

## **Explanation of Changes for HB 307**

- The bill adds sex offender registration requirements for certain Alaska Code of Military Justice (ACMJ) offenses. Consistent with other Alaska crimes that require registration, this adds the requirement to register for convictions under laws of other jurisdictions similar to those ACMJ offenses to sections 1, 2, and 3.
- Adds to Section 3 a limitation on the requirement to register under AS 26.05.893 similar to the limitation on the registration requirement on AS 26.05.890. This ensures the registration requirements apply to similar offenses as those under the Alaska criminal code and are not overly broad.
- Section 11 changes the basis of defining ACMJ offenses as felony or misdemeanor to the possible penalty rather than the actual penalty. This corresponds to the definition of felony and misdemeanor crimes in common law and the Alaska criminal code.
- Sections 5 and 40 extend DNA and fingerprint collection requirements that exist for civilian crimes to ACMJ crimes.
- Maximum penalties are added to the new ACMJ offenses in the bill consistent with the formulation of already existing ACMJ offenses. The punishments are consistent with the punishments under the federal Uniform Code of Military Justice.

# **RECOMMENDED HB 307 AMENDMENTS**

**CHANGES ARE BASED ON VERSION 30-LS1099\J AND HIGHLIGHTED IN RED**

\* **Section 1.** AS 12.63.100(1) is amended to read:

(1) "aggravated sex offense" means

(A) a crime under AS 11.41.100(a)(3), or a similar law of another jurisdiction, in which the person committed or attempted to commit a sexual offense, or a similar offense under the laws of the other jurisdiction; in this subparagraph, "sexual offense" has the meaning given in AS 11.41.100(a)(3);

(B) a crime under AS 11.41.110(a)(3), or a similar law of another jurisdiction, in which the person committed or attempted to commit one of the following crimes, or a similar law of another jurisdiction:

(i) sexual assault in the first degree;

(ii) sexual assault in the second degree;

(iii) sexual abuse of a minor in the first degree; or

(iv) sexual abuse of a minor in the second degree; [OR]

(C) 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 or a similar provision under a former law of this state;

**(D) an offense, or an attempt, solicitation, or conspiracy to commit an offense, under**

**(i) AS 26.05.890 or a similar law of another jurisdiction if the person engaged in or attempted to engage in sexual penetration; or**

**(ii) AS 26.05.893 or a similar law of another jurisdiction if the prohibited sexual activity in which the member of the militia engaged or attempted to engage in sexual penetration;**

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

(2) "child kidnapping" means

- (A) a crime under AS 11.41.100(a)(3), or a similar law of another jurisdiction, in which the person committed or attempted to commit kidnapping;
- (B) a crime under AS 11.41.110(a)(3), or a similar law of another jurisdiction, in which the person committed or attempted to commit kidnapping if the victim was under 18 years of age at the time of the offense;

[OR]

- (C) a crime, or an attempt, solicitation, or conspiracy to commit a crime, under AS 11.41.300, or a similar law of another jurisdiction or a similar provision under a former law of this state, if the victim was under 18 years of age at the time of the offense;  
**or**
- (D) an offense, or an attempt, solicitation, or conspiracy to commit an offense, under AS 26.05.935(b) or a similar law of another jurisdiction if**
  - (i) the member of the militia commits the enumerated offense of kidnapping, punishable under Article 134, 10 U.S.C. 934 (Uniform Code of Military Justice); and**
  - (ii) the victim was under 18 years of age at the time of the offense;**

\* **Sec. 3.** AS 12.63.100(6) is amended to read:

- (6) "sex offense" means
  - (A) a crime under AS 11.41.100(a)(3), or a similar law of another jurisdiction, in which the person committed or attempted to commit a sexual offense, or a similar offense under the laws of the other jurisdiction; in this subparagraph, "sexual offense" has the meaning given in AS 11.41.100(a)(3);
  - (B) a crime under AS 11.41.110(a)(3), or a similar law of another jurisdiction, in which the person committed or attempted to commit one of the following crimes, or a similar law of another jurisdiction:
    - (i) sexual assault in the first degree;
    - (ii) sexual assault in the second degree;
    - (iii) sexual abuse of a minor in the first degree; or
    - (iv) sexual abuse of a minor in the second degree; or

(C) a crime, or an attempt, solicitation, or conspiracy to commit a crime, under the following statutes or a similar law of another jurisdiction:

(i) AS 11.41.410 - 11.41.438;

(ii) AS 11.41.440(a)(2);

(iii) AS 11.41.450 - 11.41.458;

(iv) AS 11.41.460 if the indecent exposure is before a person under 16 years of age and the offender has a previous conviction for that offense **or for an offense under AS 26.05.900(c);**

(v) AS 11.61.125 - 11.61.128;

(vi) AS 11.66.110 or 11.66.130(a)(2)(B) if the person who was induced or caused to engage in prostitution was under 20 years of age at the time of the offense;

(vii) former AS 11.15.120, former 11.15.134, or assault with the intent to commit rape under former AS 11.15.160, former AS 11.40.110, or former 11.40.200;

(viii) AS 11.61.118(a)(2) if the offender has a previous conviction for that offense; [OR]

(ix) AS 11.66.100(a)(2) if the offender is subject to punishment under AS 11.66.100(e);

**(x) AS 26.05.890 if the person engaged in sexual penetration or sexual contact with the victim;**

**(xi) AS 26.05.890 if, at the time of the offense, the victim is under a duty to obey the lawful orders of the offender, regardless of whether the offender is in the direct chain of command over the victim;**

**(xii) AS 26.05.893 if the person engaged in sexual penetration or sexual contact with the victim;**

**(xiii) AS 26.05.900(a)(1) - (4) if the victim is under 18 years of age at the time of the offense;**

**(xiv) AS 26.05.900(b) if the person who is compelled to engage in an act of prostitution is under 20 years of age at the time of the offense;**

(xv) AS 26.05.900(c) if the exposure is before a person under 16 years of age and the offender has a previous conviction for that offense or for an offense under AS 11.41.460;

(xvi) AS 26.05.900 if, at the time of the offense, the victim is under a duty to obey the lawful orders of the offender, regardless of whether the offender is in the direct chain of command over the victim; or

(D) an offense, or an attempt, solicitation, or conspiracy to commit an offense, under AS 26.05.935(b), or a similar law of another jurisdiction, if the member of the militia commits one of the following enumerated offenses punishable under Article 134, 10 U.S.C. 934 (Uniform Code of Military Justice):

- (i) child pornography; or
- (ii) pandering and prostitution if the person who is induced, enticed, caused, or procured to engage in a sexual act is under 20 years of age at the time of the offense;

**THE FOLLOWING DO NOT APPEAR IN THE INITIAL BILL. THEY HAVE BEEN ADDED TO DRAFT CS VERSION U.**

\* Sec. \_\_\_. AS 26.05.590(a) is amended to read:

A court-martial may not impose a punishment that exceeds the limits set out in the code of military justice and may not impose a sentence of death. A sentence of confinement imposed under this chapter may not exceed 10 years. An offense under this chapter for which a sentence of confinement for a term of more than one year **could be** imposed is a felony offense. Except for convictions by a summary court-martial and except as otherwise specifically provided in the code of military justice, all other offenses under this chapter for which a sentence of confinement for a term of one year or less **could be** imposed are misdemeanors. A conviction by a summary court-martial is a violation.

\* Sec. \_\_\_. AS 44.41.035 is amended to read:

The Department of Public Safety shall collect for inclusion into the DNA registration system a blood sample, oral sample, or both, from (1) a person convicted in this state of a crime against a person or a felony under AS 11, **AS 26.05**, or AS 28.35 or a law or ordinance with elements similar to a crime against a person or a felony under AS 11, **AS 26.05**, or AS 28.35, (2) a minor 16 years of age or older, adjudicated as a delinquent in this state for an act that would be a crime against a person or a felony under AS 11, **AS 26.05**, or AS 28.35 if committed by an adult or for an act that would violate a law or ordinance with elements similar to a crime against a person or a felony under AS 11, **AS 26.05**, or AS 28.35 if committed by an adult, (3) a voluntary donor, (4) an anonymous DNA donor for use in forensic validation, forensic protocol development, quality control, or population or statistical data bases, (5) a person required to register as a sex offender or child kidnapper under AS 12.63, and (6) a person arrested for a crime against a person or a felony under AS 11, **AS 26.05**, or AS 28.35, or a law or ordinance with elements similar to a crime against a person or a felony under AS 11, **AS 26.05**, or AS 28.35. The department also may collect for inclusion into the DNA registration system a blood sample, oral sample, or tissue sample from crime scene evidence or from unidentified human remains. The DNA identification registration system consists of the blood, oral, or tissue samples drawn under this section, any DNA or other blood grouping tests done on those samples, and the identification data related to the samples or tests. Blood samples, oral samples, and tissue samples not subject to testing under this section, and test or identification data related to those samples, may not be entered into, or made a part of, the DNA identification registration system.

\* **Sec. \_\_.** AS 12.80.060(g)(2)(A) is amended to read:

due to a violation of a federal or state criminal law, **the Alaska Code of Military Justice**, or municipal criminal ordinance;

## **RECOMMENDED MAXIMUM PUNISHMENTS FOR HB 307**

### **THESE WERE INCORPORATED INTO THE APPLICABLE SECTIONS**

26.05.697. Misprision of a serious offense. Dishonorable discharge and confinement for 3 years.

26.05.715. Solicitation. Dishonorable discharge and confinement for up to the maximum punishment of the underlying offense.

26.05.737. False or unauthorized pass offenses. Dishonorable discharge and confinement for 1 year.

26.05.767. Impersonation of officer, noncommissioned officer, petty officer, agent or official.

.767(b). Dishonorable discharge and confinement for 3 years.

.767(c). Bad-conduct discharge and confinement for 6 months.

26.05.768. Wearing unauthorized insignia, decoration, badge, ribbon, device or lapel pin. Bad-conduct discharge and confinement for 6 months.

26.05.785. Unlawfully drinking with a prisoner. Dishonorable discharge and confinement for 1 year.

26.05.793. Wrongful interference with adverse administrative proceeding. Dishonorable discharge and confinement for 1 year.

26.05.796. Wrongful refusal to testify. Dishonorable discharge and confinement for 1 year.

26.05.798. Retaliation. Dishonorable discharge and confinement for 1 year.

26.05.833. Offenses against correctional custody and restriction.

.833(a). Dishonorable discharge and confinement for 1 year.

.833(b). Dishonorable discharge and confinement for 1 year.

.833(c). Bad-conduct discharge and confinement for 6 months.

26.05.835. False swearing. Dishonorable discharge and confinement for 1 year.

26.05.860. Drinking with a prisoner. Dishonorable discharge and confinement for 1 year.

26.05.867. Disrespect toward a sentinel or lookout. Dishonorable discharge, but no confinement.

26.05.893. Prohibited sexual activities with military recruit or trainee by person of special trust. Dishonorable Discharge and confinement for 5 years.

26.05.900(a). Broadcasts a recording of another person's private area. Dishonorable discharge and confinement for 7 years.

26.05.913. Public records offenses. Dishonorable discharge and confinement for 5 years. [see 11.56.815]

26.05.940. Offenses concerning government computers.

.940(a). Dishonorable discharge and confinement for 10 years.

.940(b). Dishonorable discharge and confinement for 5 years.

.940(c). Dishonorable discharge and confinement for 10 years.

26.05.495. Breach of medical quarantine. Dishonorable discharge and confinement for 1 year.