

SENATE CS FOR HOUSE BILL NO. 265(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

**Offered:
Referred:**

**Sponsor(s): REPRESENTATIVES VANCE, Rauscher, Wright, Carpenter, Josephson, Allard, Gray, Saddler
SENATORS Kiehl, Myers, Hughes, Gray-Jackson, Merrick, Bjorkman, Stevens**

A BILL

FOR AN ACT ENTITLED

1 **"An Act changing the term 'child pornography' to 'child sexual abuse material'; and**
2 **relating to the crime of prostitution."**

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

4 *** Section 1.** AS 11.61.125(a) is amended to read:

5 (a) A person commits the crime of distribution of child **sexual abuse material**
6 [PORNOGRAPHY] if the person distributes in this state or advertises, promotes,
7 solicits, or offers to distribute in this state any material that is proscribed under
8 AS 11.61.127.

9 *** Sec. 2.** AS 11.61.125(e) is amended to read:

10 (e) Distribution of child **sexual abuse material** [PORNOGRAPHY] is a

11 (1) class B felony; or

12 (2) class A felony if the person has been previously convicted of
13 distribution of child **sexual abuse material** [PORNOGRAPHY] in this jurisdiction or
14 a similar crime in this or another jurisdiction.

1 * **Sec. 3.** AS 11.61.127(a) is amended to read:

2 (a) A person commits the crime of possession of child **sexual abuse material**
3 [PORNOGRAPHY] if the person knowingly possesses or knowingly accesses on a
4 computer with intent to view any material that visually depicts conduct described in
5 AS 11.41.455(a) knowing that the production of the material involved the use of a
6 child under 18 years of age who engaged in the conduct or a depiction of a part of an
7 actual child under 18 years of age who, by manipulation, creation, or modification,
8 appears to be engaged in the conduct.

9 * **Sec. 4.** AS 11.61.127(g) is amended to read:

10 (g) Possession of child **sexual abuse material** [PORNOGRAPHY] is a class
11 C felony.

12 * **Sec. 5.** AS 11.66.100(c) is amended to read:

13 (c) A person may not be prosecuted under **(a)** [(a)(1)] of this section if the

14 (1) person witnessed or was a victim of, and reported to law
15 enforcement in good faith, one or more of the following crimes:

- 16 (A) murder in the first degree under AS 11.41.100;
- 17 (B) murder in the second degree under AS 11.41.110;
- 18 (C) manslaughter under AS 11.41.120;
- 19 (D) criminally negligent homicide under AS 11.41.130;
- 20 (E) assault in the first degree under AS 11.41.200;
- 21 (F) assault in the second degree under AS 11.41.210;
- 22 (G) assault in the third degree under AS 11.41.220;
- 23 (H) assault in the fourth degree under AS 11.41.230;
- 24 (I) sexual assault in the first degree under AS 11.41.410;
- 25 (J) sexual assault in the second degree under AS 11.41.420;
- 26 (K) sexual assault in the third degree under AS 11.41.425;
- 27 (L) sexual assault in the fourth degree under AS 11.41.427;
- 28 (M) sexual abuse of a minor in the first degree under
- 29 AS 11.41.434;
- 30 (N) sexual abuse of a minor in the second degree under
- 31 AS 11.41.436;

1 (O) sexual abuse of a minor in the third degree under
2 AS 11.41.438;

3 (P) sexual abuse of a minor in the fourth degree under
4 AS 11.41.440;

5 (Q) robbery in the first degree under AS 11.41.500;

6 (R) robbery in the second degree under AS 11.41.510;

7 (S) extortion under AS 11.41.520;

8 (T) coercion under AS 11.41.530;

9 (U) distribution of child sexual abuse material
10 [PORNOGRAPHY] under AS 11.61.125;

11 (V) possession of child sexual abuse material
12 [PORNOGRAPHY] under AS 11.61.127;

13 (W) sex trafficking in the first degree under AS 11.66.110;

14 (X) sex trafficking in the second degree under AS 11.66.120;

15 (Y) sex trafficking in the third degree under AS 11.66.130; or

16 (Z) sex trafficking in the fourth degree under AS 11.66.135;

17 (2) evidence supporting the prosecution under (a) [(a)(1)] of this
18 section was obtained or discovered as a result of the person reporting the crime to law
19 enforcement; and

20 (3) person cooperated with law enforcement personnel.

21 * **Sec. 6.** AS 12.10.010(a) is amended to read:

22 (a) Prosecution for the following offenses may be commenced at any time:

23 (1) murder;

24 (2) attempt, solicitation, or conspiracy to commit murder or hindering
25 the prosecution of murder;

26 (3) felony sexual abuse of a minor;

27 (4) sexual assault that is an unclassified, class A, or class B felony or a
28 violation of AS 11.41.425(a)(2) - (4);

29 (5) a violation of AS 11.41.425, 11.41.427, 11.41.450 - 11.41.458,
30 AS 11.66.110 - 11.66.130, or former AS 11.41.430, when committed against a person
31 who, at the time of the offense, was under 18 years of age;

(6) kidnapping;

(7) distribution of child sexual abuse material [PORNOGRAPHY] in violation of AS 11.61.125;

(8) sex trafficking in violation of AS 11.66.110 - 11.66.130 that is an unclassified, class A, or class B felony or that is committed against a person who, at the time of the offense, was under 20 years of age;

(9) human trafficking in violation of AS 11.41.360 or 11.41.365.

* **Sec. 7.** AS 12.55.125(i) is amended to read:

(i) A defendant convicted of

(1) sexual assault in the first degree under AS 11.41.410(a)(1)(A), (2), (3), or (4), 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

1 not subject to sentencing under (I) of this section, and the defendant has two
2 prior convictions for sexual felonies, 99 years;

3 (2) sexual assault in the first degree under AS 11.41.410(a)(1)(B),
4 unlawful exploitation of a minor under AS 11.41.455(c)(1), enticement of a minor
5 under AS 11.41.452(e), or attempt, conspiracy, or solicitation to commit sexual assault
6 in the first degree under AS 11.41.410(a)(1)(A), (2), (3), or (4), sexual abuse of a
7 minor in the first degree, or sex trafficking in the first degree under
8 AS 11.66.110(a)(2) may be sentenced to a definite term of imprisonment of not more
9 than 99 years and shall be sentenced to a definite term within the following
10 presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

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

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

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

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

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

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

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

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

29 (3) sexual assault in the second degree, sexual abuse of a minor in the
30 second degree, enticement of a minor under AS 11.41.452(d), indecent exposure in the
31 first degree under AS 11.41.458(b)(2), distribution of child **sexual abuse material**

1 [PORNOGRAPHY] under AS 11.61.125(e)(2), or attempt, conspiracy, or solicitation
2 to commit sexual assault in the first degree under AS 11.41.410(a)(1)(B) may be
3 sentenced to a definite term of imprisonment of not more than 99 years and shall be
4 sentenced to a definite term within the following presumptive ranges, subject to
5 adjustment as provided in AS 12.55.155 - 12.55.175:

6 (A) if the offense is a first felony conviction, five to 15 years;

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

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

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

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

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

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

29 (B) if the offense is a first felony conviction under
30 AS 11.61.125(e)(1) and does not involve circumstances described in (C) of this
31 paragraph, four to 12 years;

1 (C) if the offense is a first felony conviction under
2 AS 11.61.125(e)(1), and the defendant hosted, created, or helped host or create
3 a mechanism for multi-party sharing or distribution of child **sexual abuse**
4 **material** [PORNOGRAPHY], or received a financial benefit or had a financial
5 interest in a child **sexual abuse material** [PORNOGRAPHY] sharing or
6 distribution mechanism, six to 14 years;

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

9 (E) if the offense is a second felony conviction and the
10 defendant has a prior conviction for a sexual felony, 12 to 20 years;

11 (F) if the offense is a third felony conviction and does not
12 involve circumstances described in (G) of this paragraph, 15 to 25 years;

13 (G) if the offense is a third felony conviction and the defendant
14 has two prior convictions for sexual felonies, 99 years.

15 * **Sec. 8.** AS 12.55.127(d) is amended to read:

16 (d) If the defendant is being sentenced for two or more crimes of distribution
17 of child **sexual abuse material** [PORNOGRAPHY] under AS 11.61.125, possession
18 of child **sexual abuse material** [PORNOGRAPHY] under AS 11.61.127, or
19 distribution of indecent material to minors under AS 11.61.128, a consecutive term of
20 imprisonment shall be imposed for some additional term of imprisonment for each
21 additional crime or each additional attempt or solicitation to commit the offense.

22 * **Sec. 9.** AS 12.55.185(16) is amended to read:

23 (16) "sexual felony" means sexual assault in the first degree, sexual
24 abuse of a minor in the first degree, sex trafficking in the first degree, sexual assault in
25 the second degree, sexual abuse of a minor in the second degree, sexual abuse of a
26 minor in the third degree under AS 11.41.438(c), unlawful exploitation of a minor,
27 indecent viewing or production of a picture under AS 11.61.123(f)(1) or (2),
28 distribution of child **sexual abuse material** [PORNOGRAPHY], sexual assault in the
29 third degree, incest, indecent exposure in the first degree, possession of child **sexual**
30 **abuse material** [PORNOGRAPHY], enticement of a minor, and felony attempt,
31 conspiracy, or solicitation to commit those crimes;

* **Sec. 10.** 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;

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

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

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

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

11 (xiii) AS 26.05.900(a)(1) - (4) if the victim is under 18
12 years of age at the time of the offense;

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

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

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

24 (i) child sexual abuse material [PORNOGRAPHY]; or

25 (ii) pandering and prostitution if the person who is
26 induced, enticed, caused, or procured to engage in a sexual act is under
27 20 years of age at the time of the offense; or

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

30 * **Sec. 11.** AS 15.80.010(10) is amended to read:

31 (10) "felony involving moral turpitude" includes those crimes that are

1 immoral or wrong in themselves such as murder, manslaughter, assault, sexual assault,
2 sexual abuse of a minor, unlawful exploitation of a minor, robbery, extortion,
3 coercion, kidnapping, incest, arson, burglary, theft, forgery, criminal possession of a
4 forgery device, offering a false instrument for recording, scheme to defraud, falsifying
5 business records, commercial bribe receiving, commercial bribery, bribery, receiving a
6 bribe, perjury, perjury by inconsistent statements, endangering the welfare of a minor,
7 escape, promoting contraband, interference with official proceedings, receiving a bribe
8 by a witness or a juror, jury tampering, misconduct by a juror, tampering with physical
9 evidence, hindering prosecution, terroristic threatening, riot, criminal possession of
10 explosives, unlawful furnishing of explosives, sex trafficking, criminal mischief,
11 misconduct involving a controlled substance or an imitation controlled substance,
12 permitting an escape, promoting gambling, possession of gambling records,
13 distribution of child **sexual abuse material** [PORNOGRAPHY], and possession of
14 child **sexual abuse material** [PORNOGRAPHY];

15 * **Sec. 12.** AS 28.15.046(c) is amended to read:

16 (c) The department may not issue a license under this section to an applicant

17 (1) who has been convicted of any of the following offenses:

18 (A) a violation, or an attempt, solicitation, or conspiracy to
19 commit a violation, of AS 11.41.100 - 11.41.220, 11.41.260 - 11.41.320,
20 11.41.360 - 11.41.370, 11.41.410 - 11.41.470, or 11.41.500 - 11.41.530;

21 (B) a felony violation of endangering the welfare of a child in
22 the first degree under AS 11.51.100;

23 (C) felony indecent viewing or production of a picture under
24 AS 11.61.123;

25 (D) distribution of child **sexual abuse material**
26 [PORNOGRAPHY] under AS 11.61.125;

27 (E) possession of child **sexual abuse material**
28 [PORNOGRAPHY] under AS 11.61.127;

29 (F) distribution of indecent material to minors under
30 AS 11.61.128;

31 (G) felony prostitution under AS 11.66.100(e);

1 (H) sex trafficking in the first, second, or third degree under
2 AS 11.66.110 - 11.66.130;

3 (I) a felony involving distribution of a controlled substance
4 under AS 11.71 or imitation controlled substance under AS 11.73;

5 (J) a felony violation under AS 28.35.030(n) or 28.35.032(p);
6 or

7 (2) who has been convicted of any of the following offenses and less
8 than two years have elapsed since the applicant's date of conviction for the offense:

9 (A) assault in the fourth degree under AS 11.41.230;

10 (B) reckless endangerment under AS 11.41.250;

11 (C) contributing to the delinquency of a minor under
12 AS 11.51.130;

13 (D) misdemeanor prostitution under AS 11.66.100(a)(2);

14 (E) a misdemeanor violation of endangering the welfare of a
15 child in the first degree under AS 11.51.100.

16 * **Sec. 13.** AS 47.12.110(d) is amended to read:

17 (d) Notwithstanding (a) of this section, a court hearing on a petition seeking
18 the adjudication of a minor as a delinquent shall be open to the public, except as
19 prohibited or limited by order of the court, if

20 (1) the department files with the court a motion asking the court to
21 open the hearing to the public, and the petition seeking adjudication of the minor as a
22 delinquent is based on

23 (A) the minor's alleged commission of an offense, and the
24 minor has knowingly failed to comply with all the terms and conditions
25 required of the minor by the department or imposed on the minor in a court
26 order entered under AS 47.12.040(a)(2) or 47.12.120;

27 (B) the minor's alleged commission of

28 (i) a crime against a person that is punishable as a
29 felony;

30 (ii) a crime in which the minor employed a deadly
31 weapon, as that term is defined in AS 11.81.900(b), in committing the

1 crime;

2 (iii) arson under AS 11.46.400 - 11.46.410;

3 (iv) burglary under AS 11.46.300;

4 (v) distribution of child sexual abuse material
5 [PORNOGRAPHY] under AS 11.61.125;

6 (vi) sex trafficking in the first degree under
7 AS 11.66.110; or

8 (vii) misconduct involving a controlled substance under
9 AS 11.71 involving the delivery of a controlled substance or the
10 possession of a controlled substance with intent to deliver, other than
11 an offense under AS 11.71.040 or 11.71.050; or

12 (C) the minor's alleged commission of a felony and the minor
13 was 16 years of age or older at the time of commission of the offense when the
14 minor has previously been convicted or adjudicated a delinquent minor based
15 on the minor's commission of an offense that is a felony; or

16 (2) the minor agrees to a public hearing on the petition seeking
17 adjudication of the minor as a delinquent.

18 * **Sec. 14.** AS 47.12.315(a) is amended to read:

19 (a) Notwithstanding AS 47.12.310 and except as otherwise provided in this
20 section, the department shall disclose information to the public, on request, concerning
21 a minor subject to this chapter who was at least 13 years of age at the time of
22 commission of

23 (1) a felony offense against a person under AS 11.41;

24 (2) arson in the first or second degree;

25 (3) burglary in the first degree;

26 (4) distribution of child sexual abuse material [PORNOGRAPHY];

27 (5) sex trafficking in the first degree;

28 (6) misconduct involving a controlled substance in the first, second, or
29 third degrees involving distribution or possession with intent to deliver; or

30 (7) misconduct involving weapons in the first through fourth degrees.

31 * **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 APPLICABILITY. AS 11.66.100(c), as amended by sec. 5 of this Act, applies to
3 offenses committed on or after the effective date of this Act.