days after gathering the evidence, health care providers shall notify the appropriate law enforcement agency that the sexual assault examination kit is available to be sent to an accredited laboratory in coordination with the Department of Public Safety. Previously this section was only applicable to law enforcement agencies.

These sections require that a law enforcement agency must send the kit identified by the health care provider in the scenario above must send the sexual assault examination kit to an accredited laboratory in coordination with the Department of Public Safety.

These sections require that within 120 days of when a sexual examination kit is received by the laboratory to which it is sent, the sexual assault examination kit must be tested within 120 days.

These sections clarify that if the case is resolved before the sexual assault examination kit is tested, then the health care provider, law enforcement agency, or laboratory in possession of the sexual assault examination kit is not required to meet the time limits established in (a) of this section.

This section is amended by adding (e), which clarifies that the sexual assault examination kit information must be entered into the tracking system established by the Department of Public Safety.

## **Sections 71**

### *Section 44.41 Department of Public Safety*

AS 44.41 is amended by adding new **Sec. 44.41.067 Sexual assault examination kit tracking system**. This section requires the Department of Public Safety to develop and operate a sexual assault examination tracking system to track status and location of a sexual assault examination kit from the point of evidence collection to testing.

## **Sections 72**

### *Section 47.12.110 Hearings.*

AS 47.12.110(d) is amended by adding distribution of generated obscene CSAM to the list of offenses that can trigger a public hearing on a juvenile delinquency petition.

## **Sections 73**

### *Section 47.12.315 Public disclosure of information in department records relating to certain minors.*

AS 47.12.315(a) is amended by adding distribution of generated obscene CSAM to the list of serious offenses for which the Department of Health and Social Services must disclose information to the public upon request.

## **Section 74**

Repeals:

- AS 11.41.436(a)(6): Repeals the second-degree sexual abuse of a minor provision for an offender 18+ who engages in sexual penetration with a 16 or 17-year-old at least three years younger when the offender occupies a position of authority. This subdivision is superseded by the expanded coverage in Section 10's amendments.
- AS 11.41.440(a)(2): Repeals fourth-degree sexual abuse of a minor provision, which is superseded by the expanded age coverage in the amended statute.
- AS 12.63.100(7)(C)(ii): Repeals the sex offense definition cross-reference to AS 11.41.440(a)(2), which is being repealed.

## **Section 75**

Effective date of July 1, 2026 for AS 44.41.070(a).

## **Section 76**

Repeals 44.41.070(a) restriction effective January 1, 2028, creating an automatic sunset.

## **Section 77**

### *Uncodified law of the State of Alaska.*

Establishes that applicability of the listed sections applies to offenses committed on or after the effective date.

## **Sections 78-81**

Effective dates:

- Sections 7,8, 19-21, 38, 47, 52, 59, 61-64, 66-71, and 75 have the effective date of July 1, 2026.
- Sections 53 and 54 have the effective date of January 1, 2027.
- Section 76 has the effective date of January 1, 2028.
- Except as provided in sections 7 through 80 of this act, this act takes effective immediately under AS 01.10.070(c).