

SENATE BILL NO. 25

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY SENATORS WIELECHOWSKI, Ellis, Gardner

Introduced: 1/21/15

Referred: State Affairs, Health and Social Services, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to victims of criminal offenses."**

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

3 * **Section 1.** AS 12.61 is amended by adding a new section to read:

4 **Sec. 12.61.016. Duties of agency investigating a sexual offense.** A law
5 enforcement agency investigating an offense under AS 11.41.410 - 11.41.470 may not
6 disclose information related to the investigation to an employer of the victim unless

7 (1) the victim expressly permits the disclosure; or

8 (2) the agency determines the disclosure is necessary to investigate or
9 prevent a crime.

10 * **Sec. 2.** AS 12.61.017(a) is amended to read:

11 (a) An employer may not penalize or threaten to penalize a victim **of an**
12 **offense** because the victim

13 **(1)** is subpoenaed or requested by the prosecuting attorney to attend a
14 court proceeding for the purpose of giving testimony; **or**

15 **(2) reports the offense to a law enforcement agency or participates**

1 **in the investigation of the offense by a law enforcement agency** [. IN THIS
 2 SUBSECTION, "PENALIZE" MEANS TO TAKE ACTION AFFECTING THE
 3 EMPLOYMENT STATUS, WAGES, AND BENEFITS PAYABLE TO THE
 4 VICTIM, INCLUDING

5 (1) DEMOTION OR SUSPENSION;

6 (2) DISMISSAL FROM EMPLOYMENT; AND

7 (3) LOSS OF PAY OR BENEFITS, EXCEPT PAY AND BENEFITS
 8 THAT ARE DIRECTLY ATTRIBUTABLE TO THE VICTIM'S ABSENCE FROM
 9 EMPLOYMENT TO ATTEND THE COURT PROCEEDING].

10 * **Sec. 3.** AS 12.61.017 is amended by adding a new subsection to read:

11 (d) In this section, "penalize" means to take action affecting the employment
 12 status, wages, and benefits payable to the victim, including

13 (1) demotion or suspension;

14 (2) dismissal from employment; and

15 (3) loss of pay or benefits, except pay and benefits that are directly
 16 attributable to the victim's absence from employment to

17 (A) attend the court proceeding;

18 (B) report the offense to a law enforcement agency;

19 (C) participate in a law enforcement agency investigation of the
 20 offense.

21 * **Sec. 4.** AS 18.66.050 is amended to read:

22 **Sec. 18.66.050. Duties of the council.** The council shall

23 (1) hire an executive director, and the executive director may hire staff;
 24 the executive director is in the exempt service under AS 39.25.110 and staff members
 25 are in the classified service under AS 39.25.100;

26 (2) elect one of its members as presiding officer;

27 (3) in consultation with authorities in the field, develop, implement,
 28 maintain, and monitor domestic violence, sexual assault, and crisis intervention and
 29 prevention programs, including educational programs, films, and school curricula on
 30 the cause, prevention, and treatment of domestic violence and sexual assault;

31 (4) coordinate services provided by the Department of Law, the

1 Department of Education and Early Development, the Department of Public Safety,
2 the Department of Health and Social Services, the Department of Corrections, and
3 other state agencies and community groups dealing with domestic violence, sexual
4 assault, and crisis intervention and prevention, and provide technical assistance as
5 requested by those state agencies and community groups;

6 (5) develop and implement a standardized data collection system on
7 domestic violence, sexual assault, and crisis intervention and prevention;

8 (6) conduct public hearings and studies on issues relating to violence,
9 including domestic violence and sexual assault, and on issues relating to the role of
10 crisis intervention and prevention;

11 (7) receive and dispense state and federal money and award grants and
12 contracts from appropriations for the purpose to qualified local community entities for
13 domestic violence, sexual assault, and crisis intervention and prevention programs;

14 (8) oversee and audit domestic violence, sexual assault, and crisis
15 intervention and prevention programs that receive money under this chapter;

16 (9) provide fiscal and technical assistance to plan, organize,
17 implement, and administer domestic violence, sexual assault, and crisis intervention
18 and prevention programs;

19 (10) make an annual report to the governor on the activities of the
20 council, plans of the council for new services and programs, **reported offenses under**
21 **AS 11.41.410 - 11.41.470 by members of the Alaska National Guard**, and concerns
22 of the council, including recommendations for legislation necessary to carry out the
23 purposes of this chapter; the council shall notify the legislature that the report is
24 available;

25 (11) adopt regulations in accordance with AS 44.62 (Administrative
26 Procedure Act) to carry out the purposes of this chapter and to protect the health,
27 safety, well-being, and privacy of persons receiving services financed with grants or
28 contracts under this chapter;

29 (12) consult with the Department of Health and Social Services in the
30 formulation of standards and procedures for the delivery of services to victims of
31 domestic violence by health care facilities and practitioners of healing arts and

1 personnel in those facilities as required in AS 18.66.300;

2 (13) consult with the Alaska Police Standards Council and other police
3 training programs in the state to develop training programs regarding domestic
4 violence for police officers and for correction, probation, and parole officers;

5 (14) consult with public employers, the Alaska Supreme Court, school
6 districts, and prosecuting authorities who are required by AS 18.66.300 - 18.66.310 to
7 provide continuing education courses in domestic violence to employees;

8 **(15) consult with the Alaska National Guard regarding its efforts**
9 **to**

10 **(A) prevent offenses under AS 11.41.410 - 11.41.470 by**
11 **members of the Alaska National Guard;**

12 **(B) establish procedures and standards for the Alaska**
13 **National Guard's interaction with victims of offenses under AS 11.41.410 -**
14 **11.41.470.**

15 * **Sec. 5.** AS 18.66 is amended by adding a new section to read:

16 **Sec. 18.66.202. Sexual assaults against Alaska National Guard members.**

17 The council shall provide an online reporting procedure for a member of the Alaska
18 National Guard who is a victim of a sexual offense alleged to have been committed by
19 another member of the Alaska National Guard to anonymously report the offense to
20 the council. The anonymous report is a confidential communication under
21 AS 18.66.200. In this section, "sexual offense" means a crime under AS 11.41.410 -
22 11.41.470.

23 * **Sec. 6.** AS 26.05 is amended by adding a new section to read:

24 **Sec. 26.05.302. Sexual offenses.** (a) A sexual offense against a member of the
25 Alaska National Guard alleged to have been committed by another member of the
26 guard is not an offense of a purely military nature and shall be tried in civil courts and
27 prosecuted by civil authorities. The rights and protections guaranteed to crime victims
28 under the constitution and laws of the state, including AS 12.61, AS 18.66, and
29 AS 24.65, apply to a member of the Alaska National Guard who is a victim of a sexual
30 offense.

31 (b) A member of the Alaska National Guard who is a victim of a sexual

1 offense may voluntarily report the offense to one or more civil authorities including

2 (1) a state law enforcement agency;

3 (2) a local law enforcement agency;

4 (3) a federal law enforcement agency;

5 (4) the Council on Domestic Violence and Sexual Assault created
6 under AS 18.66.010;

7 (5) the State Commission for Human Rights created under
8 AS 18.80.010.

9 (c) The Alaska National Guard may not compel a member of the guard who is
10 a victim of a sexual offense to report the offense.

11 (d) An investigation, court martial, or other proceeding of the Alaska National
12 Guard under this chapter in connection with a sexual offense against a member of the
13 Alaska National Guard is an administrative proceeding for the purposes of
14 AS 18.66.200, and a victim or victim counselor may not be compelled to testify or
15 produce records as provided by that section.

16 (e) A trial or prosecution by a civil authority of a sexual offense against a
17 member of the Alaska National Guard, or the lack of a trial or prosecution by that
18 authority, is not a bar to an investigation, court martial, or other proceeding of the
19 militia under this chapter.

20 (f) Nothing in this section prohibits a member of the Alaska National Guard
21 who is a victim of a sexual offense from voluntarily reporting the sexual offense to
22 another member of the Alaska National Guard.

23 (g) In this section, "sexual offense" means an offense under AS 11.41.410 -
24 11.41.470.