

HOUSE BILL NO. 125

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES KOTT, Dyson

Introduced: 2/12/01

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to unlawful and indecent viewing and photography and to civil**
2 **damages and penalties for that viewing and photography."**

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

4 *** Section 1.** AS 09.68 is amended by adding a new section to read:

5 **Sec. 09.68.150. Indecent viewing or photography or improper viewing**
6 **civil liability.** A person who engages in indecent viewing or photography in violation
7 of AS 11.61.121 or improper viewing in violation of AS 11.61.123 is, in addition to
8 any criminal penalty provided by law, liable in a civil action to the person viewed or
9 photographed for:

10 (1) the person's actual damages;

11 (2) the total of

12 (A) any pecuniary gain realized by the person from engaging in
13 the indecent viewing or photography or improper viewing;

14 (B) a penalty of \$100 for each picture the person engaging in

1 the indecent viewing or photography or improper viewing reproduced or
 2 transmitted to another person; in this paragraph, "picture" has the meaning
 3 given in AS 11.61.123; and

4 (3) a penalty of \$5,000 for each day the person viewed or
 5 photographed was viewed or photographed.

6 * **Sec. 2.** AS 11.61 is amended by adding a new section to read:

7 **Sec. 11.61.121. Improper viewing or photography.** (a) A person commits
 8 the crime of improper viewing or photography if the person knowingly and
 9 surreptitiously views or produces a picture of another person in the interior of a room
 10 without the knowledge or consent of

11 (1) the parent or guardian of the person viewed, or who is shown in the
 12 picture, if the person who is viewed or shown is under 16 years of age; and

13 (2) the person viewed or shown in the picture if the person viewed or
 14 shown is at least 13 years of age.

15 (b) Each viewing of a person and each production of a picture of a person
 16 constitutes a separate violation of this section.

17 (c) This section does not apply to viewing or photography conducted by a law
 18 enforcement agency for a law enforcement purpose.

19 (d) In a prosecution under this section, it is an affirmative defense that the
 20 viewing or photography was conducted

21 (1) as a security surveillance system, notice of the viewing or
 22 photography was posted, and any viewing or use of pictures produced is done only in
 23 the interest of crime prevention or prosecution; or

24 (2) by a professional journalist employed by a legitimate news-
 25 gathering organization for an actual or intended news story.

26 (e) In this section, "picture" has the meaning given in AS 11.61.123.

27 (f) Improper viewing is a class A misdemeanor.

28 * **Sec. 3.** AS 11.61.123(a) is amended to read:

29 (a) A person commits the crime of indecent viewing or photography if, in the
 30 state, the person knowingly views, or produces a picture of, the private exposure of the
 31 genitals, anus, or female breast of another person, or the undergarments of the

1 **person covering the genitals, anus, or female breast**, and the view or production is
2 without the knowledge or consent of

3 (1) the parent or guardian of the person viewed, or who is shown in the
4 picture, if the person who is viewed or shown is under 16 years of age; and

5 (2) the person viewed or shown in the picture [,] if the person viewed
6 or shown is at least 13 years of age.

7 * **Sec. 4.** AS 11.61.123(e)(1) is amended to read:

8 (1) "picture" means a film, **image**, photograph, negative, slide, book,
9 newspaper, or magazine, whether in print, electronic, magnetic, or digital format;
10 [AND]