

STATE OF ALASKA

DEPARTMENT OF LAW CRIMINAL DIVISION

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SCS CSHB 127(JUD) Additions and Changes

Sections 1 and 2 expand the definition of “nonconsensual contact” in the stalking law.

Sections 3 and 4 amend the crime of sexual assault in the third degree, a class C felony, by prohibiting a peace officer from engaging in sexual penetration with a person who is in the officer’s custody.

Sections 5 and 6 amend the crime of sexual assault in the fourth degree, a class A misdemeanor, by prohibiting a peace officer from engaging in sexual contact with a person who is in the officer’s custody.

Section 7 raises the crime of online enticement of a minor by a person who is not required to register as a sex offender or child kidnapper from a class C felony to a class B felony.

Section 8 raises the crime of online enticement of a minor for a person already required to register as a sex offender or child kidnapper from a class B felony to a class A felony.

Section 9 amends the crime of criminal use of a computer, a class C felony, by prohibiting the installation or use of a keystroke logger on a computer, if the offender has no right to do so or reasonable belief that the offender has such a right.

These changes were in the original HB 127.

These sections were added to the bill in the Senate Judiciary Committee.

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<p>Section 10 amends the crime of endangering the welfare of a child in the first degree by prohibiting a parent or guardian from leaving a child under 16 years old with a person the parent or guardian knows is required to register as a child kidnapper.</p>	<p>This was in the original HB 127.</p>
<p>Sections 11 and 12 prohibit a person, with the intent to annoy or humiliate another person, from distributing an explicit image of the female breast, anus, or genitals of a person under 16 years old.</p>	<p>This was in the original HB 127. However, it was changed in the House Judiciary Committee to add the culpable mental state (intent to annoy or humiliate the subject of the image) and the penalties were changed so that the offense is either a class A or B misdemeanor. The class A misdemeanor would apply if the distribution was to a publicly accessible Internet site.</p>
<p>Section 13 adds two crimes to Title 11 – Misconduct involving confidential information in the first and second degrees. It prohibits obtaining confidential information without the legal authority to do so or the consent of the subject of the information. The first degree offense prohibits obtaining this information with the intent to use it to commit a crime or obtain a benefit.</p>	<p>These provisions were in the original HB 127.</p>
<p>Section 14 clarifies that the state may prosecute a person for online enticement of a minor or sending an explicit image of a minor if the offender is outside the state, as long as the victim is in the state.</p>	<p>This was in the original HB 127.</p>
<p>Section 15 is a conforming amendment that clarifies that there is no statute of limitations for the offense of sexual assault in the third degree by a peace officer.</p>	<p>This was added in the Senate Judiciary Committee.</p>
<p>Section 16 amends the statute addressing the deadline for bringing an arrested person</p>	<p>This was originally in HB 175, introduced by the House Judiciary Committee at the</p>

<p>before a judicial officer to conform with the changes made to the court rules in the bail revision last year.</p> <p>Section 17 allows a judge when imposing conditions of probation of a person charged with sexual felonies against minors, to prohibit the person from residing with 500 feet of school grounds.</p> <p>Section 18 makes changes to the sentencing statutes to conform to the changes in Sections 7 and 8 of the bill. It also makes some cleanup changes in the sentencing of sex offenders to conform to the substantive law.</p> <p>Section 19 amends the statute addressing the deadline for bringing an arrested person before a judicial officer for an arrest on a fugitive warrant from another state to conform with the changes made to the court rules in the bail revision last year.</p> <p>Section 20 changes the offense of failure to carry and present proof of a driver's license from a class B misdemeanor to an infraction. The offense is a correctible offense in the bail schedules.</p> <p>Section 21 changes the offense of failure to carry and present proof of automobile insurance from a class B misdemeanor to an infraction. The offense is a correctible offense in the bail schedule.</p> <p>Section 22 clarifies that a judge may only appoint a probation officer for a person convicted of a misdemeanor at the discretion of the Commissioner of Corrections.</p>	<p>request of the Governor. It was made a part of HB 127 in the House Finance Committee.</p> <p>This was added to HB 127 in the Senate Judiciary Committee.</p> <p>This section was in the original HB 127. However, the cleanup changes were added in the Senate Judiciary Committee.</p> <p>This section was originally in HB 175. It was added to HB 127 in the House Finance Committee.</p> <p>This provision was in the original HB 175.</p> <p>This provision was in the original HB 175.</p> <p>This provision was in the original HB 127.</p>
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<p>Section 23 corrects a conflict between state statute and court rule. Under current regulations, burning or exploding a vehicle in the Knik River Public Use Area is an infraction with a fine of \$50. In 2008 the legislature made it a class C felony to burn or explode a vehicle on public land. This section provides that the 2008 statute governs this conduct in the Knik River Public Use Area.</p>	<p>This section was in the original HB 175.</p>
<p>Section 24 amends a the administrative subpoena law adopted in SB 222 last year for investigations into child sexual exploitation, by changing the possible methods of service to any means allowed in law or acceptable to the Internet service providers. It specifies the way an ISP may move to quash such a subpoena, and provides for immunity from civil liability for an ISP who responds to the subpoena.</p>	<p>This provision was added to HB 127 in the House Judiciary Committee.</p>
<p>Section 25 amends Rule 5(a)(a), Alaska Rules of Criminal Procedure to correct a drafting error.</p>	<p>This provision was in the original HB 175.</p>
<p>Section 26 describes an indirect court rule change in the bill.</p>	<p>This section was in the original HB 175.</p>
<p>Section 27 requires the Department of Law, with the help of the Department of Corrections and the Alaska Court System, to report to the legislature the time within which offenders are first brought before a judicial officer after arrest for state charges.</p>	<p>This section was added to HB 127 in the Senate Judiciary Committee.</p>
<p>Sections 28, 29, and 30 include applicability, severability, and effective date clauses.</p>	<p>The applicability and effective date clauses were in the original HB 127. The severability section was added in the House Judiciary Committee.</p>