

AMENDMENT

OFFERED IN THE SENATE

TO: SCS CSHB 66(JUD), Draft Version "Y"

Page 1, line 6, following "offense';":

Insert "establishing the process for vacating judgments for certain convictions of prostitution; relating to victim confidentiality;"

Page 2, line 11:

Delete "sec. 46"

Insert "sec. 57"

Page 2, following line 12:

Insert a new bill section to read:

"* **Sec. 2.** AS 09.25.400 is amended to read:

Sec. 09.25.400. Privilege relating to domestic violence, sex trafficking, and sexual assault counseling. Confidential communications between a victim of domestic violence, sex trafficking, or sexual assault and a victim counselor are privileged under AS 18.66.200 - 18.66.250."

Renumber the following bill sections accordingly.

Page 9, following line 21:

Insert a new bill section to read:

"* **Sec. 16.** AS 12.45.049 is amended to read:

Sec. 12.45.049. Privilege relating to domestic violence, sex trafficking, and sexual assault counseling. Confidential communications between a victim of

1 domestic violence, sex trafficking, or sexual assault and a victim counselor are
 2 privileged under AS 18.66.200 - 18.66.250."

3
 4 Renumber the following bill sections accordingly.

5
 6 Page 22, following line 23:

7 Insert a new bill section to read:

8 **"* Sec. 30.** AS 12.72 is amended by adding new sections to read:

9 **Sec. 12.72.100. Vacation of judgment of conviction for prostitution.** A
 10 person may petition the court to vacate the judgment if, at the time of the offense, the
 11 person was or would have been a victim of sex trafficking and was convicted or
 12 adjudicated delinquent for prostitution under AS 11.66.100 or a similar municipal
 13 ordinance.

14 **Sec. 12.72.105. Filing of petition for vacation of judgment.** (a) A person
 15 seeking a vacation of judgment under this chapter shall file a petition with the clerk at
 16 the court location where the underlying criminal case was filed and serve a copy on
 17 the prosecuting authority responsible for obtaining the conviction.

18 (b) If the prosecuting authority does not file a response within 45 days after
 19 service of the petition, the court may grant the vacation of judgment without further
 20 proceedings.

21 **Sec. 12.72.110. Limitations on petition for vacation of judgment.** (a) A
 22 person may file a petition under this chapter only after a judgment has been entered on
 23 the person's case or, if the conviction was appealed, after the court's decision on the
 24 case is final under the Alaska Rules of Appellate Procedure.

25 (b) An action for a petition for vacation of judgment under AS 12.72.100 does
 26 not give rise to the right to a trial by jury.

27 **Sec. 12.72.115. Presumption and burden of proof in vacation of judgment**
 28 **proceedings.** (a) The person petitioning the court for a vacation of judgment of
 29 conviction or adjudication of delinquency for prostitution under AS 11.66.100 or a
 30 similar municipal ordinance must prove all factual assertions by a preponderance of
 31 the evidence.

(b) There is a rebuttable presumption that a person who was under 21 years of age at the time of an offense under AS 11.66.100 was or would have been a victim of sex trafficking.

Sec. 12.72.120. Vacation of judgment. (a) If the court grants the petition for a vacation of judgment,

(1) the judgment of conviction or adjudication of delinquency for prostitution under AS 11.66.100 or a similar municipal ordinance shall be vacated;

(2) the Alaska Court System may not publish on a publicly available Internet website the court records of the conviction for prostitution under AS 11.66.100 or a similar municipal ordinance if the person was not convicted of a felony charge in that case; and

(3) the Department of Public Safety may not release information related to the conviction for prostitution under AS 11.66.100 or a similar municipal ordinance in response to a request under AS 12.62.160(b)(6), (8), or (9).

(b) The Alaska Court System shall remove a person's court records from a publicly available Internet website under (a)(2) of this section within 30 days after the court grants a petition for vacation of judgment."

Renumber the following bill sections accordingly.

Page 23, following line 8:

Insert new bill sections to read:

"* **Sec. 32.** AS 18.66.210 is amended to read:

Sec. 18.66.210. Exceptions. The privilege provided under AS 18.66.200 does not apply to

- (1) reports of suspected child abuse or neglect under AS 47.17;
- (2) evidence that the victim is about to commit a crime;
- (3) a proceeding that occurs after the victim's death;
- (4) a communication relevant to an issue of breach by the victim or victim counselor of a duty arising out of the victim-victim counselor relationship;
- (5) a communication that is determined to be admissible hearsay as an

excited utterance under the Alaska Rules of Evidence;

(6) a child-in-need-of-aid proceeding under AS 47.10;

(7) a communication made during the victim-victim counselor relationship if the services of the counselor were sought, obtained, or used to enable anyone to commit or plan a crime or to escape detection or apprehension after the commission of a crime; or

(8) a criminal proceeding concerning criminal charges against a victim of domestic violence, sex trafficking, or sexual assault in which [WHERE] the victim is charged with a crime

(A) under AS 11.41 against a minor; or

(B) in which the physical, mental, or emotional condition of the victim is raised in defense of the victim.

* **Sec. 33.** AS 18.66.250(1) is amended to read:

(1) "confidential communication" means information exchanged between a victim and a victim counselor in private or in the presence of a third party who is necessary to facilitate communication or further the counseling process and that is disclosed in the course of victim counseling resulting from sex trafficking, a sexual assault, or domestic violence;

* **Sec. 34.** AS 18.66.250(3) is amended to read:

(3) "victim" means a person who consults a victim counselor for assistance in overcoming adverse effects of a sexual assault, sex trafficking, or domestic violence;

* **Sec. 35.** AS 18.66.250(4) is amended to read:

(4) "victim counseling" means support, assistance, advice, or treatment to alleviate the adverse effects of sex trafficking, a sexual assault, or domestic violence on the victim;

* **Sec. 36.** AS 18.66.250(5) is amended to read:

(5) "victim counseling center" means a private organization, an organization operated by or contracted by a branch of the armed forces of the United States, or a local government agency that

(A) has, as one of its primary purposes, the provision of direct

services to victims for trauma resulting from [A] sexual assault, **sex trafficking**, or domestic violence;

(B) is not affiliated with a law enforcement agency or a prosecutor's office; and

(C) is not on contract with the state to provide services under AS 47;

* **Sec. 37.** AS 18.66.250(6) is amended to read:

(6) "victim counselor" means an employee or supervised volunteer of a victim counseling center that provides counseling to victims

(A) who has undergone a minimum of 40 hours of training in **sex trafficking**, domestic violence, or sexual assault, crisis intervention, victim support, treatment, and related areas; or

(B) whose duties include victim counseling."

Renumber the following bill sections accordingly.

Page 23, following line 29:

Insert a new bill section to read:

"* **Sec. 39.** AS 18.85.100(c) is amended to read:

(c) An indigent person is entitled to representation under (a) and (b) of this section for purposes of bringing a timely application for post-conviction relief **or petition for vacation of judgment** under AS 12.72. An indigent person is not entitled to representation under (a) and (b) of this section for purposes of bringing

(1) an untimely or successive application for post-conviction relief **or petition for vacation of judgment** under AS 12.72 or an untimely or successive motion for reduction or modification of sentence;

(2) a petition for review or certiorari from an appellate court ruling on an application for post-conviction relief; or

(3) an action or claim for habeas corpus in federal court attacking a state conviction."

1 Renumber the following bill sections accordingly.

2
3 Page 24, following line 30:

4 Insert a new bill section to read:

5 **** Sec. 41.** AS 43.23.005 is amended by adding a new subsection to read:

6 (i) The provisions of (d) of this section do not apply if an individual's
7 conviction was vacated during the qualifying year under AS 12.72. If an individual
8 becomes eligible under this subsection, the individual is eligible to receive a
9 permanent fund dividend only for the qualifying year in which the conviction was
10 vacated and each subsequent qualifying year for which the individual is otherwise
11 eligible under this section."
12

13 Renumber the following bill sections accordingly.

14
15 Page 38, line 8:

16 Delete "sec. 2"

17 Insert "sec. 3"

18
19 Page 38, line 9:

20 Delete "sec. 3"

21 Insert "sec. 4"

22 Delete "sec. 4"

23 Insert "sec. 5"

24
25 Page 38, line 10:

26 Delete "sec. 5"

27 Insert "sec. 6"

28
29 Page 38, line 11:

30 Delete "sec. 11"

31 Insert "sec. 12"

1 Delete "sec. 12"
2 Insert "sec. 13"
3
4 Page 38, line 12:
5 Delete "sec. 13"
6 Insert "sec. 14"
7 Delete "sec. 19"
8 Insert "sec. 21"
9
10 Page 38, line 13:
11 Delete "sec. 29"
12 Insert "sec. 38"
13
14 Page 38, line 14:
15 Delete "secs. 2 - 5, 11 - 13, and 29"
16 Insert "secs. 3 - 6, 12 - 14, and 38"
17
18 Page 38, line 16:
19 Delete "sec. 23"
20 Insert "sec. 25"
21 Delete "sec. 24"
22 Insert "sec. 26"
23
24 Page 38, line 17:
25 Delete "sec. 25"
26 Insert "sec. 27"
27
28 Page 38, line 19:
29 Delete "secs. 23 - 25"
30 Insert "secs. 25 - 27"
31

1 Page 38, line 20:
2 Delete "sec. 26"
3 Insert "sec. 28"
4
5 Page 38, line 21:
6 Delete "sec. 26"
7 Insert "sec. 28"
8
9 Page 38, line 23:
10 Delete "sec. 26"
11 Insert "sec. 28"
12
13 Page 38, line 24:
14 Delete "sec. 26"
15 Insert "sec. 28"
16
17 Page 38, line 26:
18 Delete "sec. 26"
19 Insert "sec. 28"
20
21 Page 38, line 28:
22 Delete "sec. 27"
23 Insert "sec. 29"
24
25 Page 38, line 29:
26 Delete "sec. 27"
27 Insert "sec. 29"
28
29 Page 38, line 30:
30 Delete "sec. 46"
31 Insert "sec. 57"

Page 38, line 31:

Delete "sec. 46"

Insert "sec. 57"

Page 39, line 1:

Delete "sec. 46"

Insert "sec. 57"

Page 39, following line 1:

Insert new subsections to read:

"(g) The following sections apply to communications made on or after the effective date of those sections relating to offenses occurring on or after the effective date of those sections:

- (1) AS 09.25.400, as amended by sec. 2 of this Act;
- (2) AS 12.45.049, as amended by sec. 16 of this Act;
- (3) AS 18.66.210, as amended by sec. 32 of this Act;
- (4) AS 18.66.250(1), as amended by sec. 33 of this Act;
- (5) AS 18.66.250(3), as amended by sec. 34 of this Act;
- (6) AS 18.66.250(4), as amended by sec. 35 of this Act;
- (7) AS 18.66.250(5), as amended by sec. 36 of this Act;
- (8) AS 18.66.250(6), as amended by sec. 37 of this Act.

(h) AS 12.72.100 - 12.72.120, enacted by sec. 30 of this Act, and AS 18.85.100(c), as amended by sec. 39 of this Act, apply to petitions filed on or after the effective date of sec. 30 of this Act for conduct occurring before, on, or after the effective date of secs. 30 and 39 of this Act."

Page 39, line 5:

Delete "sec. 46" in both places

Insert "sec. 57" in both places

- 1 Page 39, line 7:
- 2 Delete "Section 45"
- 3 Insert "Section 56"
- 4
- 5 Page 39, line 8:
- 6 Delete "sec. 50"
- 7 Insert "sec. 61"