

CS FOR HOUSE BILL NO. 101(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/28/25

Referred: Rules

Sponsor(s): REPRESENTATIVES GRAY, Bynum, Tomaszewski, Vance, Jimmie, Galvin

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to civil claims by victims of sexual abuse of a minor; relating to
2 homicide; relating to assault in the third degree; relating to stalking; relating to sexual
3 abuse of a minor; relating to enticement of a minor; relating to endangering the welfare
4 of a child; relating to indecent exposure; relating to sending an explicit image of a
5 minor; relating to solicitation or production of an indecent picture of a minor; relating
6 to distribution of indecent material to minors; relating to the testimony of children in
7 criminal proceedings; relating to sentencing; and providing for an effective date."

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

9 * **Section 1.** AS 09.55.650(a) is amended to read:

10 (a) A person who, as a minor under 18 [16] years of age, was the victim of
11 sexual abuse may maintain an action for recovery of damages against the perpetrator
12 of the act or acts of sexual abuse based on the perpetrator's intentional conduct for an
13 injury or condition suffered as a result of the sexual abuse.

1 * **Sec. 2.** AS 11.41.100(a) is amended to read:

2 (a) A person commits the crime of murder in the first degree if

3 (1) with intent to cause the death of another person, the person

4 (A) causes the death of any person; or

5 (B) compels or induces any person to commit suicide through
6 duress or deception;

7 (2) the person knowingly engages in conduct directed toward a child
8 under the age of 18 [16] and the person with criminal negligence inflicts serious
9 physical injury on the child by at least two separate acts, and one of the acts results in
10 the death of the child;

11 (3) acting alone or with one or more persons, the person commits or
12 attempts to commit a sexual offense against or kidnapping of a child under 18 [16]
13 years of age and, in the course of or in furtherance of the offense or in immediate
14 flight from that offense, any person causes the death of the child; in this paragraph,
15 "sexual offense" means an offense defined in AS 11.41.410 - 11.41.470;

16 (4) acting alone or with one or more persons, the person commits or
17 attempts to commit criminal mischief in the first degree under AS 11.46.475 and, in
18 the course of or in furtherance of the offense or in immediate flight from that offense,
19 any person causes the death of a person other than one of the participants; or

20 (5) acting alone or with one or more persons, the person commits
21 terroristic threatening in the first degree under AS 11.56.807 and, in the course of or in
22 furtherance of the offense or in immediate flight from that offense, any person causes
23 the death of a person other than one of the participants.

24 * **Sec. 3.** AS 11.41.110(a) is amended to read:

25 (a) A person commits the crime of murder in the second degree if

26 (1) with intent to cause serious physical injury to another person or
27 knowing that the conduct is substantially certain to cause death or serious physical
28 injury to another person, the person causes the death of any person;

29 (2) the person knowingly engages in conduct that results in the death
30 of another person under circumstances manifesting an extreme indifference to the
31 value of human life;

1 (3) under circumstances not amounting to murder in the first degree
 2 under AS 11.41.100(a)(3), while acting either alone or with one or more persons, the
 3 person commits or attempts to commit arson in the first degree, kidnapping, sexual
 4 assault in the first degree, sexual assault in the second degree, sexual abuse of a minor
 5 in the first degree, sexual abuse of a minor in the second degree, burglary in the first
 6 degree, escape in the first or second degree, robbery in any degree, or misconduct
 7 involving a controlled substance under AS 11.71.010(a), 11.71.021(a), 11.71.030(a)(2)
 8 or (9), or 11.71.040(a)(1) or (2) and, in the course of or in furtherance of that crime or
 9 in immediate flight from that crime, any person causes the death of a person other than
 10 one of the participants;

11 (4) acting with a criminal street gang, the person commits or attempts
 12 to commit a crime that is a felony and, in the course of or in furtherance of that crime
 13 or in immediate flight from that crime, any person causes the death of a person other
 14 than one of the participants;

15 (5) the person with criminal negligence causes the death of a child
 16 under the age of 18 [16], and the person has been previously convicted of a crime
 17 involving a child under the age of 18 [16] that was

18 (A) a felony violation of AS 11.41;

19 (B) in violation of a law or ordinance in another jurisdiction
 20 with elements similar to a felony under AS 11.41; or

21 (C) an attempt, a solicitation, or a conspiracy to commit a
 22 crime listed in (A) or (B) of this paragraph; or

23 (6) the person knowingly manufactures or delivers a controlled
 24 substance in violation of AS 11.71.010 or 11.71.021, and another person dies as a
 25 direct result of ingestion of the controlled substance; the death is a result that does not
 26 require a culpable mental state.

27 * **Sec. 4.** AS 11.41.220(a) is amended to read:

28 (a) A person commits the crime of assault in the third degree if that person

29 (1) recklessly

30 (A) places another person in fear of imminent serious physical
 31 injury by means of a dangerous instrument;

1 (B) causes physical injury to another person by means of a
2 dangerous instrument; or

3 (C) while being 18 years of age or older,

4 (i) causes physical injury to a child under 12 years of
5 age and the injury would cause a reasonable caregiver to seek medical
6 attention from a health care professional in the form of diagnosis or
7 treatment;

8 (ii) causes physical injury to a child under 12 years of
9 age on more than one occasion;

10 (2) with intent to place another person in fear of death or serious
11 physical injury to the person or the person's family member, makes repeated threats to
12 cause death or serious physical injury to another person;

13 (3) while being 18 years of age or older, knowingly causes physical
14 injury to a child **who is** under **18** [16] years of age but at least 12 years of age **and at**
15 **least two years younger than the offender** and the injury reasonably requires
16 medical treatment;

17 (4) with criminal negligence, causes serious physical injury under
18 AS 11.81.900(b)(60)(B) to another person by means of a dangerous instrument; or

19 (5) commits a crime that is a violation of AS 11.41.230(a)(1) or (2)
20 and, within the preceding 10 years, the person was convicted on two or more separate
21 occasions of crimes under

22 (A) AS 11.41.100 - 11.41.170;

23 (B) AS 11.41.200 - 11.41.220, 11.41.230(a)(1) or (2),
24 11.41.280, or 11.41.282;

25 (C) AS 11.41.260 or 11.41.270;

26 (D) AS 11.41.410, 11.41.420, or 11.41.425(a)(1); or

27 (E) a law or ordinance of this or another jurisdiction with
28 elements similar to those of an offense described in (A) - (D) of this paragraph.

29 * **Sec. 5.** AS 11.41.220(b) is amended to read:

30 (b) In a prosecution under (a)(3) of this section, it is an affirmative defense
31 that, at the time of the alleged offense, the defendant reasonably believed the victim to

1 be 18 [16] years of age or older, unless the victim was under 13 years of age at the
2 time of the alleged offense.

3 * **Sec. 6.** AS 11.41.260(a) is amended to read:

4 (a) A person commits the crime of stalking in the first degree if the person
5 violates AS 11.41.270 and

6 (1) the actions constituting the offense are in violation of an order
7 issued or filed under AS 18.65.850 - 18.65.870 or AS 18.66.100 - 18.66.180 or issued
8 under former AS 25.35.010(b) or 25.35.020;

9 (2) the actions constituting the offense are in violation of a condition of
10 probation, release before trial, release after conviction, or parole;

11 (3) the victim is under 18 [16] years of age;

12 (4) at any time during the course of conduct constituting the offense,
13 the defendant possessed a deadly weapon;

14 (5) the defendant has been previously convicted of a crime under this
15 section, AS 11.41.270, or AS 11.56.740, or a law or ordinance of this or another
16 jurisdiction with elements similar to a crime under this section, AS 11.41.270, or
17 AS 11.56.740; or

18 (6) the defendant has been previously convicted of a crime, or an
19 attempt or solicitation to commit a crime, under (A) AS 11.41.100 - 11.41.250,
20 11.41.300 - 11.41.460, AS 11.56.807, 11.56.810, AS 11.61.118, 11.61.120, or (B) a
21 law or an ordinance of this or another jurisdiction with elements similar to a crime, or
22 an attempt or solicitation to commit a crime, under AS 11.41.100 - 11.41.250,
23 11.41.300 - 11.41.460, AS 11.56.807, 11.56.810, AS 11.61.118, or 11.61.120,
24 involving the same victim as the present offense.

25 * **Sec. 7.** AS 11.41.434(a) is amended to read:

26 (a) An offender commits the crime of sexual abuse of a minor in the first
27 degree if

28 (1) being 16 years of age or older, the offender engages in sexual
29 penetration with a person who is under 13 years of age or aids, induces, causes, or
30 encourages a person who is under 13 years of age to engage in sexual penetration with
31 another person;

1 (2) being 18 years of age or older, the offender engages in sexual
 2 penetration with a person who is under 18 years of age, and the offender is the victim's
 3 natural parent, stepparent, adopted parent, or legal guardian; or

4 (3) being 18 years of age or older, the offender engages in sexual
 5 penetration with a person who is under 18 [16] years of age **and at least two years**
 6 **younger than the offender**, and

7 (A) the victim at the time of the offense is residing in the same
 8 household as the offender and the offender has authority over the victim; or

9 (B) the offender occupies a position of authority in relation to
 10 the victim.

11 * **Sec. 8.** AS 11.41.436(a) is amended to read:

12 (a) An offender commits the crime of sexual abuse of a minor in the second
 13 degree if,

14 (1) being 17 years of age or older,

15 (A) the offender engages in sexual penetration with a person
 16 who is

17 (i) 13, 14, or 15 years of age and at least four years
 18 younger than the offender; **or**

19 (ii) **16 or 17 years of age and at least six years**
 20 **younger than the offender**; [,] or

21 (B) aids, induces, causes, or encourages a person who is 13, 14,
 22 or 15 years of age and at least four years younger than the offender to engage
 23 in sexual penetration with another person;

24 (2) being 16 years of age or older, the offender engages in sexual
 25 contact with a person who is under 13 years of age or aids, induces, causes, or
 26 encourages a person under 13 years of age to engage in sexual contact with another
 27 person;

28 (3) being 18 years of age or older, the offender engages in sexual
 29 contact with a person who is under 18 years of age, and the offender is the victim's
 30 natural parent, stepparent, adopted parent, or legal guardian;

31 (4) being 16 years of age or older, the offender aids, induces, causes,

1 or encourages a person who is under 16 years of age to engage in conduct described in
2 AS 11.41.455(a)(2) - (6);

3 (5) being 18 years of age or older, the offender engages in sexual
4 contact with a person who is under **18** [16] years of age **and at least two years**
5 **younger than the offender**, and

6 (A) the victim at the time of the offense is residing in the same
7 household as the offender and the offender has authority over the victim; or

8 (B) the offender occupies a position of authority in relation to
9 the victim;

10 (6) being 18 years of age or older, the offender engages in sexual
11 penetration with a person who is 16 or 17 years of age and at least three years younger
12 than the offender, and the offender occupies a position of authority in relation to the
13 victim; or

14 (7) being under 16 years of age, the offender engages in sexual
15 penetration with a person who is under 13 years of age and at least three years younger
16 than the offender.

17 * **Sec. 9.** AS 11.41.438(a) is amended to read:

18 (a) An offender commits the crime of sexual abuse of a minor in the third
19 degree if being 17 years of age or older, the offender engages in sexual contact with a
20 person who is

21 **(1)** 13, 14, or 15 years of age and at least four years younger than the
22 offender; **or**

23 **(2)** **16 or 17 years of age and at least six years younger than the**
24 **offender.**

25 * **Sec. 10.** AS 11.41.452(a) is amended to read:

26 (a) **An offender** [A PERSON] commits the crime of enticement of a minor if
27 the **offender** [PERSON], being 18 years of age or older, knowingly communicates
28 with another person to entice, solicit, or encourage the person to engage in an act
29 described in AS 11.41.455(a)(1) - (7) and

30 (1) the other person is a child under **18** [16] years of age **and at least**
31 **two years younger than the offender**; or

1 (2) the **offender** [PERSON] believes that the other person is a child
 2 under **18** [16] years of age **and at least two years younger than the offender.**

3 * **Sec. 11.** AS 11.41.452(b) is amended to read:

4 (b) In a prosecution under (a)(2) of this section, it is not a defense that the
 5 person enticed, solicited, or encouraged was not actually a child under **18** [16] years of
 6 age.

7 * **Sec. 12.** AS 11.41.452(e) is amended to read:

8 (e) Enticement of a minor is a class A felony if the **offender** [DEFENDANT]
 9 was, at the time of the offense, required to register as a sex offender or child kidnapper
 10 under AS 12.63 or a similar law of another jurisdiction.

11 * **Sec. 13.** AS 11.41.458(b) is amended to read:

12 (b) Indecent exposure in the first degree

13 (1) is a class C felony; or

14 (2) is a class B felony if the offense occurs within the observation of a
 15 person under **18** [16] years of age.

16 * **Sec. 14.** AS 11.41.460(b) is amended to read:

17 (b) Indecent exposure in the second degree before a person under **18** [16]
 18 years of age is a class A misdemeanor. Indecent exposure in the second degree before
 19 a person **18** [16] years of age or older is a class B misdemeanor.

20 * **Sec. 15.** AS 11.51.100(a) is amended to read:

21 (a) A person commits the crime of endangering the welfare of a child in the
 22 first degree if, being a parent, guardian, or other person legally charged with the care
 23 of a child under **18** [16] years of age, the person

24 (1) intentionally deserts the child in a place under circumstances
 25 creating a substantial risk of physical injury to the child;

26 (2) leaves the child with another person who is not a parent, guardian,
 27 or lawful custodian of the child knowing that the person is

28 (A) registered or required to register as a sex offender or child
 29 kidnapper under AS 12.63 or a law or ordinance in another jurisdiction with
 30 similar requirements;

31 (B) charged by complaint, information, or indictment with a

1 violation of AS 11.41.410 - 11.41.455 or a law or ordinance in another
2 jurisdiction with similar elements; or

3 (C) charged by complaint, information, or indictment with an
4 attempt, solicitation, or conspiracy to commit a crime described in (B) of this
5 paragraph;

6 (3) leaves the child with another person knowing that the person has
7 previously physically mistreated or had sexual contact with any child, and the other
8 person causes physical injury to or engages in sexual contact with the child; or

9 (4) recklessly fails to provide an adequate quantity of food or liquids to
10 a child, causing protracted impairment of the child's health.

11 * **Sec. 16.** AS 11.61.116(a) is amended to read:

12 (a) A person commits the offense of sending an explicit image of a minor if
13 the person, with intent to annoy or humiliate another person, distributes an electronic
14 photograph or video that depicts the genitals, anus, or female breast of that other
15 person taken when that person was a minor under 18 [16] years of age.

16 * **Sec. 17.** AS 11.61.124(a) is amended to read:

17 (a) An offender commits the crime of solicitation or production of an indecent
18 picture of a minor if, under circumstances not proscribed under AS 11.41.455 or
19 AS 11.61.123, the offender being 18 years of age or older

20 (1) solicits a picture of the genitals, anus, or female breast of another
21 person and the

22 (A) person solicited is under 18 [16] years of age and at least
23 four years younger than the offender; or

24 (B) offender believes that the other person is under 18 [16]
25 years of age and at least four years younger than the offender; or

26 (2) produces a picture of the genitals, anus, or female breast of another
27 person and the

28 (A) person shown in the picture is under 18 [16] years of age
29 and at least four years younger than the offender; or

30 (B) offender believes that the other person is under 18 [16]
31 years of age and at least four years younger than the offender.

1 * **Sec. 18.** AS 11.61.124(b) is amended to read:

2 (b) In a prosecution under (a) of this section, it is not a defense that the person
3 solicited or shown in the picture was not actually a person under **18** [16] years of age
4 and at least four years younger than the offender.

5 * **Sec. 19.** AS 11.61.128(a) is amended to read:

6 (a) **An offender** [A PERSON] commits the crime of distribution of indecent
7 material to minors if

8 (1) the **offender** [PERSON], being 18 years of age or older,
9 intentionally distributes or possesses with intent to distribute any material described in
10 (2) and (3) of this subsection to either

11 (A) a child **who** [THAT] the **offender** [PERSON] knows is
12 under **18** [16] years of age **and at least two years younger than the offender;**
13 or

14 (B) another person that the **offender** [PERSON] believes is a
15 child under **18** [16] years of age **and at least two years younger than the**
16 **offender;**

17 (2) the **offender** [PERSON] knows that the material depicts the
18 following actual or simulated conduct:

19 (A) sexual penetration;

20 (B) the lewd touching of a person's genitals, anus, or female
21 breast;

22 (C) masturbation;

23 (D) bestiality;

24 (E) the lewd exhibition of a person's genitals, anus, or female
25 breast; or

26 (F) sexual masochism or sadism; and

27 (3) the material is harmful to minors.

28 * **Sec. 20.** AS 11.61.128(b) is amended to read:

29 (b) In this section, it is not a defense that the victim was not actually under **18**
30 [16] years of age.

31 * **Sec. 21.** AS 11.61.128(c) is amended to read:

1 (c) In this section, "harmful to minors" means

2 (1) the average individual, applying contemporary community
3 standards, would find that the material, taken as a whole, appeals to the prurient
4 interest in sex for persons under **18** [16] years of age;

5 (2) a reasonable person would find that the material, taken as a whole,
6 lacks serious literary, artistic, educational, political, or scientific value for persons
7 under **18** [16] years of age; and

8 (3) the material depicts actual or simulated conduct in a way that is
9 patently offensive to the prevailing standards in the adult community as a whole with
10 respect to what is suitable for persons under **18** [16] years of age.

11 * **Sec. 22.** AS 11.61.128(e) is amended to read:

12 (e) Distribution of indecent material to minors is a class B felony if the
13 **offender** [DEFENDANT] was, at the time of the offense, required to register as a sex
14 offender or child kidnapper under AS 12.63 or a similar law of another jurisdiction.

15 * **Sec. 23.** AS 12.45.046(a) is amended to read:

16 (a) In a criminal proceeding under AS 11.41 involving the prosecution of an
17 offense committed against a child under the age of **18** [16], or witnessed by a child
18 under the age of **18** [16], the court

19 (1) may appoint a guardian ad litem for the child;

20 (2) on its own motion or on the motion of the party presenting the
21 witness or the guardian ad litem of the child, may order that the testimony of the child
22 be taken by closed circuit television or through one-way mirrors if the court
23 determines that the testimony by the child victim or witness under normal court
24 procedures would result in the child's inability to effectively communicate.

25 * **Sec. 24.** AS 12.55.125(b) is amended to read:

26 (b) A defendant convicted of attempted murder in the first degree, solicitation
27 to commit murder in the first degree, conspiracy to commit murder in the first degree,
28 kidnapping, or misconduct involving a controlled substance in the first degree shall be
29 sentenced to a definite term of imprisonment of at least five years but not more than
30 99 years. A defendant convicted of murder in the second degree or murder of an
31 unborn child under AS 11.41.150(a)(2) - (4) shall be sentenced to a definite term of

1 imprisonment of at least 15 years but not more than 99 years. A defendant convicted
 2 of murder in the second degree shall be sentenced to a definite term of imprisonment
 3 of at least 20 years but not more than 99 years when the defendant is convicted of the
 4 murder of a child under **18** [16] years of age and the court finds by clear and
 5 convincing evidence that the defendant (1) was a natural parent, a stepparent, an
 6 adoptive parent, a legal guardian, or a person occupying a position of authority in
 7 relation to the child; or (2) caused the death of the child by committing a crime against
 8 a person under AS 11.41.200 - 11.41.530. In this subsection, "legal guardian" and
 9 "position of authority" have the meanings given in AS 11.41.470.

10 * **Sec. 25.** AS 12.55.125(d) is amended to read:

11 (d) Except as provided in (i) of this section, a defendant convicted of a class B
 12 felony may be sentenced to a definite term of imprisonment of not more than 10 years,
 13 and shall be sentenced to a definite term within the following presumptive ranges,
 14 subject to adjustment as provided in AS 12.55.155 - 12.55.175:

15 (1) if the offense is a first felony conviction and does not involve
 16 circumstances described in (2) of this subsection, one to three years; a defendant
 17 sentenced under this paragraph may, if the court finds it appropriate, be granted a
 18 suspended imposition of sentence under AS 12.55.085 if, as a condition of probation
 19 under AS 12.55.086, the defendant is required to serve an active term of imprisonment
 20 within the range specified in this paragraph, unless the court finds that a mitigation
 21 factor under AS 12.55.155 applies;

22 (2) if the offense is a first felony conviction,

23 (A) the defendant violated AS 11.41.130, and the victim was a
 24 child under **18** [16] years of age, two to four years;

25 (B) two to four years if the conviction is for attempt,
 26 solicitation, or conspiracy to manufacture related to methamphetamine under
 27 AS 11.31 and AS 11.71.021(a)(2)(A) or (B), and

28 (i) the attempted manufacturing occurred, or the
 29 solicited or conspired offense was to have occurred, in a building with
 30 reckless disregard that the building was used as a permanent or
 31 temporary home or place of lodging for one or more children under 18

1 years of age or the building was a place frequented by children; or

2 (ii) in the course of an attempt to manufacture, the
3 defendant obtained the assistance of one or more children under 18
4 years of age or one or more children were present;

5 (3) if the offense is a second felony conviction, three to seven years;

6 (4) if the offense is a third felony conviction, six to 10 years.

7 * **Sec. 26.** AS 12.55.145(a) is amended to read:

8 (a) For purposes of considering prior convictions in imposing sentence under

9 (1) AS 12.55.125(c), (d), or (e),

10 (A) a prior conviction may not be considered if a period of 10
11 or more years has elapsed between the date of the defendant's unconditional
12 discharge on the immediately preceding offense and commission of the present
13 offense unless the prior conviction was for an unclassified or class A felony;

14 (B) a conviction in this or another jurisdiction of an offense
15 having elements similar to those of a felony defined as such under Alaska law
16 at the time the offense was committed is considered a prior felony conviction;

17 (C) two or more convictions arising out of a single, continuous
18 criminal episode during which there was no substantial change in the nature of
19 the criminal objective are considered a single conviction unless the defendant
20 was sentenced to consecutive sentences for the crimes; offenses committed
21 while attempting to escape or avoid detection or apprehension after the
22 commission of another offense are not part of the same criminal episode or
23 objective;

24 (2) AS 12.55.125(l),

25 (A) a conviction in this or another jurisdiction of an offense
26 having elements similar to those of a most serious felony is considered a prior
27 most serious felony conviction;

28 (B) commission of and conviction for offenses relied on as
29 prior most serious felony offenses must occur in the following order:
30 conviction for the first offense must occur before commission of the second
31 offense, and conviction for the second offense must occur before commission

1 of the offense for which the defendant is being sentenced;

2 (3) AS 12.55.135(g),

3 (A) a prior conviction may not be considered if a period of five
4 or more years has elapsed between the date of the defendant's unconditional
5 discharge on the immediately preceding offense and commission of the present
6 offense unless the prior conviction was for an unclassified or class A felony;

7 (B) a conviction in this or another jurisdiction of an offense
8 having elements similar to those of a crime against a person or a crime
9 involving domestic violence is considered a prior conviction;

10 (C) two or more convictions arising out of a single, continuous
11 criminal episode during which there was no substantial change in the nature of
12 the criminal objective are considered a single conviction unless the defendant
13 was sentenced to consecutive sentences for the crimes; offenses committed
14 while attempting to escape or avoid detection or apprehension after the
15 commission of another offense are not part of the same criminal episode or
16 objective;

17 (4) AS 12.55.125(i),

18 (A) a conviction in this or another jurisdiction of an offense
19 having elements similar to those of a sexual felony is a prior conviction for a
20 sexual felony;

21 (B) a felony conviction in another jurisdiction making it a
22 crime to commit any lewd and lascivious act on a child under the age of **18**
23 [16] years, with the intent of arousing, appealing to, or gratifying the sexual
24 desires of the defendant or the victim is a prior conviction for a sexual felony;

25 (C) two or more convictions arising out of a single, continuous
26 criminal episode during which there was no substantial change in the nature of
27 the criminal objective are considered a single conviction unless the defendant
28 was sentenced to consecutive sentences for the crimes; offenses committed
29 while attempting to escape or avoid detection or apprehension after the
30 commission of another offense are not part of the same criminal episode or
31 objective;

1 (D) a conviction in this or another jurisdiction of an offense
2 having elements similar to those of a felony defined as such under Alaska law
3 at the time the offense was committed is considered a prior felony conviction.

4 * **Sec. 27.** AS 12.55.155(c) is amended to read:

5 (c) The following factors shall be considered by the sentencing court if proven
6 in accordance with this section, and may allow imposition of a sentence above the
7 presumptive range set out in AS 12.55.125:

8 (1) a person, other than an accomplice, sustained physical injury as a
9 direct result of the defendant's conduct;

10 (2) the defendant's conduct during the commission of the offense
11 manifested deliberate cruelty to another person;

12 (3) the defendant was the leader of a group of three or more persons
13 who participated in the offense;

14 (4) the defendant employed a dangerous instrument in furtherance of
15 the offense;

16 (5) the defendant knew or reasonably should have known that the
17 victim of the offense was particularly vulnerable or incapable of resistance due to
18 advanced age, disability, ill health, homelessness, consumption of alcohol or drugs, or
19 extreme youth or was for any other reason substantially incapable of exercising
20 normal physical or mental powers of resistance;

21 (6) the defendant's conduct created a risk of imminent physical injury
22 to three or more persons, other than accomplices;

23 (7) a prior felony conviction considered for the purpose of invoking a
24 presumptive range under this chapter was of a more serious class of offense than the
25 present offense;

26 (8) the defendant's prior criminal history includes conduct involving
27 aggravated assaultive behavior, repeated instances of assaultive behavior, repeated
28 instances of cruelty to animals proscribed under AS 11.61.140(a)(1) and (3) - (5), or a
29 combination of assaultive behavior and cruelty to animals proscribed under
30 AS 11.61.140(a)(1) and (3) - (5); in this paragraph, "aggravated assaultive behavior"
31 means assault that is a felony under AS 11.41, or a similar provision in another

1 jurisdiction;

2 (9) the defendant knew that the offense involved more than one victim;

3 (10) the conduct constituting the offense was among the most serious
4 conduct included in the definition of the offense;

5 (11) the defendant committed the offense under an agreement that the
6 defendant either pay or be paid for the commission of the offense, and the pecuniary
7 incentive was beyond that inherent in the offense itself;

8 (12) the defendant was on release under AS 12.30 for another felony
9 charge or conviction or for a misdemeanor charge or conviction having assault as a
10 necessary element;

11 (13) the defendant knowingly directed the conduct constituting the
12 offense at an active officer of the court or at an active or former judicial officer,
13 prosecuting attorney, law enforcement officer, correctional employee, firefighter,
14 emergency medical technician, paramedic, ambulance attendant, or other emergency
15 responder during or because of the exercise of official duties;

16 (14) the defendant was a member of an organized group of five or
17 more persons, and the offense was committed to further the criminal objectives of the
18 group;

19 (15) the defendant has three or more prior felony convictions;

20 (16) the defendant's criminal conduct was designed to obtain
21 substantial pecuniary gain and the risk of prosecution and punishment for the conduct
22 is slight;

23 (17) the offense was one of a continuing series of criminal offenses
24 committed in furtherance of illegal business activities from which the defendant
25 derives a major portion of the defendant's income;

26 (18) the offense was a felony

27 (A) specified in AS 11.41 and was committed against a spouse,
28 a former spouse, or a member of the social unit made up of those living
29 together in the same dwelling as the defendant;

30 (B) specified in AS 11.41.410 - 11.41.458 and the defendant
31 has engaged in the same or other conduct prohibited by a provision of

1 AS 11.41.410 - 11.41.460 involving the same or another victim;

2 (C) specified in AS 11.41 that is a crime involving domestic
3 violence and was committed in the physical presence or hearing of a child
4 under 18 [16] years of age who was, at the time of the offense, living within
5 the residence of the victim, the residence of the perpetrator, or the residence
6 where the crime involving domestic violence occurred;

7 (D) specified in AS 11.41 and was committed against a person
8 with whom the defendant has a dating relationship or with whom the defendant
9 has engaged in a sexual relationship; or

10 (E) specified in AS 11.41.434 - 11.41.458 or AS 11.61.128 and
11 the defendant was 10 or more years older than the victim;

12 (19) the defendant's prior criminal history includes an adjudication as a
13 delinquent for conduct that would have been a felony if committed by an adult;

14 (20) the defendant was on furlough under AS 33.30 or on parole or
15 probation for another felony charge or conviction that would be considered a prior
16 felony conviction under AS 12.55.145(a)(1)(B);

17 (21) the defendant has a criminal history of repeated instances of
18 conduct violative of criminal laws, whether punishable as felonies or misdemeanors,
19 similar in nature to the offense for which the defendant is being sentenced under this
20 section;

21 (22) the defendant knowingly directed the conduct constituting the
22 offense at a victim because of that person's race, sex, color, creed, physical or mental
23 disability, ancestry, or national origin;

24 (23) the defendant is convicted of an offense specified in AS 11.71 and

25 (A) the offense involved the delivery of a controlled substance
26 under circumstances manifesting an intent to distribute the substance as part of
27 a commercial enterprise; or

28 (B) at the time of the conduct resulting in the conviction, the
29 defendant was caring for or assisting in the care of a child under 10 years of
30 age;

31 (24) the defendant is convicted of an offense specified in AS 11.71 and

1 the offense involved the transportation of controlled substances into the state;

2 (25) the defendant is convicted of an offense specified in AS 11.71 and
3 the offense involved large quantities of a controlled substance;

4 (26) the defendant is convicted of an offense specified in AS 11.71 and
5 the offense involved the distribution of a controlled substance that had been
6 adulterated with a toxic substance;

7 (27) the defendant, being 18 years of age or older,

8 (A) is legally accountable under AS 11.16.110(2) for the
9 conduct of a person who, at the time the offense was committed, was under 18
10 years of age and at least three years younger than the defendant; or

11 (B) is aided or abetted in planning or committing the offense by
12 a person who, at the time the offense was committed, was under 18 years of
13 age and at least three years younger than the defendant;

14 (28) the victim of the offense is a person who provided testimony or
15 evidence related to a prior offense committed by the defendant;

16 (29) the defendant committed the offense for the benefit of, at the
17 direction of, or in association with a criminal street gang;

18 (30) the defendant is convicted of an offense specified in AS 11.41.410
19 - 11.41.455, and the defendant knowingly supplied alcohol or a controlled substance to
20 the victim in furtherance of the offense with the intent to make the victim
21 incapacitated; in this paragraph, "incapacitated" has the meaning given in
22 AS 11.41.470;

23 (31) the defendant's prior criminal history includes convictions for five
24 or more crimes in this or another jurisdiction that are class A misdemeanors under the
25 law of this state, or having elements similar to a class A misdemeanor; two or more
26 convictions arising out of a single continuous episode are considered a single
27 conviction; however, an offense is not a part of a continuous episode if committed
28 while attempting to escape or resist arrest or if it is an assault on a uniformed or
29 otherwise clearly identified peace officer or correctional employee; notice and denial
30 of convictions are governed by AS 12.55.145(b) - (d);

31 (32) the offense is a violation of AS 11.41 or AS 11.46.400 and the

1 offense occurred on school grounds, on a school bus, at a school-sponsored event, or
 2 in the administrative offices of a school district if students are educated at that office;
 3 in this paragraph,

4 (A) "school bus" has the meaning given in AS 11.71.900;

5 (B) "school district" has the meaning given in AS 47.07.063;

6 (C) "school grounds" has the meaning given in AS 11.71.900;

7 (33) the offense was a felony specified in AS 11.41.410 - 11.41.455,
 8 the defendant had been previously diagnosed as having or having tested positive for
 9 HIV or AIDS, and the offense either (A) involved penetration, or (B) exposed the
 10 victim to a risk or a fear that the offense could result in the transmission of HIV or
 11 AIDS; in this paragraph, "HIV" and "AIDS" have the meanings given in
 12 AS 18.15.310;

13 (34) the defendant committed the offense on, or to affect persons or
 14 property on, the premises of a recognized shelter or facility providing services to
 15 victims of domestic violence or sexual assault;

16 (35) the defendant knowingly directed the conduct constituting the
 17 offense at a victim because that person was 65 years of age or older;

18 (36) the defendant committed the offense at a health care facility and
 19 knowingly directed the conduct constituting the offense at a medical professional
 20 during or because of the medical professional's exercise of professional duties; in this
 21 paragraph,

22 (A) "health care facility" has the meaning given in
 23 AS 18.07.111;

24 (B) "medical professional" has the meaning given in
 25 AS 12.55.135(k);

26 (37) the defendant knowingly caused the victim to become
 27 unconscious by means of a dangerous instrument; in this paragraph, "dangerous
 28 instrument" has the meaning given in AS 11.81.900(b)(16)(B).

29 * **Sec. 28.** AS 12.63.020(a) is amended to read:

30 (a) The duty of a sex offender or child kidnapper to comply with the
 31 requirements of AS 12.63.010 is as follows:

1 (1) for a sex offender or child kidnapper, as that term is defined in
2 AS 12.63.100(6)(A), for each sex offense or child kidnapping, the duty

3 (A) continues for the lifetime of a sex offender or child
4 kidnapper convicted of

5 (i) one aggravated sex offense; or

6 (ii) two or more sex offenses, two or more child
7 kidnappings, or one sex offense and one child kidnapping; for purposes
8 of this section, a person convicted of indecent exposure before a person
9 under 18 [16] years of age under AS 11.41.460 more than two times
10 has been convicted of two or more sex offenses;

11 (B) ends 15 years following the sex offender's or child
12 kidnapper's unconditional discharge from a conviction for a single sex offense
13 that is not an aggravated sex offense or for a single child kidnapping if the sex
14 offender or child kidnapper has supplied proof that is acceptable to the
15 department of the unconditional discharge; the registration period under this
16 subparagraph

17 (i) is tolled for the period that a sex offender or child
18 kidnapper fails to comply with the requirements of this chapter or is
19 incarcerated for the offense or kidnapping for which the offender or
20 kidnapper is required to register or for any other offense;

21 (ii) may include the time a sex offender or child
22 kidnapper was absent from this state if the sex offender or child
23 kidnapper has complied with any sex offender or child kidnapper
24 registration requirements of the jurisdiction in which the offender or
25 kidnapper was located and if the sex offender or child kidnapper
26 provides the department with proof of the compliance while the sex
27 offender or child kidnapper was absent from this state; and

28 (iii) continues for a sex offender or child kidnapper who
29 has not supplied proof acceptable to the department of the offender's or
30 kidnapper's unconditional discharge for the sex offense or child
31 kidnapping requiring registration;

1 (2) for a sex offender or child kidnapper, as that term is defined in
 2 AS 12.63.100(6)(B), the duty continues for the period determined by the department
 3 under (b) of this section.

4 * **Sec. 29.** AS 12.63.100(7) is amended to read:

5 (7) "sex offense" means

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

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

14 (i) sexual assault in the first degree;

15 (ii) sexual assault in the second degree;

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

17 (iv) sexual abuse of a minor in the second degree;

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

20 (i) AS 11.41.410 - 11.41.438;

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

22 (iii) AS 11.41.450 - 11.41.458;

23 (iv) AS 11.41.460 or AS 26.05.900(c) if the indecent
 24 exposure is before a person under **18** [16] years of age and the offender
 25 has previously been convicted under AS 11.41.460 or AS 26.05.900(c);

26 (v) AS 11.61.125 - 11.61.128;

27 (vi) AS 11.66.130(a)(2)(B) or AS 26.05.900(b) if the
 28 person who was induced or caused to engage in prostitution was under
 29 20 years of age at the time of the offense;

30 (vii) former AS 11.15.120, former 11.15.134, or assault
 31 with the intent to commit rape under former AS 11.15.160, former

1 AS 11.40.110, or former 11.40.200;

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

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

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

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

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

14 (xiii) AS 26.05.900(a) if the victim is under 18 years of
15 age at the time of the offense;

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

20 (xv) AS 11.61.123 if the offender is subject to
21 punishment under AS 11.61.123(g)(1) or (2);

22 (xvi) AS 11.66.137;

23 (xvii) AS 11.61.130(a)(2); or

24 (xviii) AS 11.66.110 and 11.66.120;

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

30 (i) child sexual abuse material; or

31 (ii) pandering and prostitution if the person who is

1 induced, enticed, caused, or procured to engage in a sexual act is under
2 20 years of age at the time of the offense; or

3 (E) an offense in which the person is required to register as a
4 sex offender under the laws of another jurisdiction;

5 * **Sec. 30.** AS 11.41.436(a)(6), 11.41.440(a)(2); and AS 12.63.100(7)(C)(ii) are repealed.

6 * **Sec. 31.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 APPLICABILITY. The following apply to offenses committed on or after the
9 effective date of this Act:

- 10 (1) AS 09.55.650(a), as amended by sec. 1 of this Act;
- 11 (2) AS 11.41.100(a), as amended by sec. 2 of this Act;
- 12 (3) AS 11.41.110(a), as amended by sec. 3 of this Act;
- 13 (4) AS 11.41.220(a), as amended by sec. 4 of this Act;
- 14 (5) AS 11.41.220(b), as amended by sec. 5 of this Act;
- 15 (6) AS 11.41.260(a), as amended by sec. 6 of this Act;
- 16 (7) AS 11.41.434(a), as amended by sec. 7 of this Act;
- 17 (8) AS 11.41.436(a), as amended by sec. 8 of this Act;
- 18 (9) AS 11.41.438(a), as amended by sec. 9 of this Act;
- 19 (10) AS 11.41.452(a), as amended by sec. 10 of this Act;
- 20 (11) AS 11.41.452(b), as amended by sec. 11 of this Act;
- 21 (12) AS 11.41.452(e), as amended by sec. 12 of this Act;
- 22 (13) AS 11.41.458(b), as amended by sec. 13 of this Act;
- 23 (14) AS 11.41.460(b), as amended by sec. 14 of this Act;
- 24 (15) AS 11.51.100(a), as amended by sec. 15 of this Act;
- 25 (16) AS 11.61.116(a), as amended by sec. 16 of this Act;
- 26 (17) AS 11.61.124(a), as amended by sec. 17 of this Act;
- 27 (18) AS 11.61.124(b), as amended by sec. 18 of this Act;
- 28 (19) AS 11.61.128(a), as amended by sec. 19 of this Act;
- 29 (20) AS 11.61.128(b), as amended by sec. 20 of this Act;
- 30 (21) AS 11.61.128(c), as amended by sec. 21 of this Act;
- 31 (22) AS 11.61.128(e), as amended by sec. 22 of this Act;

- 1 (23) AS 12.45.046(a), as amended by sec. 23 of this Act;
- 2 (24) AS 12.55.125(b), as amended by sec. 24 of this Act;
- 3 (25) AS 12.55.125(d), as amended by sec. 25 of this Act;
- 4 (26) AS 12.55.145(a), as amended by sec. 26 of this Act;
- 5 (27) AS 12.55.155(c), as amended by sec. 27 of this Act;
- 6 (28) AS 12.63.020(a), as amended by sec. 28 of this Act; and
- 7 (29) AS 12.63.100(7) as amended by sec. 29 of this Act.
- 8 * **Sec. 32.** This Act takes effect immediately under AS 01.10.070(c).