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Radford
3/30/18

SENATE CS FOR CS FOR HOUSE BILL NO. 307(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVES TUCK, LeDoux, Spohnholz, Kawasaki, Gara, Josephson

A BILL

FOR AN ACT ENTITLED

"An Act requiring a person who commits certain offenses under the code of military justice to register as a sex offender or child kidnapper; relating to the Servicemembers Civil Relief Act; relating to contracts made by servicemembers; relating to nonjudicial punishment of members of the organized militia; relating to offenses subject to court-martial proceedings and criminal prosecution; relating to the Department of Public Safety; and providing for an effective date."

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

*** 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; or

(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 is 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 the

(i) 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) 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 or AS 26.05.900(c) if the indecent exposure is before a person under 16 years of age and the offender has previously been convicted under AS 11.41.460 or AS 26.05.900(c)

[A PREVIOUS CONVICTION FOR THAT OFFENSE];

(v) AS 11.61.125 - 11.61.128;

(vi) AS 11.66.110, [OR] 11.66.130(a)(2)(B), or AS 26.05.900(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; or

(xiv) 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;

* **Sec. 4.** AS 12.63.100 is amended by adding new paragraphs to read:

(8) "sexual contact" has the meaning given in AS 11.81.900;

(9) "sexual penetration" has the meaning given in AS 11.81.900.

* **Sec. 5.** AS 12.80.060(g) is amended to read:

(g) In this section,

(1) "correctional facility" has the meaning given in AS 33.30.901;

(2) "offense" means conduct subjecting a person to arrest as an adult offender, or as a juvenile charged as an adult,

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

(B) under AS 12.25.180;

(C) under AS 11.56.730; or

(D) under AS 12.70.

* **Sec. 6.** 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 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 **after** [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 this subsection;

(3) a court judgment under AS 12.55.148, AS 26.05.890(h), 26.05.893(d), 26.05.900(e), or 26.05.935(d);

(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);

(8) the Department of Military and Veterans' Affairs; or

(9) [OR (8)] another reliable source as defined in regulations adopted by the department.

* Sec. 7. AS 26.05.135 is amended to read:

Sec. 26.05.135. Applicability of Servicemembers Civil Relief Act to members of the organized militia; contracts [SUSPENSION OF ENFORCEMENT OF CIVIL LIABILITIES]. The provisions of 50 U.S.C. 3901 - 4043 (Servicemembers Civil Relief Act) [50 U.S.C. APP. 501 - 590,] pertaining to consumer transactions and the temporary suspension of enforcement of civil liabilities of persons in the military service of the United States [,] apply to members of the organized militia [ALASKA NATIONAL GUARD AND ALASKA NAVAL MILITIA] while on active duty for the state by order of the governor.

* Sec. 8. AS 26.05.135 is amended by adding new subsections to read:

(b) In addition to the rights and protections provided under 50 U.S.C. 3901 - 4043 (Servicemembers Civil Relief Act) and (a) of this section, a servicemember may terminate a contract for any of the following services provided in this state if the servicemember receives official orders to relocate for a period of military service of at least 90 days to a location that does not support the contract and the servicemember provides written notice to the service provider as required under (c) of this section:

- (1) Internet services;
- (2) athletic club or gym memberships;
- (3) satellite radio services; or
- (4) television services.

(c) To terminate a contract under (b) of this section, the servicemember shall provide the service provider with (1) written notice that the servicemember is terminating the contract and the date the contract terminates, and (2) proof of the official orders calling the servicemember into active military service. If possible, the servicemember shall provide the proof of the official orders at the same time the servicemember provides written notice terminating the contract. If, because of military necessity or other circumstances, the servicemember is unable to provide proof of official orders at the time the servicemember provides written notice terminating the contract, the servicemember shall provide proof of the official orders not more than 90 days after providing written notice terminating the contract. A termination of contract under this section is effective on the later of the following: the termination date the servicemember indicates in the written notice terminating the contract or the date the servicemember provides the written notice terminating the contract.

(d) A servicemember who terminates a contract under this section may reinstate the contract when the servicemember is no longer in active military service if the servicemember provides written notice not later than 90 days after the active military service ends. Not later than 30 days after receiving a written notice of reinstatement of a contract under this subsection, a service provider shall resume providing services under the contract to the servicemember or, if the services previously provided are no longer available, shall provide substantially similar services to the servicemember.

(e) A service provider may not charge to a servicemember a penalty, fee, or other cost, or retain the deposit of a servicemember, who terminates a contract under this section. A servicemember who terminates a contract under this section is not liable for payment for any services after the effective date of the termination of a contract under this section.

(f) In this section,

(1) "organized militia" includes the units of the militia described in AS 26.05.010(b)(1);

(2) "servicemember" means a member of the armed forces of the United States or a member of the organized militia of the state.

* **Sec. 9.** AS 26.05.360(b) is amended to read:

(b) The regulations adopted under this section must

(1) provide for nonjudicial punishment; the regulations for nonjudicial punishment may not provide for confinement or separation from military service [OR PROHIBIT A MEMBER OF THE MILITIA FROM DECLINING THE IMPOSITION OF NONJUDICIAL PUNISHMENT IN FAVOR OF A COURT-MARTIAL];

(2) as the adjutant general and the governor consider practicable, apply the principles of law and the rules of evidence and procedure governing military criminal cases in the courts of the armed forces of the United States, but may not be contrary to or inconsistent with this chapter or the applicable Alaska Rules of Evidence;

(3) include rules of pretrial, trial, and post-trial procedure, including methods of proof, for cases before courts-martial and courts of inquiry.

* **Sec. 10.** AS 26.05.555(a) is amended to read:

(a) A military judge or summary court-martial officer may punish for contempt a person who

(1) uses a menacing word, sign, or gesture in its presence;

(2) [, OR WHO] disturbs its proceedings by any riot or disorder; or

(3) wilfully disobeys a lawful writ, process, order, rule, decree, or command of the military judge or summary court-martial officer.

* **Sec. 11.** AS 26.05.590(a) is amended to read:

(a) 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 that is punishable by a term [FOR WHICH A SENTENCE] of confinement [FOR A TERM] of more than one year [IS 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 IS IMPOSED] are misdemeanors. A conviction by a summary court-martial is a violation.

* **Sec. 12.** AS 26.05 is amended by adding a new section to read:

Sec. 26.05.697. Misprision of serious offense. A member of the militia who (1) knows that another person has committed a serious offense, (2) wrongfully conceals the commission of the offense, and (3) fails to make the commission of the offense known to a civilian or military authority as soon as possible may be punished by up to three years of confinement, by separation with characterization up to dishonorable discharge, and by such other punishment as a court-martial may direct.

* **Sec. 13.** AS 26.05.700 is amended to read:

Sec. 26.05.700. Conviction of lesser included offense. An accused may be found guilty of an offense necessarily included in the offense charged, [OR] of an attempt to commit either the offense under this chapter charged or an offense necessarily included in the offense charged, or of an offense designated by the President of the United States, in the most recent Manual for Courts-Martial, United States, as a presidentially prescribed lesser included offense under 10 U.S.C. 879.

* **Sec. 14.** AS 26.05.715 is amended by adding a new subsection to read:

(c) A member of the militia who solicits or advises another person to commit an offense under this chapter, other than an offense specified in (a) or (b) of this section, may be punished by confinement for up to the maximum punishment of the underlying offense, by separation with characterization up to dishonorable discharge, and by such other punishment as a court-martial may direct.

* **Sec. 15.** AS 26.05 is amended by adding a new section to read:

Sec. 26.05.737. False or unauthorized pass offenses. (a) A member of the militia who wrongfully and falsely makes, alters, counterfeits, or tampers with a military or official pass, permit, discharge certificate, or identification card may be punished by up to one year of confinement, by separation with characterization up to

dishonorable discharge, and by such other punishment as a court-martial may direct.

(b) A member of the militia who wrongfully sells, gives, lends, or disposes of a false or unauthorized military or official pass, permit, discharge certificate, or identification card, knowing that the pass, permit, discharge certificate, or identification card is false or unauthorized, may be punished by up to one year of confinement, by separation with characterization up to dishonorable discharge, and by such other punishment as a court-martial may direct.

(c) A member of the militia who wrongfully uses or possesses a false or unauthorized military or official pass, permit, discharge certificate, or identification card, knowing that the pass, permit, discharge certificate, or identification card is false or unauthorized, may be punished by up to one year of confinement, by separation with characterization up to dishonorable discharge, and by such other punishment as a court-martial may direct.

* **Sec. 16.** AS 26.05.740 is amended to read:

Sec. 26.05.740. Missing movement; jumping from vessel. A member of the militia who, (1) through neglect or design, misses the movement of a ship, aircraft, or unit with which the member is required, in the course of duty, to move, or (2) intentionally or wrongfully jumps into the water from a vessel in use by the armed forces may be punished by up to one year of confinement, by separation with characterization up to dishonorable discharge, and by such other punishment as a court-martial may direct.

* **Sec. 17.** AS 26.05 is amended by adding new sections to read:

Sec. 26.05.767. Impersonation of officer, noncommissioned officer, petty officer, agent, or official. (a) A member of the militia who wrongfully and wilfully impersonates (1) an officer, noncommissioned officer, or petty officer, (2) an agent of superior authority of one of the armed forces of the United States or of the militia of the state, or (3) an official of a government shall be punished as a court-martial may direct.

(b) A member of the militia who wrongfully, wilfully, and with intent to defraud impersonates (1) an officer, noncommissioned officer, or petty officer, (2) an agent of superior authority of one of the armed forces of the United States or of the

1 militia of the state, or (3) an official of a government may be punished by up to three
2 years of confinement, by separation with characterization up to dishonorable
3 discharge, and by such other punishment as a court-martial may direct.

4 (c) A member of the militia who wrongfully, wilfully, and without intent to
5 defraud impersonates an official of a government by committing an act that exercises
6 or asserts the authority of the office that the person claims to have may be punished by
7 up to six months of confinement, by separation with characterization up to bad-
8 conduct discharge, and by such other punishment as a court-martial may direct.

9 **Sec. 26.05.768. Wearing unauthorized insignia, decoration, badge, ribbon,**
10 **device, or lapel button.** A member of the militia who wears on the member's uniform
11 or civilian clothing an insignia, decoration, badge, ribbon, device, or lapel button that
12 the member is not authorized to wear may be punished by up to six months of
13 confinement, by separation with characterization up to bad-conduct discharge, and by
14 such other punishment as a court-martial may direct.

15 * **Sec. 18.** AS 26.05.785 is amended by adding a new subsection to read:

16 (b) A member of the militia who unlawfully drinks an alcoholic beverage with
17 a prisoner or unlawfully uses a drug with a prisoner may be punished by up to one
18 year of confinement, by separation with characterization up to dishonorable discharge,
19 and by such other punishment as a court-martial may direct, whether or not the
20 prisoner was committed in strict compliance with law.

21 * **Sec. 19.** AS 26.05 is amended by adding a new section to read:

22 **Sec. 26.05.793. Wrongful interference with adverse administrative**
23 **proceeding.** A member of the militia who, having reason to believe that an adverse
24 administrative proceeding is pending against a person subject to this chapter,
25 wrongfully acts with the intent to influence, impede, or obstruct the conduct of the
26 proceeding or otherwise obstruct the due administration of justice may be punished by
27 up to one year of confinement, by separation with characterization up to dishonorable
28 discharge, and by such other punishment as a court-martial may direct.

29 * **Sec. 20.** AS 26.05 is amended by adding new sections to read:

30 **Sec. 26.05.796. Wrongful refusal to testify.** A member of the militia who,
31 during a preliminary hearing or in the presence of a court-martial, board of officers,

1 military commission, court of inquiry, or officer taking a deposition of or for the state,
2 wrongfully refuses to qualify as a witness or answer a question after having been
3 directed to do so by the person presiding over the proceeding may be punished by up
4 to one year of confinement, by separation with characterization up to dishonorable
5 discharge, and by such other punishment as a court-martial may direct.

6 **Sec. 26.05.798. Retaliation.** A member of the militia who, with the intent to
7 retaliate against a person for reporting or planning to report a criminal offense or for
8 making or planning to make a protected communication, or who, with the intent to
9 discourage any person from reporting a criminal offense or from making or planning
10 to make a protected communication, (1) wrongfully takes or threatens to take an
11 adverse personnel action against a person or (2) wrongfully withholds or threatens to
12 withhold a favorable personnel action with respect to a person may be punished by up
13 to one year of confinement, by separation with characterization up to dishonorable
14 discharge, and by such other punishment as a court-martial may direct.

15 * **Sec. 21.** AS 26.05 is amended by adding a new section to read:

16 **Sec. 26.05.833. Offenses against correctional custody and restriction.** (a) A
17 member of the militia who (1) is placed in correctional custody by a person authorized
18 to do so, (2) is placed under physical restraint while in correctional custody, and (3)
19 escapes from the physical restraint before the member is released from physical
20 restraint by proper authority may be punished by up to one year of confinement, by
21 separation with characterization up to dishonorable discharge, and by such other
22 punishment as a court-martial may direct.

23 (b) A member of the militia who (1) is placed in correctional custody by a
24 person authorized to do so, (2) is placed under restraint other than physical restraint
25 while in correctional custody, and (3) goes beyond the limits of the restraint before the
26 member is released from or relieved of the restraint by proper authority may be
27 punished by up to one year of confinement, by separation with characterization up to
28 dishonorable discharge, and by such other punishment as a court-martial may direct.

29 (c) A member of the militia who (1) is ordered to be restricted to certain limits
30 by a person authorized to do so and (2) with knowledge of the limits of the restriction,
31 goes beyond the limits before the member is released from the limitations by proper

1 authority may be punished by up to six months of confinement, by separation with
2 characterization up to bad-conduct discharge, and by such other punishment as a
3 court-martial may direct.

4 * **Sec. 22.** AS 26.05.835 is amended by adding a new subsection to read:

5 (b) A member of the militia who (1) takes an oath that is in a matter in which
6 the oath is required or authorized by law and that is administered by a person who has
7 the authority to administer the oath and (2) makes or subscribes to a statement that is
8 false and that the person does not believe to be true at the time the person takes the
9 oath may be punished by up to one year of confinement, by separation with
10 characterization up to dishonorable discharge, and by such other punishment as a
11 court-martial may direct.

12 * **Sec. 23.** AS 26.05.855(b) is amended to read:

13 (b) A member of the militia who (1) operates or physically controls a
14 nonmilitary vehicle, aircraft, or vessel while impaired by a controlled substance
15 [DESCRIBED IN AS 26.05.870(c)], or (2) operates or is in actual physical control of
16 a nonmilitary vehicle, aircraft, or vessel while under the influence of alcohol or when
17 the alcohol concentration in the person's blood or breath is equal to or exceeds the
18 applicable limit under (d) of this section may be punished by up to one year of
19 confinement, by separation with characterization up to dishonorable discharge, and by
20 such other punishment as a court-martial may direct, or under (e) of this section if the
21 member is not in active duty status at the time of the offense, or by up to five years of
22 confinement, by separation with characterization up to dishonorable discharge, and by
23 such other punishment as a court-martial may direct if the member is in active duty
24 status at the time of the offense.

25 * **Sec. 24.** AS 26.05.855(c) is amended to read:

26 (c) A member of the militia who (1) operates or physically controls a vehicle,
27 aircraft, or vessel of the armed forces of the United States or the militia of a state in a
28 negligent or reckless manner or while impaired by a controlled substance
29 [DESCRIBED IN AS 26.05.870(c)], or (2) operates or is in actual physical control of
30 a vehicle, aircraft, or vessel of the armed forces of the United States or the militia of a
31 state while under the influence of alcohol or when the alcohol concentration in the

person's blood or breath is equal to or exceeds the applicable limit under (d) of this section may be punished by up to five years of confinement, by separation with characterization up to dishonorable discharge, and by such other punishment as a court-martial may direct.

* **Sec. 25.** AS 26.05.860 is amended to read:

Sec. 26.05.860. Drunkenness and other incapacitating offenses [DRUNK ON DUTY]. A member of the militia, other than a sentinel or lookout, who **(1)** is found under the influence of alcohol **or a controlled substance** while on duty, **or (2) as a result of the use of any alcoholic beverage or drug, is unable to properly perform the member's duty** may be punished by up to one year of confinement, by separation with characterization up to dishonorable discharge, and by such other punishment as a court-martial may direct.

* **Sec. 26.** AS 26.05.860 is amended by adding a new subsection to read:

(b) A member of the militia who, while a prisoner, is drunk or under the influence of a controlled substance other than a controlled substance taken in accordance with a valid prescription may be punished by up to one year of confinement, by separation with characterization up to dishonorable discharge, and by such other punishment as a court-martial may direct.

* **Sec. 27.** AS 26.05.865 is amended to read:

Sec. 26.05.865. Misbehavior of sentinel. A sentinel or lookout who **(1) as a result of the use of any alcoholic beverage or drug, is unable to properly perform the sentinel's or lookout's duties, (2)** is found [UNDER THE INFLUENCE OF ALCOHOL OR] sleeping on the sentinel's or lookout's post, **(3)** [OR] leaves the **sentinel's or lookout's** post before being regularly relieved, **or (4) loiters or wrongfully sits down on post** may be punished, if the offense is committed in time of war or emergency as described in AS 26.05.070, by confinement of not more than 10 years, by separation with characterization up to dishonorable discharge, and by such other punishment as a court-martial may direct, but if the offense is committed at any other time, by up to one year of confinement, by separation with characterization up to dishonorable discharge, and by such other punishment as a court-martial may direct.

* **Sec. 28.** AS 26.05 is amended by adding a new section to read:

1 **Sec. 26.05.867. Disrespect toward sentinel or lookout.** A member of the
2 militia who, knowing that another person is a sentinel or lookout, uses wrongful and
3 disrespectful language or behaves in a wrongful and disrespectful manner that is
4 directed toward and within the hearing of the sentinel or lookout while the sentinel or
5 lookout is executing the sentinel or lookout's duties may be punished by separation
6 with characterization up to dishonorable discharge and by such other punishment,
7 without confinement, as a court-martial may direct.

8 * **Sec. 29.** AS 26.05.890(a) is amended to read:

9 (a) A member of the militia who commits any of the following acts is guilty of
10 sexual assault and, **except as provided under (g) of this section, shall** [MAY] be
11 punished [BY UP TO 10 YEARS OF CONFINEMENT,] by separation with
12 characterization [UP TO] dishonorable discharge[,] and **may, in addition to**
13 **separation, be punished by up to 10 years of confinement and** by such other
14 punishment as a court-martial may direct:

15 (1) a sexual act on another person by

16 (A) threatening or placing another person in fear;

17 (B) causing bodily harm to another person;

18 (C) making a fraudulent representation that the sexual act
19 serves a professional purpose;

20 (D) inducing a belief by any artifice, pretense, or concealment
21 that the person is another person;

22 (2) a sexual act on another person when the person knows or
23 reasonably should know that the other person is asleep, unconscious, or otherwise
24 unaware that the sexual act is occurring;

25 (3) a sexual act on another person when the other person is incapable
26 of consenting to the sexual act because of

27 (A) impairment by a drug, intoxicant, or other similar
28 substance, and that condition is known or reasonably should be known by the
29 person;

30 (B) a mental disease or defect or physical disability, and that
31 condition is known or reasonably should be known by the person.

1 * **Sec. 30.** AS 26.05.890 is amended by adding new subsections to read:

2 (g) The convening authority of the court-martial may reduce, commute, or
3 suspend a sentence of separation with characterization dishonorable discharge
4 imposed by a court-martial under (a) of this section to a sentence of separation with
5 characterization bad conduct if, after sentencing and before the entry of judgment, the
6 accused provides substantial assistance with the investigation or prosecution of
7 another person.

8 (h) When a person is convicted of an offense under this section that requires
9 the person to register as a sex offender under AS 12.63, the court-martial shall provide
10 the person with information regarding sex offender registration under AS 12.63.010
11 and, if it can be determined by the court-martial, inform the person whether the
12 conviction will require the person to register for life or a lesser period under AS 12.63.

13 * **Sec. 31.** AS 26.05 is amended by adding a new section to read:

14 **Sec. 26.05.893. Prohibited sexual activities with military recruit or trainee**
15 **by person in position of special trust.** (a) A member of the militia who (1) is an
16 officer, a noncommissioned officer, or a petty officer, (2) is in a training leadership
17 position with respect to a specially protected junior member of the armed forces of the
18 United States or of the militia of the state, and (3) engages in prohibited sexual activity
19 with the specially protected junior member of the armed forces of the United States or
20 of the militia of the state may be punished by up to five years of confinement, by
21 separation with characterization up to dishonorable discharge, and by such other
22 punishment as a court-martial may direct.

23 (b) A member of the militia who is a military recruiter and engages in
24 prohibited sexual activity with (1) an applicant for military service or (2) a specially
25 protected junior member of the armed forces of the United States or of the militia of
26 the state who is enlisted under a delayed entry program may be punished by up to five
27 years of confinement, by separation with characterization up to dishonorable
28 discharge, and by such other punishment as a court-martial may direct.

29 (c) Consent is not a defense in a prosecution under this section.

30 (d) When a person is convicted of an offense under this section that requires
31 the person to register as a sex offender under AS 12.63, the court-martial shall provide

1 the person with information regarding sex offender registration under AS 12.63.010
2 and, if it can be determined by the court-martial, inform the person whether the
3 conviction will require the person to register for life or a lesser period under AS 12.63.

4 * **Sec. 32.** AS 26.05 is amended by adding a new section to read:

5 **Sec. 26.05.897. Assault.** (a) A member of the militia commits the offense of
6 assault if the person attempts or offers to do bodily harm to another person using
7 unlawful force or violence, whether or not the attempt or offer is consummated. A
8 person who commits assault may be punished by up to one year of confinement, by
9 separation with characterization up to dishonorable discharge, and by such other
10 punishment as a court-martial may direct.

11 (b) A member of the militia commits the offense of aggravated assault if the
12 person (1) uses a dangerous weapon or other means or force likely to produce death or
13 grievous bodily harm to commit the offense described in (a) of this section or (2)
14 commits the offense described in (a) of this section and intentionally inflicts grievous
15 bodily harm, with or without a weapon, on another person. A person who commits
16 aggravated assault may be punished by up to five years of confinement, by separation
17 with characterization up to dishonorable discharge, and by such other punishment as a
18 court-martial may direct.

19 * **Sec. 33.** AS 26.05.900(a) is amended to read:

20 (a) A member of the militia who knowingly commits any of the following acts
21 without legal justification or lawful authorization is guilty of an offense under this
22 section and may be punished by up to seven years [ONE YEAR] of confinement, by
23 separation with characterization up to dishonorable discharge, and by such other
24 punishment as a court-martial may direct:

25 (1) knowingly and wrongfully views the private area of another
26 person, without the other person's consent and under circumstances in which the other
27 person has a reasonable expectation of privacy;

28 (2) knowingly and wrongfully photographs, videotapes, films, or
29 records, by any means, the private area of another person without the other person's
30 consent and under circumstances in which the other person has a reasonable
31 expectation of privacy;

(3) knowingly [AND WRONGFULLY] broadcasts [OR DISTRIBUTES] a recording of another person's private area that the person knows or reasonably should know was made or broadcast

(A) without the other person's consent; and

(B) under circumstances in which the other person had a reasonable expectation of privacy;

(4) knowingly distributes a recording of another person's private area that the person knows or reasonably should know was made or distributed

(A) without the other person's consent; and

(B) under circumstances in which the other person had a reasonable expectation of privacy [UNDER THE CIRCUMSTANCES DESCRIBED IN (2) OF THIS SUBSECTION].

* **Sec. 34.** AS 26.05.900(d) is amended by adding new paragraphs to read:

(7) "recording" means a still or moving visual image captured or recorded by any means;

(8) "without the other person's consent" has the meaning given to "without consent" in AS 11.41.470.

* **Sec. 35.** AS 26.05.900 is amended by adding a new subsection to read:

(e) When a person is convicted of an offense under this section that requires the offender to register as a sex offender under AS 12.63, the court-martial shall provide the person with information regarding sex offender registration under AS 12.63.010 and, if it can be determined by the court-martial, inform the person whether the conviction will require the person to register for life or a lesser period under AS 12.63.

* **Sec. 36.** AS 26.05 is amended by adding a new section to read:

Sec. 26.05.913. Public records offenses. A member of the militia who (1) wilfully and unlawfully alters, conceals, removes, mutilates, obliterates, or destroys a public record or (2) takes a public record with the intent to alter, conceal, remove, mutilate, obliterate, or destroy the public record may be punished by up to five years of confinement, by separation with characterization up to dishonorable discharge, and by such other punishment as a court-martial may direct.

1 * **Sec. 37.** AS 26.05.935 is amended by adding a new subsection to read:

2 (d) When a person is convicted of an enumerated offense under (b) of this
3 section that requires the offender to register as a sex offender under AS 12.63, the
4 court-martial shall provide the person with information regarding sex offender
5 registration under AS 12.63.010 and, if it can be determined by the court-martial,
6 inform the person whether the conviction will require the person to register for life or
7 a lesser period under AS 12.63.

8 * **Sec. 38.** AS 26.05 is amended by adding new sections to read:

9 **Sec. 26.05.940. Offenses concerning government computers.** (a) A member
10 of the militia who (1) knowingly accesses a government computer with an
11 unauthorized purpose, (2) by accessing the government computer obtains classified
12 information, and (3) with reason to believe the information could be used to the injury
13 of the United States or to the advantage of any foreign nation, intentionally
14 communicates, delivers, or transmits the information, or causes the information to be
15 communicated, delivered, or transmitted, to any person who is not entitled to receive
16 the information may be punished by up to 10 years of confinement, by separation with
17 characterization up to dishonorable discharge, and by such other punishment as a
18 court-martial may direct.

19 (b) A member of the militia who intentionally accesses a government
20 computer with an unauthorized purpose and by accessing the government computer
21 obtains classified or other protected information from the government computer may
22 be punished by up to five years of confinement, by separation with characterization up
23 to dishonorable discharge, and by such other punishment as a court-martial may direct.

24 (c) A member of the militia who knowingly causes the transmission of a
25 program, information, code, or command and, as a result of that conduct, intentionally
26 and without authorization causes damage to a government computer may be punished
27 by up to 10 years of confinement, by separation with characterization up to
28 dishonorable discharge, and by such other punishment as a court-martial may direct.

29 **Sec. 26.05.945. Breach of medical quarantine.** A member of the militia who
30 is ordered into medical quarantine by a person authorized to issue the quarantine order
31 and who, with knowledge of the quarantine order and the limits imposed under the

1 quarantine order, goes beyond the limits imposed under the quarantine order before
2 the person is released from quarantine by proper authority may be punished by up to
3 one year of confinement, by separation with characterization up to dishonorable
4 discharge, and by such other punishment as a court-martial may direct.

5 * **Sec. 39.** AS 26.05.990 is amended by adding a new paragraph to read:

6 (22) "controlled substance" means

7 (A) opium, heroin, cocaine, amphetamine, lysergic acid
8 diethylamide, methamphetamine, phencyclidine, barbituric acid, and
9 marijuana;

10 (B) a compound or derivative of a substance specified in (A) of
11 this paragraph;

12 (C) a substance not specified in (A) or (B) of this paragraph
13 that is listed on a schedule of controlled substances prescribed by the President
14 of the United States for the purposes of the armed forces of the United States
15 under 10 U.S.C. 801 - 946 (Uniform Code of Military Justice);

16 (D) a substance not specified in (A) or (B) of this paragraph or
17 on a list prescribed by the President under (C) of this paragraph that is listed in
18 21 U.S.C. 812, schedules I through V;

19 (E) an illicit synthetic drug identified in AS 17.21.010.

20 * **Sec. 40.** AS 44.41.035(b) is amended to read:

21 (b) The Department of Public Safety shall collect for inclusion into the DNA
22 identification registration system a blood sample, oral sample, or both, from (1) a
23 person convicted in this state of a crime against a person or a felony under AS 11,
24 AS 26.05, or AS 28.35, or a law or ordinance with elements similar to a crime against
25 a person or a felony under AS 11, AS 26.05, or AS 28.35, (2) a minor adjudicated as a
26 delinquent in this state for an act committed when the minor was 16 years of age or
27 older that would be a crime against a person or a felony under AS 11, AS 26.05, or
28 AS 28.35 if committed by an adult, or for an act that would violate a law or ordinance
29 with elements similar to a crime against a person or a felony under AS 11, AS 26.05,
30 or AS 28.35 if committed by an adult, (3) a voluntary donor, (4) an anonymous DNA
31 donor for use in forensic validation, forensic protocol development, quality control, or

1 population or statistical data bases, (5) a person required to register as a sex offender
2 or child kidnapper under AS 12.63, and (6) a person arrested for a crime against a
3 person or a felony under AS 11, AS 26.05, or AS 28.35, or a law or ordinance with
4 elements similar to a crime against a person or a felony under AS 11, AS 26.05, or
5 AS 28.35. The department also may collect for inclusion into the DNA identification
6 registration system a blood sample, oral sample, or tissue sample from crime scene
7 evidence or from unidentified human remains. The DNA identification registration
8 system consists of the blood, oral, or tissue samples drawn under this section, any
9 DNA or other blood grouping tests done on those samples, and the identification data
10 related to the samples or tests. Blood samples, oral samples, and tissue samples not
11 subject to testing under this section, and test or identification data related to those
12 samples, may not be entered into, or made a part of, the DNA identification
13 registration system.

14 * **Sec. 41.** AS 26.05.870(c) is repealed.

15 * **Sec. 42.** The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 APPLICABILITY. (a) AS 26.05.135, as amended by secs. 7 and 8 of this Act, applies
18 only to a contract entered into on or after the effective date of secs. 7 and 8 of this Act.

19 (b) AS 12.63.100(1), as amended by sec. 1 of this Act, AS 12.63.100(2), as amended
20 by sec. 2 of this Act, AS 12.63.100(6), as amended by sec. 3 of this Act, AS 12.63.100(8) and
21 (9), enacted by sec. 4 of this Act, AS 18.65.087(a), as amended by sec. 6 of this Act,
22 AS 26.05.890(h), enacted by sec. 30 of this Act, AS 26.05.893(d), enacted by sec. 31 of this
23 Act, AS 26.05.900(e), enacted by sec. 35 of this Act, and AS 26.05.935(d), enacted by sec. 37
24 of this Act, apply to persons convicted of sex offenses or child kidnapping on or after the
25 effective date of secs. 1 - 4, 6, 30, 31, 35, and 37 of this Act.

26 (c) AS 26.05.360(b), as amended by sec. 9 of this Act, applies to nonjudicial
27 punishment imposed for offenses committed on or after the effective date of sec. 9 of this Act.

28 (d) AS 26.05.555(a), as amended by sec. 10 of this Act, AS 26.05.697, enacted by
29 sec. 12 of this Act, AS 26.05.700, as amended by sec. 13 of this Act, AS 26.05.715(c),
30 enacted by sec. 14 of this Act, AS 26.05.737, enacted by sec. 15 of this Act, AS 26.05.740, as
31 amended by sec. 16 of this Act, AS 26.05.767 and 26.05.768, enacted by sec. 17 of this Act,

AS 26.05.785(b), enacted by sec. 18 of this Act, AS 26.05.793, enacted by sec. 19 of this Act, AS 26.05.796 and 26.05.798, enacted by sec. 20 of this Act, AS 26.05.833, enacted by sec. 21 of this Act, AS 26.05.835(b), enacted by sec. 22 of this Act, AS 26.05.855(b), as amended by sec. 23 of this Act, AS 26.05.855(c), as amended by sec. 24 of this Act, AS 26.05.860, as amended by sec. 25 of this Act, AS 26.05.860(b), enacted by sec. 26 of this Act, AS 26.05.865, as amended by sec. 27 of this Act, AS 26.05.867, enacted by sec. 28 of this Act, AS 26.05.890(a), as amended by sec. 29 of this Act, AS 26.05.890(g), enacted by sec. 30 of this Act, AS 26.05.893(a) - (c), enacted by sec. 31 of this Act, AS 26.05.897, enacted by sec. 32 of this Act, AS 26.05.900(a), as amended by sec. 33 of this Act, AS 26.05.900(d), enacted by sec. 34 of this Act, AS 26.05.913, enacted by sec. 36 of this Act, AS 26.05.940 and 26.05.945, enacted by sec. 38 of this Act, and AS 26.05.990(22), enacted by sec. 39 of this Act, apply to offenses committed on or after the effective date of secs. 10 - 34, 36, 38, and 39 of this Act.

* **Sec. 43.** The uncoded law of the State of Alaska is amended by adding a new section to read:

DUTY OF ADJUTANT GENERAL OF THE DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS; NOTICE TO REVISOR OF STATUTES. The adjutant general of the Department of Military and Veterans' Affairs shall notify the revisor of statutes, on or before January 1, 2019, if the President of the United States signs an executive order designating the effective date, under sec. 5542, P.L. 114-328, National Defense Authorization Act for Fiscal Year 2017, of the amendments to the Uniform Code of Military Justice made by the Military Justice Act of 2016.

* **Sec. 44.** The uncoded law of the State of Alaska is amended by adding a new section to read:

CONDITIONAL EFFECT. Sections 1 - 4, 6, 9, 10, 12 - 39, 41, and 42(b) - (d) of this Act take effect only if the adjutant general of the Department of Military and Veterans' Affairs notifies the revisor of statutes under sec. 43 of this Act, on or before January 1, 2019, that the President of the United States has signed an executive order designating the effective date, under sec. 5542, P.L. 114-328, National Defense Authorization Act for Fiscal Year 2017, of the amendments to the Uniform Code of Military Justice made by the Military Justice Act of 2016 and the effective date designated in the executive order is January 1,

1 2019, or earlier.

2 * **Sec. 45.** If secs. 1 - 4, 6, 9, 10, 12 - 39, 41, and 42(b) - (d) of this Act take effect under sec.
3 44 of this Act, they take effect January 1, 2019.

4 * **Sec. 46.** Except as provided in sec. 45 of this Act, this Act takes effect July 1, 2018.