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SENATE CS FOR CS FOR HOUSE BILL NO. 52(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 4/10/03

Referred: Judiciary

Sponsor(s): REPRESENTATIVES MCGUIRE, Whitaker, Heinze, Dahlstrom, Lynn, Crawford, Holm, Kapsner, Stoltze, Cissna, Weyhrauch, Wilson, Samuels, Hawker, Wolf, Meyer, Croft, Guttenberg

SENATORS Dyson, Gary Stevens, Wagoner, Seekins, Lincoln, French, Elton, Taylor, Ogan, Cowdery, Guess, Bunde, Wilken, Olson, Ellis

A BILL**FOR AN ACT ENTITLED**

1 "An Act relating to the crime of distribution of child pornography and to the forfeiture
 2 of property used to possess or distribute child pornography, to commit indecent viewing
 3 or photography, to commit a sex offense, or to solicit the commission of, attempt to
 4 commit, or conspire to commit possession or distribution of child pornography, indecent
 5 viewing or photography, or a sexual offense."

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

7 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
 8 to read:

9 INTENT. The forfeitures contemplated by secs. 2 and 4 of this Act are intended to be
 10 forfeitures imposed in connection with conviction for a crime. The legislature intends for the
 11 forfeiture to be ordered to the commissioner of public safety or other law enforcement agency.
 12 Further, the legislature intends for the courts to continue to provide hearings to interested
 13 persons who have an ownership interest in equipment subject to forfeiture under this Act and

1 to allow for remission to innocent nonnegligent third parties as applied in State v. Rice, 626
 2 P.2d 104 (Alaska 1981), Fehir v. State, 755 P.2d 1107 (Alaska 1988), and Baum v. State, 24
 3 P.3d 577 (Alaska App. 2001).

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

5 **Sec. 11.41.468. Forfeiture of property used in sexual offense.** (a) Property
 6 used to aid a violation of AS 11.41.410 - 11.41.458 or to aid the solicitation of,
 7 attempt to commit, or conspiracy to commit a violation of AS 11.41.410 - 11.41.458
 8 may be forfeited to the state upon the conviction of the offender.

9 (b) In this section, "property" means computer equipment,
 10 telecommunications equipment, photography equipment, video or audio equipment,
 11 books, magazines, photographs, videotapes, audiotapes, and any equipment or device,
 12 regardless of format or technology employed, that can be used to store, create, modify,
 13 receive, transmit, or distribute digital or analog information, including images, motion
 14 pictures, and sounds.

15 * **Sec. 3.** AS 11.61.125(d) is amended to read:

16 (d) In this section, "distribution" includes **the following, whether or not for**
 17 **monetary or other consideration:** delivering, selling, renting, leasing, lending,
 18 giving, circulating, exhibiting, presenting, providing, exchanging, [AND] placing on a
 19 computer network or computer system, **and providing billing collection, or other**
 20 **ancillary services for or otherwise supporting these activities** [WHETHER OR
 21 NOT FOR MONETARY OR OTHER CONSIDERATION].

22 * **Sec. 4.** AS 11.61 is amended by adding a new section to read:

23 **Sec. 11.61.129. Forfeiture of property used in indecent viewing or**
 24 **photography or child pornography.** (a) Property used to aid a violation of
 25 AS 11.61.123 - 11.61.127 or to aid the solicitation of, attempt to commit, or
 26 conspiracy to commit a violation of AS 11.61.123 - 11.61.127 may be forfeited to the
 27 state upon the conviction of the offender.

28 (b) In this section, "property" has the meaning given in AS 11.41.468.

29 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
 30 read:

31 **APPLICABILITY.** The changes to the definition of distribution made in sec. 3 of this

1 Act apply to offenses occurring on or after the effective date of this Act.