

HOUSE BILL NO. 145

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES ROSES, Lynn

Introduced: 2/19/07

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to sexual assault, sexual abuse of a minor, and online enticement of a**
2 **minor."**

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

4 *** Section 1.** AS 11.41.434(a) is amended to read:

5 (a) An offender commits the crime of sexual abuse of a minor in the first
6 degree if

7 (1) being 16 years of age or older, the offender engages in sexual
8 penetration with a person who is under 13 years of age or aids, induces, causes, or
9 encourages a person who is under 13 years of age to engage in sexual penetration with
10 another person;

11 (2) being 18 years of age or older, the offender engages in sexual
12 penetration with a person who is under 18 years of age, and the offender is the victim's
13 natural parent, stepparent, adopted parent, or legal guardian; [OR]

14 (3) being 18 years of age or older, the offender engages in sexual

1 penetration with a person who is under 16 years of age, and

2 (A) the victim at the time of the offense is residing in the same
3 household as the offender and the offender has authority over the victim; or

4 (B) the offender occupies a position of authority in relation to
5 the victim; or

6 **(4) being 18 years of age or older, the offender engages in sexual**
7 **penetration with a person who is under 18 years of age and at least four years**
8 **younger than the offender.**

9 * **Sec. 2.** AS 11.41.436(a) is amended to read:

10 (a) An offender commits the crime of sexual abuse of a minor in the second
11 degree if,

12 (1) being 17 years of age [OR OLDER], the offender engages in sexual
13 penetration with a person who is 13 [, 14, OR 15] years of age [AND AT LEAST
14 FOUR YEARS YOUNGER THAN THE OFFENDER], or aids, induces, causes, or
15 encourages a person who is 13 [, 14, OR 15] years of age [AND AT LEAST FOUR
16 YEARS YOUNGER THAN THE OFFENDER] to engage in sexual penetration with
17 another person;

18 (2) being 16 years of age or older, the offender engages in sexual
19 contact with a person who is under 13 years of age or aids, induces, causes, or
20 encourages a person under 13 years of age to engage in sexual contact with another
21 person;

22 (3) being 18 years of age or older, the offender engages in sexual
23 contact with a person who is under 18 years of age, and the offender is the victim's
24 natural parent, stepparent, adopted parent, or legal guardian;

25 (4) being 16 years of age or older, the offender aids, induces, causes,
26 or encourages a person who is under 16 years of age to engage in conduct described in
27 AS 11.41.455(a)(2) - (6);

28 (5) being 18 years of age or older, the offender engages in sexual
29 contact with a person who is under 16 years of age, and

30 (A) the victim at the time of the offense is residing in the same
31 household as the offender and the offender has authority over the victim; or

1 (B) the offender occupies a position of authority in relation to
2 the victim;

3 (6) being 18 years of age or older, the offender engages in sexual
4 **contact** [PENETRATION] with a person who is **under 18** [16 OR 17] years of age
5 and at least **four** [THREE] years younger than the offender [, AND THE OFFENDER
6 OCCUPIES A POSITION OF AUTHORITY IN RELATION TO THE VICTIM]; or

7 (7) being under 16 years of age, the offender engages in sexual
8 penetration with a person who is under 13 years of age and at least three years younger
9 than the offender.

10 * **Sec. 3.** AS 11.41.438(a) is amended to read:

11 (a) An offender commits the crime of sexual abuse of a minor in the third
12 degree if being 17 years of age [OR OLDER], the offender engages in sexual contact
13 with a person who is 13 [, 14, OR 15] years of age [AND AT LEAST FOUR YEARS
14 YOUNGER THAN THE OFFENDER].

15 * **Sec. 4.** AS 12.55.125(i) is amended to read:

16 (i) A defendant convicted of

17 (1) sexual assault in the first degree or sexual abuse of a minor in the
18 first degree may be sentenced to a definite term of imprisonment of not more than 99
19 years and shall be sentenced to a definite term within the following presumptive
20 ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

21 (A) if the offense is a first felony conviction, the offense does
22 not involve circumstances described in (B) of this paragraph, and the victim
23 was

24 (i) less than 13 years of age, 25 to 35 years;

25 (ii) 13 years of age or older, 20 to 30 years;

26 (B) if the offense is a first felony conviction and the defendant
27 possessed a firearm, used a dangerous instrument, or caused serious physical
28 injury during the commission of the offense, 25 to 35 years;

29 (C) if the offense is a second felony conviction and does not
30 involve circumstances described in (D) of this paragraph, 30 to 40 years;

31 (D) if the offense is a second felony conviction and the

1 defendant has a prior conviction for a sexual felony, 35 to 45 years;

2 (E) if the offense is a third felony conviction and the defendant
3 is not subject to sentencing under (F) of this paragraph or (I) of this section, 40
4 to 60 years;

5 (F) if the offense is a third felony conviction, the defendant is
6 not subject to sentencing under (I) of this section, and the defendant has two
7 prior convictions for sexual felonies, 99 years;

8 (2) attempt, conspiracy, or solicitation to commit sexual assault in the
9 first degree or sexual abuse of a minor in the first degree may be sentenced to a
10 definite term of imprisonment of not more than 99 years and shall be sentenced to a
11 definite term within the following presumptive ranges, subject to adjustment as
12 provided in AS 12.55.155 - 12.55.175:

13 (A) if the offense is a first felony conviction, the offense does
14 not involve circumstances described in (B) of this paragraph, and the victim
15 was

16 (i) under 13 years of age, 20 to 30 years;

17 (ii) 13 years of age or older, 15 to 30 years;

18 (B) if the offense is a first felony conviction and the defendant
19 possessed a firearm, used a dangerous instrument, or caused serious physical
20 injury during the commission of the offense, 25 to 35 years;

21 (C) if the offense is a second felony conviction and does not
22 involve circumstances described in (D) of this paragraph, 25 to 35 years;

23 (D) if the offense is a second felony conviction and the
24 defendant has a prior conviction for a sexual felony, 30 to 40 years;

25 (E) if the offense is a third felony conviction, the offense does
26 not involve circumstances described in (F) of this paragraph, and the defendant
27 is not subject to sentencing under (I) of this section, 35 to 50 years;

28 (F) if the offense is a third felony conviction, the defendant is
29 not subject to sentencing under (I) of this section, and the defendant has two
30 prior convictions for sexual felonies, 99 years;

31 (3) sexual assault in the second degree, sexual abuse of a minor in the

1 second degree, **online enticement of a minor committed by a person required to**
 2 **register under AS 12.63 or a similar law,** unlawful exploitation of a minor, or
 3 distribution of child pornography may be sentenced to a definite term of imprisonment
 4 of not more than 99 years and shall be sentenced to a definite term within the
 5 following presumptive ranges, subject to adjustment as provided in AS 12.55.155 -
 6 12.55.175:

7 (A) if the offense is a first felony conviction, five to 15 years;

8 (B) if the offense is a second felony conviction and does not
 9 involve circumstances described in (C) of this paragraph, 10 to 25 years;

10 (C) if the offense is a second felony conviction and the
 11 defendant has a prior conviction for a sexual felony, 15 to 30 years;

12 (D) if the offense is a third felony conviction and does not
 13 involve circumstances described in (E) of this paragraph, 20 to 35 years;

14 (E) if the offense is a third felony conviction and the defendant
 15 has two prior convictions for sexual felonies, 99 years;

16 (4) sexual assault in the third degree, incest, **online enticement of a**
 17 **minor,** indecent exposure in the first degree, possession of child pornography, or
 18 attempt, conspiracy, or solicitation to commit sexual assault in the second degree,
 19 sexual abuse of a minor in the second degree, unlawful exploitation of a minor, or
 20 distribution of child pornography, may be sentenced to a definite term of
 21 imprisonment of not more than 99 years and shall be sentenced to a definite term
 22 within the following presumptive ranges, subject to adjustment as provided in
 23 AS 12.55.155 - 12.55.175:

24 (A) if the offense is a first felony conviction, two to 12 years;

25 (B) if the offense is a second felony conviction and does not
 26 involve circumstances described in (C) of this paragraph, eight to 15 years;

27 (C) if the offense is a second felony conviction and the
 28 defendant has a prior conviction for a sexual felony, 12 to 20 years;

29 (D) if the offense is a third felony conviction and does not
 30 involve circumstances described in (E) of this paragraph, 15 to 25 years;

31 (E) if the offense is a third felony conviction and the defendant

1 has two prior convictions for sexual felonies, 99 years.

2 * **Sec. 5.** AS 12.63.100(6) is amended to read:

3 (6) "sex offense" means

4 (A) a crime under AS 11.41.100(a)(3), or a similar law of
5 another jurisdiction, in which the person committed or attempted to commit a
6 sexual offense, or a similar offense under the laws of the other jurisdiction; in
7 this subparagraph, "sexual offense" has the meaning given in
8 AS 11.41.100(a)(3);

9 (B) a crime under AS 11.41.110(a)(3), or a similar law of
10 another jurisdiction, in which the person committed or attempted to commit
11 one of the following crimes, or a similar law of another jurisdiction:

12 (i) sexual assault in the first degree;

13 (ii) sexual assault in the second degree;

14 (iii) sexual abuse of a minor in the first degree; or

15 (iv) sexual abuse of a minor in the second degree;

16 (C) a crime, or an attempt, solicitation, or conspiracy to commit
17 a crime, under the following statutes or a similar law of another jurisdiction:

18 (i) AS 11.41.410 - 11.41.438;

19 (ii) **former** AS 11.41.440(a)(2);

20 (iii) AS 11.41.450 - 11.41.458;

21 (iv) AS 11.41.460 if the indecent exposure is before a
22 person under 16 years of age and the offender has a previous conviction
23 for that offense;

24 (v) AS 11.61.125 or 11.61.127;

25 (vi) AS 11.66.110 or 11.66.130(a)(2) if the person who
26 was induced or caused to engage in prostitution was 16 or 17 years of
27 age at the time of the offense; or

28 (vii) former AS 11.15.120, former 11.15.134, or assault
29 with the intent to commit rape under former AS 11.15.160, former
30 AS 11.40.110, or former 11.40.200;

31 * **Sec. 6.** AS 11.41.440(a)(2) is repealed.

1 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:
3 APPLICABILITY. This Act applies to offenses committed on or after the effective
4 date of this Act.