



LAWS OF ALASKA

2000

Source
HB 99

Chapter No.
33

AN ACT

Relating to sexual assault and the definitions of 'sexual contact,' 'sexual penetration,' and 'legal guardian' in AS 11.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: May 11, 2000

Actual Effective Date: August 9, 2000

AN ACT

1 Relating to sexual assault and the definitions of 'sexual contact,' 'sexual penetration,' and 'legal
2 guardian' in AS 11.

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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
8 is

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

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

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

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

1 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 persons
29 [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;