

ALASKA STATE LEGISLATURE



Representative Geran Tarr

House Bill 5

Version U

"An Act relating to sexual abuse of a minor; relating to sexual assault; relating to the code of military justice; relating to consent; relating to the testing of sexual assault examination kits; and providing for an effective date."

Sectional Analysis

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 the use of force/implied use of force against a person or property, causing a person to become incapacitated, and also by impersonating someone known to the victim.

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 the use of force/implied use of force against a person or property, causing a person to become incapacitated, and also by impersonating someone known to the victim.

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 states:

- An expression of lack of consent means there is no consent and that an absence of verbal or physical resistance does not constitute consent.
- Consent may be express or inferred by a person's behavior, including both action and inaction.
- A current or previous social, sexual, or dating relationship between the victim and defendant may not, by itself, constitute consent.
- A person cannot consent if they are fraudulently made to believe that a sexual act is done for a professional purpose (i.e., a medical procedure, etc.)

Section 5:

AS 11.41.470. Definitions.

Adds a definition of “consent” to mean “a freely given, reversible agreement specific to the conduct at issue.” This section also defines “freely given” to mean “agreement to cooperate in the act was positively expressed by word or action.

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 12.44.035. Fines.

Adds new numbering to include the expansion of sexual assault in the first degree under sec. 1.

Section 9:

AS 12.55.125. Sentences of Imprisonment for Felonies.

Adds new numbering to include the expansion of sexual assault in the first degree under sec. 1.

Section 10:

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

Adds the definition of consent found in sec. 5.

Section 11:

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 12:

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 13:

Uncodified law - applicability

Amends uncodified law to state that modifications and repeals apply to offenses committed on or after the effective date of the bill.

Section 14:

Effective Date

Makes sec. 11 effective on July 1, 2023.

Section 15:

Effective Date

Makes the effective date of this bill January 1, 2023.