

SENATE BILL NO. 23

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY SENATOR DYSON

Introduced: 1/16/07

Referred: Health, Education and Social Services, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to providing indecent material to minors and to online enticement of a
2 minor."

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

4 * **Section 1.** AS 11.61.128(a) is amended to read:

5 (a) A person commits the crime of electronic distribution of indecent material
6 to minors if

7 (1) the person, being 18 years of age or older, knowingly distributes to
8 another person by computer any material that depicts

9 (A) sexual penetration;

10 (B) the lewd exhibition or touching of a person's genitals,
11 anus, or female breast;

12 (C) masturbation;

13 (D) bestiality; or

14 (E) sexual masochism or sadism; [AN ACT DESCRIBED IN

1 AS 11.41.455(a)(1) - (7)] and

2 (2) [(1)] the

3 (A) other person is a child under 16 years of age; or

4 (B) [(2) THE] person believes that the other person is a child
5 under 16 years of age.

6 * **Sec. 2.** AS 12.55.125(i) is amended to read:

7 (i) A defendant convicted of

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

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

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

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

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

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

22 (D) if the offense is a second felony conviction and the
23 defendant has a prior conviction for a sexual felony, 35 to 45 years;

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

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

30 (2) attempt, conspiracy, or solicitation to commit sexual assault in the
31 first degree or sexual abuse of a minor in the first degree may be sentenced to a

1 definite term of imprisonment of not more than 99 years and shall be sentenced to a
 2 definite term within the following presumptive ranges, subject to adjustment as
 3 provided in AS 12.55.155 - 12.55.175:

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

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

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

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

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

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

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

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

22 (3) sexual assault in the second degree, sexual abuse of a minor in the
 23 second degree, unlawful exploitation of a minor, **online enticement of a minor under**
 24 **AS 11.41.452(e), electronic distribution of indecent material to minors under**
 25 **AS 11.61.128(d)**, or distribution of child pornography may be sentenced to a definite
 26 term of imprisonment of not more than 99 years and shall be sentenced to a definite
 27 term within the following presumptive ranges, subject to adjustment as provided in
 28 AS 12.55.155 - 12.55.175:

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

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

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

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

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

7 (4) sexual assault in the third degree, incest, indecent exposure in the
8 first degree, possession of child pornography, or attempt, conspiracy, or solicitation to
9 commit sexual assault in the second degree, sexual abuse of a minor in the second
10 degree, unlawful exploitation of a minor, **online enticement of a minor under**
11 **AS 11.41.452(d), electronic distribution of indecent material to minors under**
12 **AS 11.61.128(c)**, or distribution of child pornography, may be sentenced to a definite
13 term of imprisonment of not more than 99 years and shall be sentenced to a definite
14 term within the following presumptive ranges, subject to adjustment as provided in
15 AS 12.55.155 - 12.55.175:

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

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

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

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

23 (E) if the offense is a third felony conviction and the defendant
24 has two prior convictions for sexual felonies, 99 years.

25 * **Sec. 3.** AS 12.63.100(6) is amended to read:

26 (6) "sex offense" means

27 (A) a crime under AS 11.41.100(a)(3), or a similar law of
28 another jurisdiction, in which the person committed or attempted to commit a
29 sexual offense, or a similar offense under the laws of the other jurisdiction; in
30 this subparagraph, "sexual offense" has the meaning given in
31 AS 11.41.100(a)(3);

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

- 4 (i) sexual assault in the first degree;
 5 (ii) sexual assault in the second degree;
 6 (iii) sexual abuse of a minor in the first degree; or
 7 (iv) sexual abuse of a minor in the second degree;

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

- 10 (i) AS 11.41.410 - 11.41.438;
 11 (ii) AS 11.41.440(a)(2);
 12 (iii) AS 11.41.450 - 11.41.458;
 13 (iv) AS 11.41.460 if the indecent exposure is before a
 14 person under 16 years of age and the offender has a previous conviction
 15 for that offense;
 16 (v) AS 11.61.125 - 11.61.128 [AS 11.61.125 OR
 17 11.61.127];
 18 (vi) AS 11.66.110 or 11.66.130(a)(2) if the person who
 19 was induced or caused to engage in prostitution was 16 or 17 years of
 20 age at the time of the offense; or
 21 (vii) former AS 11.15.120, former 11.15.134, or assault
 22 with the intent to commit rape under former AS 11.15.160, former
 23 AS 11.40.110, or former 11.40.200;

24 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
 25 read:

26 APPLICABILITY AND TRANSITION. (a) Sections 1 and 2 of this Act apply to
 27 offenses occurring on or after the effective date of this Act.

28 (b) The changes made to AS 12.63.100(6) by sec. 3 of this Act, apply to offenses and
 29 convictions occurring before, on, or after the effective date of this Act. A person convicted of
 30 AS 11.61.128 prior to the effective date of this Act shall register under and otherwise comply
 31 with AS 12.63 by July 1, 2007.