

SENATE BILL NO. 70

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY SENATOR DONLEY

Introduced: 1/30/97

Referred: HESS, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act defining the offenses of unlawful discharge of a firearm; and relating
2 to the commission of those offenses by minors."

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

4 * **Section 1.** AS 11.61.200(e) is amended to read:

5 (e) The provisions of (a)(3) [AND (11)] of this section do not apply to a peace
6 officer acting within the scope and authority of the officer's employment.

7 * **Sec. 2.** AS 11.61 is amended by adding new sections to read:

8 **Sec. 11.61.300. Unlawful discharge of a firearm in the first degree.** (a)

9 A person commits the crime of unlawful discharge of a firearm in the first degree if
10 the person discharges a firearm from a propelled vehicle while the vehicle is being
11 operated and under circumstances manifesting substantial and unjustifiable risk of
12 physical injury to a person or damage to property.

13 (b) Unlawful discharge of a firearm in the first degree is a class A felony.

14 **Sec. 11.61.310. Unlawful discharge of a firearm in the second degree.** (a)

1 A person commits the crime of unlawful discharge of a firearm in the second degree
 2 if the person discharges a firearm at or in the direction of a building with reckless
 3 disregard for a risk that the building is occupied.

4 (b) Unlawful discharge of a firearm in the second degree is a class B felony.

5 **Sec. 11.61.320. Unlawful discharge of a firearm in the third degree.** (a)

6 A person commits the crime of unlawful discharge of a firearm in the third degree if
 7 the person discharges a firearm from a propelled vehicle while the vehicle is being
 8 operated in circumstances other than described in AS 11.61.300.

9 (b) Unlawful discharge of a firearm in the third degree is a class C felony.

10 **Sec. 11.61.330. Unlawful discharge of a firearm in the fourth degree.** (a)

11 A person commits the crime of unlawful discharge of a firearm in the fourth degree
 12 if the person discharges a firearm

13 (1) at or in the direction of a building, other than a dwelling;

14 (2) from, on, or across a highway; or

15 (3) with reckless disregard for a risk of physical injury to a person or
 16 damage to property.

17 (b) Unlawful discharge of a firearm in the fourth degree is a class A
 18 misdemeanor.

19 * **Sec. 3.** AS 12.55.185(8) is amended to read:

20 (8) "most serious felony" means

21 (A) arson in the first degree, **unlawful discharge of a firearm**
 22 **in the first degree under AS 11.61.300**, promoting prostitution in the first
 23 degree under AS 11.66.110(a)(2), or any unclassified or class A felony
 24 prescribed under AS 11.41; or

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

27 * **Sec. 4.** AS 18.65.705(4) is amended to read:

28 (4) has not been convicted, within the five years immediately preceding
 29 the application, of, and is not currently charged under a complaint, information,
 30 indictment, or presentment with any of the following misdemeanor offenses or similar
 31 laws of another jurisdiction:

- 1 (A) AS 11.41.230, 11.41.250, 11.41.270;
- 2 (B) AS 11.46.315, 11.46.320, 11.46.330, 11.46.430, 11.46.484;
- 3 (C) AS 11.51.130;
- 4 (D) AS 11.56.330, 11.56.340, former AS 11.56.350, 11.56.380,
- 5 11.56.545, 11.56.700, 11.56.710, 11.56.740, 11.56.780, 11.56.790, 11.56.800,
- 6 11.56.805;
- 7 (E) AS 11.61.110, 11.61.120, 11.61.210, **former**
- 8 **AS 11.61.210(a)(2) or (3), 11.61.220, 11.61.240, 11.61.330;**
- 9 (F) AS 11.71.050, 11.71.060; or
- 10 (G) a crime involving domestic violence as defined in
- 11 AS 18.66.990;

12 * **Sec. 5.** AS 47.12.030(a) is amended to read:

13 (a) When a minor who was at least 16 years of age at the time of the offense

14 is arraigned on a charge for an offense specified in this subsection, this chapter and

15 the Alaska Delinquency Rules do not apply to the offense for which the minor is

16 arraigned or to any additional offenses joinable to it under the applicable rules of court

17 governing criminal procedure. The minor shall be charged, prosecuted, and sentenced

18 in the superior court in the same manner as an adult unless the minor is convicted of

19 some offense other than an offense specified in this subsection, in which event the

20 minor may attempt to prove, by a preponderance of the evidence, that the minor is

21 amenable to treatment under this chapter. If the court finds that the minor is amenable

22 to treatment under this chapter, the minor shall be treated as though the charges had

23 been heard under this chapter, and the court shall order disposition of the charges of

24 which the minor is convicted under AS 47.12.120(b). The provisions of this

25 subsection apply when the minor is arraigned on a charge

26 (1) that is an unclassified felony or a class A felony and the felony is

27 a crime against a person; [OR]

28 (2) of arson in the first degree; or

29 **(3) of unlawful discharge of a firearm in the first or second degree.**

30 * **Sec. 6.** AS 47.12.100(c) is amended to read:

31 (c) For purposes of making a determination under this section,

1 (1) the standard of proof is by a preponderance of the evidence; and
2 (2) the burden of proof that a minor is not amenable to treatment under
3 this chapter is on the state; however, if the petition filed under AS 47.12.040 seeking
4 to have the court declare a minor a delinquent is based on the minor's alleged
5 commission of an offense that is an unclassified felony or class A felony and that is
6 a crime against a person, **or that is unlawful use of a firearm in the first or second**
7 **degree or** the minor

8 (A) is rebuttably presumed not to be amenable to treatment
9 under this chapter; and

10 (B) has the burden of proof of showing that the minor is
11 amenable to treatment under this chapter.

12 * **Sec. 7.** AS 11.61.190(a)(2), 11.61.200(a)(11), 11.61.200(d), 11.61.210(a)(2), and
13 11.61.210(a)(3) are repealed.