

**SENATE BILL NO. 110**

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

BY SENATORS WIELECHOWSKI, McGuire

Introduced: 3/21/11

Referred: Judiciary, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to human trafficking; and relating to sentencing and conditions of  
2 probation in criminal cases involving sex offenses."

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

4 \* **Section 1.** AS 11.41 is amended by adding a new section to read:

5 **Sec. 11.41.355. Human trafficking in the first degree.** (a) A person commits  
6 the crime of human trafficking in the first degree if the person violates AS 11.41.360  
7 by compelling, enticing, or inducing another person to engage in sexual conduct, adult  
8 entertainment, or an act described in AS 11.41.455(a)(1) - (7), and the other person  
9 compelled or induced is under 18 years of age.

10 (b) Human trafficking in the first degree is an unclassified felony.

11 \* **Sec. 2.** AS 11.41.360(a) is amended to read:

12 (a) A person commits the crime of human trafficking in the **second** [FIRST]  
13 degree if the person compels, **entices**, or induces another person to come to this state  
14 **or move from one place to another in the state** to engage in sexual conduct, adult

1 entertainment, or labor in the state by force or threat of force against any person, or by  
2 deception.

3 \* **Sec. 3.** AS 11.41.360(c) is amended to read:

4 (c) Human trafficking in the **second** [FIRST] degree is a class A felony.

5 \* **Sec. 4.** AS 11.41.365 is amended to read:

6 **Sec. 11.41.365. Human trafficking in the third [SECOND] degree.** (a) A  
7 person commits the crime of human trafficking in the **third** [SECOND] degree if the  
8 person obtains a benefit from the commission of human trafficking under  
9 **AS 11.41.355 or 11.41.360** [AS 11.41.360,] with reckless disregard that the benefit is  
10 a result of the trafficking.

11 (b) Human trafficking in the **third** [SECOND] degree is a class B felony.

12 \* **Sec. 5.** AS 11.41.370 is amended by adding new paragraphs to read:

13 (4) "adult entertainment" means the conduct described in  
14 AS 23.10.350(f)(1) - (3);

15 (5) "sexual conduct" has the meaning given in AS 11.66.150.

16 \* **Sec. 6.** AS 11.81.250(a) is amended to read:

17 (a) For purposes of sentencing under AS 12.55, all offenses defined in this  
18 title, except murder in the first and second degree, attempted murder in the first  
19 degree, solicitation to commit murder in the first degree, conspiracy to commit murder  
20 in the first degree, murder of an unborn child, sexual assault in the first degree, sexual  
21 abuse of a minor in the first degree, misconduct involving a controlled substance in the  
22 first degree, promoting prostitution in the first degree under AS 11.66.110(a)(2),  
23 **human trafficking in the first degree under AS 11.41.355**, and kidnapping, are  
24 classified on the basis of their seriousness, according to the type of injury  
25 characteristically caused or risked by commission of the offense and the culpability of  
26 the offender. Except for murder in the first and second degree, attempted murder in the  
27 first degree, solicitation to commit murder in the first degree, conspiracy to commit  
28 murder in the first degree, murder of an unborn child, sexual assault in the first degree,  
29 sexual abuse of a minor in the first degree, misconduct involving a controlled  
30 substance in the first degree, promoting prostitution in the first degree under  
31 AS 11.66.110(a)(2), **human trafficking in the first degree under AS 11.41.355**, and

1 kidnapping, the offenses in this title are classified into the following categories:

2 (1) class A felonies, which characteristically involve conduct resulting  
3 in serious physical injury or a substantial risk of serious physical injury to a person;

4 (2) class B felonies, which characteristically involve conduct resulting  
5 in less severe violence against a person than class A felonies, aggravated offenses  
6 against property interests, or aggravated offenses against public administration or  
7 order;

8 (3) class C felonies, which characteristically involve conduct serious  
9 enough to deserve felony classification but not serious enough to be classified as A or  
10 B felonies;

11 (4) class A misdemeanors, which characteristically involve less severe  
12 violence against a person, less serious offenses against property interests, less serious  
13 offenses against public administration or order, or less serious offenses against public  
14 health and decency than felonies;

15 (5) class B misdemeanors, which characteristically involve a minor  
16 risk of physical injury to a person, minor offenses against property interests, minor  
17 offenses against public administration or order, or minor offenses against public health  
18 and decency;

19 (6) violations, which characteristically involve conduct inappropriate  
20 to an orderly society but which do not denote criminality in their commission.

21 \* **Sec. 7.** AS 12.55.085(f) is amended to read:

22 (f) The court may not suspend the imposition of sentence of a person who

23 (1) is convicted of a violation of AS 11.41.100 - 11.41.220, 11.41.260  
24 - 11.41.320, 11.41.355 - 11.41.365 [11.41.360 - 11.41.370], 11.41.410 - 11.41.530,  
25 AS 11.46.400, or AS 11.61.125 - 11.61.128;

26 (2) uses a firearm in the commission of the offense for which the  
27 person is convicted; or

28 (3) is convicted of a violation of AS 11.41.230 - 11.41.250 or a felony  
29 and the person has one or more prior convictions for a misdemeanor violation of  
30 AS 11.41 or for a felony or for a violation of a law in this or another jurisdiction  
31 having similar elements to an offense defined as a misdemeanor in AS 11.41 or as a

1 felony in this state; for the purposes of this paragraph, a person shall be considered to  
 2 have a prior conviction even if that conviction has been set aside under (e) of this  
 3 section or under the equivalent provision of the laws of another jurisdiction.

4 \* **Sec. 8.** AS 12.55.100(e) is amended to read:

5 (e) In addition to other conditions imposed on the defendant, while on  
 6 probation and as a condition of probation

7 (1) for a sex offense, as described in AS 12.63.100, the defendant

8 (A) shall be required to submit to regular periodic polygraph  
 9 examinations;

10 (B) may be required to provide each electronic mail address,  
 11 instant messaging address, and other Internet communication identifier that the  
 12 defendant uses to the defendant's probation officer; the probation officer shall  
 13 forward those addresses and identifiers to the Alaska state troopers and to the  
 14 local law enforcement agency;

15 (2) if the defendant was convicted of a violation of AS 11.41.434 -  
 16 11.41.455, AS 11.61.125 - 11.61.128, or a similar offense in another jurisdiction, the  
 17 defendant may be required to refrain from

18 (A) using or creating an Internet website [SITE];

19 (B) communicating with children under 16 years of age; [OR]

20 (C) possessing or using a computer; **or**

21 **(D) residing within 500 feet of school grounds as defined in**

22 **AS 11.71.900.**

23 \* **Sec. 9.** AS 12.55.125(i) is amended to read:

24 (i) A defendant convicted of

25 (1) sexual assault in the first degree, sexual abuse of a minor in the  
 26 first degree, [OR] promoting prostitution in the first degree under AS 11.66.110(a)(2),  
 27 **or human trafficking in the first degree under AS 11.41.355** may be sentenced to a  
 28 definite term of imprisonment of not more than 99 years and shall be sentenced to a  
 29 definite term within the following presumptive ranges, subject to adjustment as  
 30 provided in AS 12.55.155 - 12.55.175:

31 (A) if the offense is a first felony conviction, the offense does

1 not involve circumstances described in (B) of this paragraph, and the victim  
2 was

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

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

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

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

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

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

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

18 (2) attempt, conspiracy, or solicitation to commit sexual assault in the  
19 first degree, sexual abuse of a minor in the first degree, [OR] promoting prostitution in  
20 the first degree under AS 11.66.110(a)(2), **or human trafficking in the first degree**  
21 **under AS 11.41.355** may be sentenced to a definite term of imprisonment of not more  
22 than 99 years and shall be sentenced to a definite term within the following  
23 presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

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

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

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

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

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

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

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

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

11 (3) sexual assault in the second degree, sexual abuse of a minor in the  
12 second degree, unlawful exploitation of a minor, or distribution of child pornography  
13 may be sentenced to a definite term of imprisonment of not more than 99 years and  
14 shall be sentenced to a definite term within the following presumptive ranges, subject  
15 to adjustment as provided in AS 12.55.155 - 12.55.175:

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

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

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

21 (D) if the offense is a third felony conviction and does not  
22 involve circumstances described in (E) of this paragraph, 20 to 35 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 (4) sexual assault in the third degree, incest, indecent exposure in the  
26 first degree, possession of child pornography, or attempt, conspiracy, or solicitation to  
27 commit sexual assault in the second degree, sexual abuse of a minor in the second  
28 degree, unlawful exploitation of a minor, or distribution of child pornography, may be  
29 sentenced to a definite term of imprisonment of not more than 99 years and shall be  
30 sentenced to a definite term within the following presumptive ranges, subject to  
31 adjustment as provided in AS 12.55.155 - 12.55.175:

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

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

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

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

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

10 \* **Sec. 10.** AS 12.63.100(6) is amended to read:

11 (6) "sex offense" means

12 (A) a crime under AS 11.41.100(a)(3), or a similar law of  
13 another jurisdiction, in which the person committed or attempted to commit a  
14 sexual offense, or a similar offense under the laws of the other jurisdiction; in  
15 this subparagraph, "sexual offense" has the meaning given in  
16 AS 11.41.100(a)(3);

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

20 (i) sexual assault in the first degree;

21 (ii) sexual assault in the second degree;

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

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

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

26 (i) AS 11.41.410 - 11.41.438;

27 (ii) AS 11.41.440(a)(2);

28 (iii) AS 11.41.450 - 11.41.458;

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

- 1 (v) AS 11.61.125 - 11.61.128;
- 2 (vi) AS 11.66.110 or 11.66.130(a)(2) if the person who
- 3 was induced or caused to engage in prostitution was 16 or 17 years of
- 4 age at the time of the offense;
- 5 (vii) former AS 11.15.120, former 11.15.134, or assault
- 6 with the intent to commit rape under former AS 11.15.160, former
- 7 AS 11.40.110, or former 11.40.200; [OR]
- 8 (viii) AS 11.61.118(a)(2) if the offender has a previous
- 9 conviction for that offense; **or**
- 10 **(ix) AS 11.41.355;**
- 11 \* **Sec. 11.** AS 11.41.360(b)(1) and 11.41.360(b)(3) are repealed.