

HOUSE BILL NO. 810

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Introduced: 11/8/2000

Referred: Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to sexual assault and the definitions of 'sexual contact,' 'sexual
2 penetration,' and 'legal guardian' in AS 11."

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

4 * **Section 1.** AS 11.41.425(a) is amended to read:

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

7 (1) engages in sexual contact with a person who the offender knows is

8 (A) [(1)] mentally incapable;

9 (B) [(2)] incapacitated; or

10 (C) [(3)] unaware that a sexual act is being committed;

11 (2) while employed in a state correctional facility or other
12 placement designated by the commissioner of corrections for the custody and
13 care of prisoners, engages in sexual penetration with a person who the offender
14 knows is committed to the custody of the Department of Corrections to serve a

1 **term of imprisonment or period of temporary commitment; or**

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

6 * **Sec. 2.** AS 11.41 is amended by adding a new section to read:

7 **Sec. 11.41.427. Sexual assault in the fourth degree.** (a) An offender
 8 commits the crime of sexual assault in the fourth degree if

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

14 (2) the offender engages in sexual contact with a person 18 or 19 years
 15 of age who the offender knows is committed to the custody of the Department of
 16 Health and Social Services under AS 47.10 or AS 47.12 and the offender is the legal
 17 guardian of the person.

18 (b) Sexual assault in the fourth degree is a class A misdemeanor.

19 * **Sec. 3.** AS 11.41.470(3) is amended to read:

20 (3) "legal guardian" means a person who is under a duty to exercise
 21 general supervision over a minor **or other person committed to the custody of the**
 22 **Department of Health and Social Services under AS 47.10 or AS 47.12** as a result
 23 of a court order, statute, or regulation, and includes **Department of Health and Social**
 24 **Services employees,** foster parents, and staff members and other employees of group
 25 homes or youth [CORRECTIONAL] facilities where **the minor or other person** [A
 26 CHILD] is placed as a result of a court order or the action of the **Department of**
 27 **Health and Social Services** [DIVISION OF FAMILY AND YOUTH SERVICES],
 28 and police officers, [AND] probation officers, **and social workers** when those
 29 **persons** [OFFICERS] are exercising custodial control over a minor **or other person.**

30 * **Sec. 4.** AS 11.81.900(b)(55) is amended to read:

31 (55) "sexual contact" means

- 1 (A) the defendant's
- 2 (i) knowingly touching, directly or through clothing, the
- 3 victim's genitals, anus, or female breast; or
- 4 (ii) knowingly causing the victim to touch, directly or
- 5 through clothing, the defendant's or victim's genitals, anus, or female
- 6 breast;
- 7 (B) but "sexual contact" does not include acts
- 8 (i) that may reasonably be construed to be normal
- 9 caretaker responsibilities for a child, interactions with a child, or
- 10 affection for a child; [OR]
- 11 (ii) performed for the purpose of administering a
- 12 recognized and lawful form of treatment that is reasonably adapted to
- 13 promoting the physical or mental health of the person being treated; or
- 14 **(iii) that are a necessary part of a search of a person**
- 15 **committed to the custody of the Department of Corrections or the**
- 16 **Department of Health and Social Services;**
- 17 * Sec. 5. AS 11.81.900(b)(56) is amended to read:
- 18 (56) "sexual penetration" means
- 19 (A) genital intercourse, cunnilingus, fellatio, anal intercourse,
- 20 or an intrusion, however slight, of an object or any part of a person's body into
- 21 the genital or anal opening of another person's body;
- 22 (B) but "sexual penetration" does not include acts
- 23 (i) performed for the purpose of administering a
- 24 recognized and lawful form of treatment that is reasonably adapted to
- 25 promoting the physical health of the person being treated; or
- 26 **(ii) that are a necessary part of a search of a person**
- 27 **committed to the custody of the Department of Corrections or the**
- 28 **Department of Health and Social Services;**
- 29 (C) each party to any of the acts defined as "sexual penetration"
- 30 is considered to be engaged in sexual penetration;