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Radford  
4/2/19

**CS FOR SENATE BILL NO. 35(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to sexual assault; eliminating marriage as a defense to certain crimes of  
2 sexual assault; relating to sexual abuse of a minor; relating to enticement of a minor;  
3 relating to unlawful exploitation of a minor; relating to indecent exposure; relating to  
4 harassment; relating to indecent viewing or production of a picture; relating to the  
5 distribution of child pornography; relating to sentencing; relating to prior convictions;  
6 amending the definitions of 'most serious felony,' 'sexual felony,' 'sex offense,' and 'sex  
7 offender'; relating to the automated victim notification system; relating to the duty to  
8 register as a sex offender or child kidnapper; relating to reporting of child abuse or  
9 neglect; and providing for an effective date."

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

11 \* **Section 1.** The uncoded law of the State of Alaska is amended by adding a new section  
12 to read:

1           LEGISLATIVE FINDINGS AND INTENT FOR SECS. 21, 22, AND 29 OF THIS  
2 ACT. (a) The legislature finds that the legislature did not intend, by enacting ch. 90, SLA  
3 2003, and the legislature does not now intend by enacting this Act, to place a limitation on  
4 which previous convictions may be considered when imposing a sentence under  
5 AS 12.55.125(i), as amended by sec. 21 of this Act.

6           (b) It is the intent of the legislature that AS 12.55.145(a), as amended by sec. 22 of  
7 this Act, overturn the decision of the Alaska Court of Appeals in *Williams v. State*, 418 P.3d  
8 870 (Alaska Ct. App. 2018) to the extent that the decision held that, when imposing a  
9 sentence under AS 12.55.125(i), as amended by sec. 21 of this Act, a prior felony conviction  
10 should not be considered if 10 or more years has elapsed between the date of the defendant's  
11 unconditional discharge on the immediately preceding offense and the date the defendant  
12 committed the present offense unless the prior conviction was for an unclassified or class A  
13 felony.

14           (c) It is the intent of the legislature that all prior felony convictions be considered  
15 when imposing a sentence under AS 12.55.125(i), as amended by sec. 21 of this Act,  
16 regardless of the amount of time that has passed since each conviction.

17           (d) The legislature finds that

18                   (1) protecting the public from sex offenders serves a compelling governmental  
19 interest, and that the release of certain information about sex offenders to public agencies and  
20 the general public assists in protecting the public;

21                   (2) a sex offender who is required to register as a sex offender in the state  
22 where the person was convicted may relocate to this state for various reasons;

23                   (3) the Alaska Supreme Court's narrow interpretation of the state's sex  
24 offender registration requirements in its decision in *State, Department of Public Safety v.*  
25 *Doe*, 425 P.3d 115 (Alaska 2018) hinders the state's ability to protect the public from sex  
26 offenders who may come to this state in that it requires a person to register as a sex offender  
27 in this state only if that person has been convicted of an offense that is similar to a sex offense  
28 as defined in AS 12.63.100, as amended by sec. 29 of this Act.

29           (e) It is the intent of the legislature to overturn *State, Department of Public Safety v.*  
30 *Doe*, 425 P.3d 115 (Alaska 2018) to the extent that the decision held that a sex offender  
31 required to register in another jurisdiction is not required to register in the state unless the

person's underlying conviction is similar to a sex offense as defined in AS 12.63.100, as amended by sec. 29 of this Act. Additionally, it is the intent of the legislature to give reciprocity to other jurisdictions and require a sex offender who is physically present in the state and is required to register as a sex offender in another jurisdiction to register as a sex offender in the state regardless of whether the person's underlying conviction is similar to a sex offense as defined in AS 12.63.100, as amended by sec. 29 of this Act.

(f) It is the intent of the legislature that the Department of Public Safety make additional resources available to expand investigations of online exploitation of children.

\* **Sec. 2.** AS 11.41.420(a) is amended to read:

(a) An offender commits the crime of sexual assault in the second degree if

(1) the offender engages in sexual contact with another person without consent of that person;

(2) the offender engages in sexual contact with a person

(A) who the offender knows is mentally incapable; and

(B) who is in the offender's care

(i) by authority of law; or

(ii) in a facility or program that is required by law to be licensed by the state;

(3) the offender engages in sexual penetration with a person who [THE OFFENDER KNOWS] is

(A) mentally incapable;

(B) incapacitated; or

(C) unaware that a sexual act is being committed; or

(4) the offender engages in sexual contact with a person who the offender knows is unaware that a sexual act is being committed and

(A) the offender is a health care worker; and

(B) the offense takes place during the course of professional treatment of the victim.

\* **Sec. 3.** AS 11.41.425(a) is amended to read:

(a) An offender commits the crime of sexual assault in the third degree if the offender

(1) engages in sexual contact with a person who [THE OFFENDER KNOWS] is

(A) mentally incapable;

(B) incapacitated; or

(C) unaware that a sexual act is being committed;

(2) while employed in a state correctional facility or other placement designated by the commissioner of corrections for the custody and care of prisoners, engages in sexual penetration with a person who the offender knows is committed to the custody of the Department of Corrections to serve a term of imprisonment or period of temporary commitment;

(3) engages in sexual penetration with a person 18 or 19 years of age who the offender knows is committed to the custody of the Department of Health and Social Services under AS 47.10 or AS 47.12 and the offender is the legal guardian of the person;

(4) while employed in the state by a law enforcement agency as a peace officer, or while acting as a peace officer in the state, engages in sexual penetration with a person with reckless disregard that the person is in the custody or the apparent custody of the offender, or is committed to the custody of a law enforcement agency;

(5) while employed by the state or a municipality of the state as a probation officer or parole officer, or while acting as a probation officer or parole officer in the state, engages in sexual penetration with a person with reckless disregard that the person is on probation or parole; or

(6) while employed as a juvenile probation officer or as a juvenile facility staff, engages in sexual penetration with a person 18 or 19 years of age with reckless disregard that the person is committed to the custody or probationary supervision of the Department of Health and Social Services.

\* **Sec. 4.** AS 11.41.432(b) is amended to read:

(b) Except as provided in (d) [(a)] of this section, in a prosecution under AS 11.41.410 - 11.41.427 [AS 11.41.410 OR 11.41.420], it is not a defense that the victim was, at the time of the alleged offense, the legal spouse of the defendant.

\* **Sec. 5.** AS 11.41.432 is amended by adding a new subsection to read:

(d) It is a defense to a crime charged under AS 11.41.425(a)(2) - (5) or 11.41.427 that the offender is married to the person and neither party has filed with the court for separation, divorce, or dissolution of the marriage.

\* **Sec. 6.** AS 11.41.438(b) is amended to read:

(b) **Except as provided in (c) of this section, sexual** [SEXUAL] abuse of a minor in the third degree is a class C felony, **punishable as provided in AS 12.55.125(e).**

\* **Sec. 7.** AS 11.41.438 is amended by adding a new subsection to read:

(c) Sexual abuse of a minor in the third degree is a class C felony, punishable under AS 12.55.125(i), if, at the time of the offense, the victim was at least six years younger than the offender.

\* **Sec. 8.** AS 11.41.452(a) is amended to read:

(a) A person commits the crime of [ONLINE] enticement of a minor if the person, being 18 years of age or older, knowingly **communicates** [USES A COMPUTER TO COMMUNICATE] with another person to entice, solicit, or encourage the person to engage in an act described in AS 11.41.455(a)(1) - (7) and

(1) the other person is a child under 16 years of age; or

(2) the person believes that the other person is a child under 16 years of age.

\* **Sec. 9.** AS 11.41.452(d) is amended to read:

(d) Except as provided in (e) of this section, [ONLINE] enticement **of a minor** is a class B felony.

\* **Sec. 10.** AS 11.41.452(e) is amended to read:

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

\* **Sec. 11.** AS 11.41.455(c) is amended to read:

(c) Unlawful exploitation of a minor is [A]

(1) **a class A** [CLASS B] felony; or

(2) **an unclassified** [CLASS A] felony if the

1                    (A) person has been previously convicted of unlawful  
2                    exploitation of a minor in this jurisdiction or a similar crime in this or another  
3                    jurisdiction; or

4                    (B) minor who is exploited is under 13 years of age at the  
5                    time the exploitation occurs.

6                    \* **Sec. 12.** AS 11.41.458 is amended to read:

7                    **Sec. 11.41.458. Indecent exposure in the first degree.** (a) An offender  
8                    commits the crime of indecent exposure in the first degree if the offender violates  
9                    AS 11.41.460(a) [, THE OFFENSE OCCURS WITHIN THE OBSERVATION OF A  
10                    PERSON UNDER 16 YEARS OF AGE], and

11                    (1) while committing the act constituting the offense, the offender  
12                    knowingly masturbates; or

13                    (2) the offender has been previously convicted under

14                    (A) this section;

15                    (B) AS 11.41.460(a); or

16                    (C) a law or ordinance of this or another jurisdiction with  
17                    elements similar to a crime listed under (A) or (B) of this paragraph.

18                    (b) Indecent exposure in the first degree

19                    (1) is a class C felony; or

20                    (2) is a class B felony if the offense occurs within the observation of  
21                    a person under 16 years of age.

22                    \* **Sec. 13.** AS 11.61.120(a) is amended to read:

23                    (a) A person commits the crime of harassment in the second degree if, with  
24                    intent to harass or annoy another person, that person

25                    (1) insults, taunts, or challenges another person in a manner likely to  
26                    provoke an immediate violent response;

27                    (2) telephones another and fails to terminate the connection with intent  
28                    to impair the ability of that person to place or receive telephone calls;

29                    (3) makes repeated telephone calls at extremely inconvenient hours;

30                    (4) makes an anonymous or obscene telephone call, an obscene  
31                    electronic communication, or a telephone call or electronic communication that

threatens physical injury or sexual contact;

(5) subjects another person to offensive physical contact;

(6) except as provided in AS 11.61.116, publishes or distributes electronic or printed photographs, pictures, or films that show the genitals, anus, or female breast of the other person or show that person engaged in a sexual act; [OR]

(7) repeatedly sends or publishes an electronic communication that insults, taunts, challenges, or intimidates a person under 18 years of age in a manner that places the person in reasonable fear of physical injury; or

(8) under circumstances not proscribed under AS 11.41.455 or AS 11.61.125, repeatedly sends to another person, publishes, or distributes electronic or printed photographs, pictures, or films that show the genitals of any person.

\* Sec. 14. AS 11.61.123(a) is amended to read:

(a) A person commits the crime of indecent viewing or production of a picture [PHOTOGRAPHY] if, in the state, the person knowingly

(1) views, or views [PRODUCES] a picture of, the private exposure of the genitals, anus, or female breast of another person and the viewing

(A) is of a person who [VIEW OR PRODUCTION IS WITHOUT THE KNOWLEDGE OR CONSENT OF

(1) THE PARENT OR GUARDIAN OF THE PERSON VIEWED, OR WHO IS SHOWN IN THE PICTURE, IF THE PERSON WHO IS VIEWED OR SHOWN] is under 16 years of age; or

(B) occurs without the knowledge or consent of [AND (2)] the person viewed or shown in the picture, if the person viewed or shown is at least 16 [13] years of age; or

(2) produces a picture of the private exposure of the genitals, anus, or female breast of another person and the production

(A) is of a person who is under 16 years of age; or

(B) occurs without the knowledge or consent of the person shown in the picture if the person shown is at least 16 years of age.

\* Sec. 15. AS 11.61.123(c) is amended to read:

(c) This section does not apply to the viewing or production of a picture [PHOTOGRAPHY] conducted by a law enforcement agency for a law enforcement purpose.

\* **Sec. 16.** AS 11.61.123(d) is amended to read:

(d) In a prosecution under this section, it is an affirmative defense that the viewing or production of a picture [PHOTOGRAPHY] was conducted as a security surveillance system, notice of the viewing or production [PHOTOGRAPHY] was posted, and any viewing or use of pictures produced is done only in the interest of crime prevention or prosecution.

\* **Sec. 17.** AS 11.61.123(f) is amended to read:

(f) Indecent viewing or production of a picture [PHOTOGRAPHY] is a

(1) class B felony if the person violates (a)(2) of this section and the person shown in the picture was, at the time of the production of the picture, a minor;

(2) [(1)] class C felony if the person

(A) violates (a)(1) of this section and the person viewed

(i) [OR SHOWN IN A PICTURE] was, at the time of the viewing [OR PRODUCTION OF THE PICTURE], a minor;

(ii) in a picture was, at the time of the production of the picture, a minor; or

(B) violates (a)(2) of this section and the person shown in a picture was, at the time of the production of the picture, an adult;

(3) [(2)] class A misdemeanor if the person violates (a)(1) of this section and the person viewed

(A) [OR SHOWN IN A PICTURE] was, at the time of the viewing [OR PRODUCTION OF THE PICTURE], an adult; or

(B) in a picture was, at the time of the production of the picture, an adult.

\* **Sec. 18.** AS 11.61.123 is amended by adding a new subsection to read:

(g) The provisions of this section do not apply to acts

(1) that may reasonably be construed to be normal caretaker

responsibilities for a child, interactions with a child, or affection for a child; or

(2) performed for the purpose of administering a recognized and lawful form of treatment that is reasonably adapted to promoting the physical or mental health of the person being treated.

\* **Sec. 19.** AS 11.81.900(b) is amended by adding a new paragraph to read:

(68) "semen" means fluid produced in the male reproductive organs, which may include spermatozoa.

\* **Sec. 20.** AS 12.55.015 is amended by adding a new subsection to read:

(l) In making a determination under (a)(12) of this section for a defendant convicted of a crime involving a sex offense as defined in AS 12.63.100 or a crime involving domestic violence as defined in AS 18.66.990, there is a presumption that, unless the court finds on the record that contact between a defendant and the victim of the offense is necessary, the court shall order the defendant to have no contact, either directly or indirectly, with the victim until the defendant is unconditionally discharged.

\* **Sec. 21.** AS 12.55.125(i) is amended to read:

(i) A defendant convicted of

(1) sexual assault in the first degree, sexual abuse of a minor in the first degree, unlawful exploitation of a minor under AS 11.41.455(c)(2), or sex trafficking in the first degree under AS 11.66.110(a)(2) may be sentenced to a definite term of imprisonment of not more than 99 years and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(A) if the offense is a first felony conviction, the offense does not involve circumstances described in (B) of this paragraph, and the victim was

(i) less than 13 years of age, 25 to 35 years;

(ii) 13 years of age or older, 20 to 30 years;

(B) if the offense is a first felony conviction and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, 25 to 35 years;

(C) if the offense is a second felony conviction and does not

involve circumstances described in (D) of this paragraph, 30 to 40 years;

(D) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 35 to 45 years;

(E) if the offense is a third felony conviction and the defendant is not subject to sentencing under (F) of this paragraph or (I) of this section, 40 to 60 years;

(F) if the offense is a third felony conviction, the defendant is not subject to sentencing under (I) of this section, and the defendant has two prior convictions for sexual felonies, 99 years;

(2) unlawful exploitation of a minor under AS 11.41.455(c)(1), [AS 11.41.455(c)(2), ONLINE] enticement of a minor under AS 11.41.452(e), or attempt, conspiracy, or solicitation to commit sexual assault in the first degree, sexual abuse of a minor in the first degree, or sex trafficking in the first degree under AS 11.66.110(a)(2) may be sentenced to a definite term of imprisonment of not more than 99 years and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(A) if the offense is a first felony conviction, the offense does not involve circumstances described in (B) of this paragraph, and the victim was

(i) under 13 years of age, 20 to 30 years;

(ii) 13 years of age or older, 15 to 30 years;

(B) if the offense is a first felony conviction and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, 25 to 35 years;

(C) if the offense is a second felony conviction and does not involve circumstances described in (D) of this paragraph, 25 to 35 years;

(D) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 30 to 40 years;

(E) if the offense is a third felony conviction, the offense does not involve circumstances described in (F) of this paragraph, and the defendant is not subject to sentencing under (I) of this section, 35 to 50 years;

(F) if the offense is a third felony conviction, the defendant is not subject to sentencing under (I) of this section, and the defendant has two prior convictions for sexual felonies, 99 years;

(3) sexual assault in the second degree, sexual abuse of a minor in the second degree, [ONLINE] enticement of a minor under AS 11.41.452(d), indecent exposure in the first degree under AS 11.41.458(b)(2) [UNLAWFUL EXPLOITATION OF A MINOR UNDER AS 11.41.455(c)(1)], or distribution of child pornography under AS 11.61.125(e)(2) may be sentenced to a definite term of imprisonment of not more than 99 years and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(A) if the offense is a first felony conviction and does not involve the circumstances described in (B) of this paragraph, five to 15 years;

(B) if the offense is a first conviction under AS 11.61.125(e)(2), the defendant hosted, created, or helped host or create a mechanism for multi-party sharing or distribution of child pornography, or received a financial benefit or had a financial interest in a child pornography sharing or distribution mechanism,

(i) 10 - 25 years; or

(ii) if the defendant has a prior conviction for a sexual felony, 15 - 30 years;

(C) if the offense is a second felony conviction and does not involve circumstances described in (D) [(C)] of this paragraph, 10 to 25 years;

(D) [(C)] if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 15 to 30 years;

(E) [(D)] if the offense is a third felony conviction and does not involve circumstances described in (F) [(E)] of this paragraph, 20 to 35 years;

(F) [(E)] if the offense is a third felony conviction and the defendant has two prior convictions for sexual felonies, 99 years;

(4) sexual assault in the third degree, sexual abuse of a minor in the

third degree under AS 11.41.438(c), incest, indecent exposure in the first degree under AS 11.41.458(b)(1), indecent viewing or production of a picture under AS 11.61.123(f)(1) or (2), possession of child pornography, distribution of child pornography under AS 11.61.125(e)(1), or attempt, conspiracy, or solicitation to commit sexual assault in the second degree, sexual abuse of a minor in the second degree, unlawful exploitation of a minor, or distribution of child pornography, may be sentenced to a definite term of imprisonment of not more than 99 years and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(A) if the offense is a first felony conviction and does not involve the circumstances described in (B) of this paragraph, two to 12 years;

(B) if the offense is a first felony conviction under AS 11.61.125(e)(1), four to 12 years;

(C) if the offense is a second felony conviction and does not involve circumstances described in (D) [(C)] of this paragraph, eight to 15 years;

(D) [(C)] if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 12 to 20 years;

(E) [(D)] if the offense is a third felony conviction and does not involve circumstances described in (F) [(E)] of this paragraph, 15 to 25 years;

(F) [(E)] if the offense is a third felony conviction and the defendant has two prior convictions for sexual felonies, 99 years.

\* **Sec. 22.** AS 12.55.145(a) is amended to read:

(a) For purposes of considering prior convictions in imposing sentence under  
(1) AS 12.55.125(c), (d), or (e),

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

(B) a conviction in this or another jurisdiction of an offense

1 having elements similar to those of a felony defined as such under Alaska law  
2 at the time the offense was committed is considered a prior felony conviction;

3 (C) two or more convictions arising out of a single, continuous  
4 criminal episode during which there was no substantial change in the nature of  
5 the criminal objective are considered a single conviction unless the defendant  
6 was sentenced to consecutive sentences for the crimes; offenses committed  
7 while attempting to escape or avoid detection or apprehension after the  
8 commission of another offense are not part of the same criminal episode or  
9 objective;

10 (2) AS 12.55.125(l),

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

14 (B) commission of and conviction for offenses relied on as  
15 prior most serious felony offenses must occur in the following order:  
16 conviction for the first offense must occur before commission of the second  
17 offense, and conviction for the second offense must occur before commission  
18 of the offense for which the defendant is being sentenced;

19 (3) AS 12.55.135(g),

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

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

27 (C) two or more convictions arising out of a single, continuous  
28 criminal episode during which there was no substantial change in the nature of  
29 the criminal objective are considered a single conviction unless the defendant  
30 was sentenced to consecutive sentences for the crimes; offenses committed  
31 while attempting to escape or avoid detection or apprehension after the

commission of another offense are not part of the same criminal episode or objective;

(4) AS 12.55.125(i),

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

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

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

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

(5) AS 12.55.135(a),

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

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

(C) two or more convictions arising out of a single, continuous

criminal episode during which there was no substantial change in the nature of the criminal objective are considered a single conviction unless the defendant was sentenced to consecutive sentences for the crimes; offenses committed while attempting to escape or avoid detection or apprehension after the commission of another offense are not part of the same criminal episode or objective.

\* **Sec. 23.** AS 12.55.185(10) is amended to read:

(10) "most serious felony" means

(A) arson in the first degree, sex trafficking in the first degree under AS 11.66.110(a)(2), [ONLINE] enticement of a minor under AS 11.41.452(e), or any unclassified or class A felony prescribed under AS 11.41; or

(B) an attempt, or conspiracy to commit, or criminal solicitation under AS 11.31.110 of, an unclassified felony prescribed under AS 11.41;

\* **Sec. 24.** AS 12.55.185(16) is amended to read:

(16) "sexual felony" means sexual assault in the first degree, sexual abuse of a minor in the first degree, sex trafficking in the first degree, sexual assault in the second degree, sexual abuse of a minor in the second degree, sexual abuse of a minor in the third degree if the victim is at least six years younger than the offender, unlawful exploitation of a minor, indecent viewing or production of a picture under AS 11.61.123(f)(1) or (2), distribution of child pornography, sexual assault in the third degree, incest, indecent exposure in the first degree, possession of child pornography, [ONLINE] enticement of a minor, and felony attempt, conspiracy, or solicitation to commit those crimes;

\* **Sec. 25.** 12.61.050 is amended by adding a new subsection to read:

(c) Through the automated victim notification system established in (a) of this section, the Department of Corrections shall notify a victim of a sex offense as defined in AS 12.63.100 or a crime involving domestic violence as defined in AS 18.66.990 of the option to request a protective order under AS 18.65.850 or AS 18.66.100 and provide contact information for state victim resources, including the Council on

Domestic Violence and Sexual Assault, the Alaska Network on Domestic Violence and Sexual Assault, the Office of Victims' Rights, and the Violent Crimes Compensation Board. This notification must occur when the offender of the victim is released from incarceration or when the order under AS 12.55.015(l) expires, whichever is later.

\* **Sec. 26.** AS 12.63.010(d) is amended to read:

(d) A sex offender or child kidnapper required to register

(1) for 15 years under (a) of this section and **AS 12.63.020** [AS 12.63.020(a)(2)] shall, annually, during the term of a duty to register under AS 12.63.020, on a date set by the department at the time of the sex offender's or child kidnapper's initial registration, provide written verification to the department, in the manner required by the department, of the sex offender's or child kidnapper's address and notice of any changes to the information previously provided under (b)(1) of this section;

(2) for life under (a) of this section and **AS 12.63.020** [AS 12.63.020(a)(1)] shall, not less than quarterly, on a date set by the department, provide written verification to the department, in the manner required by the department, of the sex offender's or child kidnapper's address and any changes to the information previously provided under (b)(1) of this section.

\* **Sec. 27.** AS 12.63.020 is amended to read:

**Sec. 12.63.020. Duration of sex offender or child kidnapper duty to register.** (a) The duty of a sex offender or child kidnapper to comply with the requirements of AS 12.63.010 **is as follows:**

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

**(A)** [(1)] continues for the lifetime of a sex offender or child kidnapper convicted of

**(i)** [(A)] one aggravated sex offense; or

**(ii)** [(B)] two or more sex offenses, two or more child kidnappings, or one sex offense and one child kidnapping; for purposes of this section, a person convicted of indecent exposure before a person

under 16 years of age under AS 11.41.460 more than two times has been convicted of two or more sex offenses;

**(B)** [(2)] ends 15 years following the sex offender's or child kidnapper's unconditional discharge from a conviction for a single sex offense that is not an aggravated sex offense or for a single child kidnapping if the sex offender or child kidnapper has supplied proof that is acceptable to the department of the unconditional discharge; the registration period under this **subparagraph**

**(i)** [PARAGRAPH (A)] is tolled for each year that a sex offender or child kidnapper [(i)] fails to comply with the requirements of this chapter **or** [(ii)] is incarcerated for the offense or kidnapping for which the offender or kidnapper is required to register or for any other offense;

**(ii)** [(B)] may include the time a sex offender or child kidnapper was absent from this state if the sex offender or child kidnapper has complied with any sex offender or child kidnapper registration requirements of the jurisdiction in which the offender or kidnapper was located and if the sex offender or child kidnapper provides the department with proof of the compliance while the sex offender or child kidnapper was absent from this state; and

**(iii)** [(C)] continues for a sex offender or child kidnapper who has not supplied proof acceptable to the department of the offender's or kidnapper's unconditional discharge for the sex offense or child kidnapping requiring registration;

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

(b) The department shall adopt, by regulation,

**(1)** procedures to notify a sex offender or child kidnapper

**(A)** who, on the registration form under AS 12.63.010, lists a conviction for a sex offense or child kidnapping that is a violation of a former

law of this state or a law of another jurisdiction, of the duration of the offender's or kidnapper's duty under (a) of this section for that sex offense or child kidnapping;

(B) as that term is defined in AS 12.63.100(6)(B), of the duration of the sex offender or child kidnapper's duty under (a) of this section; in adopting regulations under this subparagraph, the department shall

(i) consider the period of registration required in the other jurisdiction; and

(ii) provide for tolling of the registration period if the sex offender or child kidnapper fails to comply with the requirements of this chapter or is incarcerated;

(2) a requirement that an [. AS A PART OF THE REGULATIONS, THE DEPARTMENT SHALL REQUIRE THE] offender or kidnapper [TO] supply proof acceptable to the department of unconditional discharge and the date it occurred.

\* Sec. 28. AS 12.63.100(6) is amended to read:

(6) "sex offender or child kidnapper" means

(A) a person convicted of a sex offense or child kidnapping in this state or another jurisdiction regardless of whether the conviction occurred before, after, or on January 1, 1999; or

(B) a person who is required to register as a sex offender or child kidnapper under the laws of another jurisdiction;

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

(7) "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;

(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);
- (v) AS 11.61.125 - 11.61.128;
- (vi) AS 11.66.110, 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;
- (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

**(xv) AS 11.61.123 if the offender is subject to punishment under AS 11.61.123(f)(1) or (2);**

(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; **or**

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

\* **Sec. 30.** AS 44.19.647(a) is amended to read:

(a) The commission shall submit to the governor and the legislature an annual report. The report must include

(1) a description of its proceedings for the previous calendar year;

(2) a summary of savings and recommendations on how savings from criminal justice reform should be reinvested to reduce recidivism;

(3) performance metrics and outcomes from the recommendations the commission made in its December 2015 report, including recidivism rates, defined as

(A) the percentage of inmates who return to prison within three years after release, broken down by offense type and risk level; and

(B) the percentage of inmates who return to prison within three

years after release for a new criminal conviction, broken down by offense type and risk level; [AND]

(4) recommendations for additional reforms, which may include recommendations for legislative and administrative action; and

(5) data reported by the Department of Law under AS 44.23.040.

\* **Sec. 31.** AS 44.23.020 is amended by adding a new subsection to read:

(k) The attorney general, in consultation with the commissioner of public safety, shall

(1) develop a tool to track felony sex offenses reported to the Department of Public Safety by geographic location; the tracking tool must include a means to record the reason a reported offense was not referred for prosecution or, if referred, the reason the offense was not prosecuted and, if applicable, the reason a sex offense charged as a felony resulted in a conviction of an offense other than a sex offense under a plea agreement;

(2) develop regulations and procedures to implement the requirements established under (1) of this subsection; and

(3) provide training for the implementation of the regulations and procedures established under (2) of this subsection in each state department as necessary.

\* **Sec. 32.** AS 44.23.040 is amended by adding a new subsection to read:

(b) The Department of Law, in consultation with the Department of Public Safety, shall gather and report data on felony sex offenses to the Alaska Judicial Council. The data must include

(1) the number of felony sex offenses reported to the Department of Public Safety that were not referred for prosecution;

(2) the number of felony sex offenses referred for prosecution that were not prosecuted;

(3) the number of felony sex offenses that resulted in a conviction for a crime other than a sex offense; and

(4) the number of sex offenses referred for prosecution that were charged as a felony and, under a plea agreement, resulted in a conviction for a crime

other than a sex offense.

\* **Sec. 33.** AS 47.17.020(a) is amended to read:

(a) The following persons who, in the performance of their occupational duties, their appointed duties under (8) of this subsection, or their volunteer duties under (9) of this subsection, have reasonable cause to suspect that a child has suffered harm as a result of child abuse or neglect shall immediately report the harm to the nearest office of the department **and, if the harm appears to be a result of a suspected sex offense, shall immediately report the harm to the nearest law enforcement agency:**

- (1) practitioners of the healing arts;
- (2) school teachers and school administrative staff members, including athletic coaches, of public and private schools;
- (3) peace officers and officers of the Department of Corrections;
- (4) administrative officers of institutions;
- (5) child care providers;
- (6) paid employees of domestic violence and sexual assault programs, and crisis intervention and prevention programs as defined in AS 18.66.990;
- (7) paid employees of an organization that provides counseling or treatment to individuals seeking to control their use of drugs or alcohol;
- (8) members of a child fatality review team established under AS 12.65.015(e) or 12.65.120 or the multidisciplinary child protection team created under AS 47.14.300; [.]
- (9) volunteers who interact with children in a public or private school for more than four hours a week.

\* **Sec. 34.** AS 47.17.020(e) is amended to read:

(e) The department shall immediately notify the nearest law enforcement agency if the department

- (1) concludes that the harm was caused by a person who is not responsible for the child's welfare;
- (2) is unable to determine
  - (A) who caused the harm to the child; or

(B) whether the person who is believed to have caused the harm has responsibility for the child's welfare; or

(3) concludes that the report involves

(A) possible criminal sex abuse or sex offenses [CONDUCT] under AS 11.41.410 - 11.41.458, AS 11.61.116, 11.61.118(a)(2), 11.61.120(a)(6), 11.61.123, or 11.61.128, including sex offenses committed by a minor against a minor; or

(B) abuse or neglect that results in the need for medical treatment of the child.

\* **Sec. 35.** AS 47.17.020(g) is amended to read:

(g) A person required to report child abuse or neglect under (a) of this section who makes the report to the person's job supervisor or to another individual working for the entity that employs the person is not relieved of the obligation to make the report to the department or a law enforcement agency as required under (a) of this section.

\* **Sec. 36.** AS 47.17.022(b) is amended to read:

(b) Each department of the state and school district that employs persons required to report abuse or neglect of children shall provide

(1) initial training required by this section to each new employee within 45 days after the first day of employment, and to any existing employee who has not received equivalent training;

(2) annual in-service training relating to the requirements for reporting a suspected sex offense under AS 47.17.020; and

(3) [(2)] appropriate in-service training required by this section as determined by the department or school district.

\* **Sec. 37.** AS 47.17.290 is amended by adding a new paragraph to read:

(18) "sex offense" has the meaning given in AS 12.63.100.

\* **Sec. 38.** AS 11.41.432(a)(2) is repealed.

\* **Sec. 39.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. (a) The following sections apply to offenses committed on or after

the effective date of this Act:

- (1) AS 11.41.420(a), as amended by sec. 2 of this Act;
- (2) AS 11.41.425(a), as amended by sec. 3 of this Act;
- (3) AS 11.41.432(b), as amended by sec. 4 of this Act;
- (4) AS 11.41.438(b), as amended by sec. 6 of this Act;
- (5) AS 11.41.438(c), enacted by sec. 7 of this Act;
- (6) AS 11.41.452(a), as amended by sec. 8 of this Act;
- (7) AS 11.41.452(d), as amended by sec. 9 of this Act;
- (8) AS 11.41.452(e), as amended by sec. 10 of this Act;
- (9) AS 11.41.455(c), as amended by sec. 11 of this Act;
- (10) AS 11.41.458, as amended by sec. 12 of this Act;
- (11) AS 11.61.120(a), as amended by sec. 13 of this Act;
- (12) AS 11.61.123(a), as amended by sec. 14 of this Act;
- (13) AS 11.61.123(f), as amended by sec. 17 of this Act;
- (14) AS 11.61.123(g), enacted by sec. 18 of this Act;
- (15) AS 11.61.900(b)(68), enacted by sec. 19 of this Act;
- (16) AS 12.55.125(i), as amended by sec. 21 of this Act;
- (17) AS 12.55.145(a), as amended by sec. 22 of this Act;
- (18) AS 12.55.185(10), as amended by sec. 23 of this Act;
- (19) AS 12.55.185(16), as amended by sec. 24 of this Act.

(b) The following sections apply to the duty to register as a sex offender for offenses committed on or after the effective date of this Act:

- (1) AS 12.63.010(d), as amended by sec. 26 of this Act;
- (2) AS 12.63.020, as amended by sec. 27 of this Act;
- (3) AS 12.63.100(6), as amended by sec. 28 of this Act;
- (4) AS 12.63.100(7), as amended by sec. 29 of this Act.

(c) AS 11.61.432(a)(2), repealed by sec. 38 of this Act, applies to offenses committed on or after the effective date of this Act.

\* **Sec. 40.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. The Department of Law, the attorney general, the

1 Department of Public Safety, and the commissioner of public safety may adopt regulations  
2 necessary to implement the changes made by secs. 31 and 32 of this Act. The regulations take  
3 effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the  
4 relevant provision of this Act implemented by the regulation.

5 \* **Sec. 41.** The uncodified law of the State of Alaska is amended by adding a new section to  
6 read:

7 REVISOR'S INSTRUCTION. The revisor of statutes is requested to change the  
8 heading of AS 11.61.123 from "Indecent viewing or photography" to "Indecent viewing or  
9 production of a picture."

10 \* **Sec. 42.** Section 40 of this Act takes effect immediately under AS 01.10.070(c).

11 \* **Sec. 43.** Sections 30 - 32 of this Act take effect July 1, 2020.

12 \* **Sec. 44.** Except as provided by secs. 42 and 43 of this Act, this Act takes effect July 1,  
13 2019.