

ALASKA STATE LEGISLATURE

House Judiciary Committee



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House Bill 5

Sectional Analysis — Version R

Section 1

AS 11.41.410. Sexual assault in the first degree.

Establishes sexual assault in the first degree. Amends subsection (a)(1) to make sexual assault in the first degree encompass sexual penetration without consent by use or threat of force.

Section 2

AS 11.41.420. Sexual assault in the second degree.

Establishes sexual assault in the second degree. Amends subsection (a)(1) to make sexual assault in the second degree encompass sexual contact without consent by use or threat of force. Amends subsection (a)(5) to make sexual assault in the second degree encompass sexual penetration without consent.

Section 3

AS 11.41.425. Sexual assault in the third degree.

Establishes sexual assault in the third degree. Amends subsection (a)(7) to make sexual assault in the third degree encompass sexual contact without consent.

Section 4

AS 11.41.445. General provisions.

Adds a new subsection (c) that establishes: an expression of lack of consent means there is no consent; absence of verbal or physical resistance does not establish consent; consent may be express or inferred; consent may be revoked or withdrawn at any time; a clear verbal refusal establishes a revocation of prior consent; lack of consent may be overridden by subsequent consent prior to the conduct at issue; a person who is incapacitated as a result of an act of the defendant cannot consent; and consent is ineffective if induced by force, duress, or deception.

Section 5

AS 11.41.470. Definitions.

Adds a definition of “consent” to mean “a person’s willingness to engage in the conduct at issue.”

Section 6

AS 11.56.765. Failure to report a violent crime committed against a child.

Adds the definition of consent found in sec. 5.

Section 7

AS 11.56.767. Failure to report a violent crime committed against an adult.

Adds the definition of consent found in sec. 5.

Section 8

AS 26.05.900. Other sexual misconduct; indecent viewing, visual recording, or broadcasting.

Adds the definition of consent found in sec. 5.

Section 9

AS 44.41.065. Sexual assault examination kits.

Amends subsection (a)(2)(1) to decrease the time allowed for law enforcement agencies to ensure that laboratories conduct serological or DNA test on sexual examination kit from one year to six months from the laboratory receiving the sexual assault examination kit.

Section 10

Repeals AS 11.41.470(10), AS 11.56.765(c)(4), AS 11.56.767(c)(4), and AS 26.05.900(e)(8). These statutes contain the previous definition of consent.

Section 11

Uncodified law - applicability

Amends uncodified law to state that modifications (secs. 1, 2, 3, 4, and 5) and repeals (sec. 7) apply to offenses committed on or after the effective date of the bill.

Section 12

Effective Date

Makes sec. 9 effective on July 1, 2023.