

CS FOR HOUSE BILL NO. 33(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 4/15/19

Referred: Judiciary

Sponsor(s): REPRESENTATIVES CLAMAN, Lincoln, Fields, Tarr, Spohnholz, Zulkosky, Tuck, Hopkins

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to defenses to sexual assault; and relating to registration of sex
2 offenders."

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

4 * **Section 1.** AS 11.41.432(a) is amended to read:

5 (a) It is a defense to a crime charged under [AS 11.41.410(a)(3),
6 11.41.420(a)(2), 11.41.420(a)(3), 11.41.425, OR 11.41.427 THAT THE OFFENDER
7 IS]

8 (1) AS 11.41.410(a)(3), 11.41.420(a)(2), 11.41.420(a)(3), 11.41.425,
9 or 11.41.427 that the offender is mentally incapable; or

10 (2) AS 11.41.410(a)(3), 11.41.420(a)(2), 11.41.425(a)(2) - (6), or
11 11.41.427 that the offender is married to the person and neither party has filed with
12 the court for a separation, divorce, or dissolution of the marriage.

13 * **Sec. 2.** AS 12.63.010(d) is amended to read:

14 (d) A sex offender or child kidnapper required to register

1 (1) for 15 years under (a) of this section and **AS 12.63.020**
 2 [AS 12.63.020(a)(2)] shall, annually, during the term of a duty to register under
 3 AS 12.63.020, on a date set by the department at the time of the sex offender's or child
 4 kidnapper's initial registration, provide written verification to the department, in the
 5 manner required by the department, of the sex offender's or child kidnapper's address
 6 and notice of any changes to the information previously provided under (b)(1) of this
 7 section;

8 (2) for life under (a) of this section and **AS 12.63.020**
 9 [AS 12.63.020(a)(1)] shall, not less than quarterly, on a date set by the department,
 10 provide written verification to the department, in the manner required by the
 11 department, of the sex offender's or child kidnapper's address and any changes to the
 12 information previously provided under (b)(1) of this section.

13 * **Sec. 3.** AS 12.63.020 is amended to read:

14 **Sec. 12.63.020. Duration of sex offender or child kidnapper duty to**
 15 **register.** (a) The duty of a sex offender or child kidnapper to comply with the
 16 requirements of AS 12.63.010 **is as follows:**

17 **(1) for a sex offender or child kidnapper, as that term is defined in**
 18 **AS 12.63.100(6)(A), for each sex offense or child kidnapping, the duty**

19 **(A)** [(1)] continues for the lifetime of a sex offender or child
 20 kidnapper convicted of

21 **(i)** [(A)] one aggravated sex offense; or

22 **(ii)** [(B)] two or more sex offenses, two or more child
 23 kidnappings, or one sex offense and one child kidnapping; for purposes
 24 of this section, a person convicted of indecent exposure before a person
 25 under 16 years of age under AS 11.41.460 more than two times has
 26 been convicted of two or more sex offenses;

27 **(B)** [(2)] ends 15 years following the sex offender's or child
 28 kidnapper's unconditional discharge from a conviction for a single sex offense
 29 that is not an aggravated sex offense or for a single child kidnapping if the sex
 30 offender or child kidnapper has supplied proof that is acceptable to the
 31 department of the unconditional discharge; the registration period under this

subparagraph

(i) [PARAGRAPH (A)] is tolled for each year that a sex offender or child kidnapper [(i)] fails to comply with the requirements of this chapter **or** [; (ii)] is incarcerated for the offense or kidnapping for which the offender or kidnapper is required to register or for any other offense;

(ii) [(B)] may include the time a sex offender or child kidnapper was absent from this state if the sex offender or child kidnapper has complied with any sex offender or child kidnapper registration requirements of the jurisdiction in which the offender or kidnapper was located and if the sex offender or child kidnapper provides the department with proof of the compliance while the sex offender or child kidnapper was absent from this state; and

(iii) [(C)] continues for a sex offender or child kidnapper who has not supplied proof acceptable to the department of the offender's or kidnapper's unconditional discharge for the sex offense or child kidnapping requiring registration;

(2) for a sex offender or child kidnapper, as that term is defined in AS 12.63.100(6)(B), the duty continues for the period determined by the department under (b) of this section.

(b) The department shall adopt, by regulation,

(1) procedures to notify a sex offender or child kidnapper

(A) who, on the registration form under AS 12.63.010, lists a conviction for a sex offense or child kidnapping that is a violation of a former law of this state or a law of another jurisdiction, of the duration of the offender's or kidnapper's duty under (a) of this section for that sex offense or child kidnapping;

(B) as that term is defined in AS 12.63.100(6)(B), of the duration of the sex offender or child kidnapper's duty under (a) of this section; in adopting regulations under this subparagraph, the department shall

1 (i) consider the period of registration required in the
 2 other jurisdiction; and

3 (ii) provide for tolling of the registration period if
 4 the sex offender or child kidnapper fails to comply with the
 5 requirements of this chapter or is incarcerated;

6 (2) a requirement that an [. AS A PART OF THE REGULATIONS,
 7 THE DEPARTMENT SHALL REQUIRE THE] offender or kidnapper [TO] supply
 8 proof acceptable to the department of unconditional discharge and the date it occurred.

9 * **Sec. 4.** AS 12.63.100(6) is amended to read:

10 (6) "sex offender or child kidnapper" means

11 (A) a person convicted of a sex offense or child kidnapping in
 12 this state or another jurisdiction regardless of whether the conviction occurred
 13 before, after, or on January 1, 1999;

14 (B) a person charged and convicted as an adult of an offense
 15 that requires registration as a sex offender or child kidnapper in another
 16 jurisdiction;

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

19 APPLICABILITY. AS 11.41.432(a), as amended by sec. 1 of this Act,
 20 AS 12.63.010(d), as amended by sec. 2 of this Act, AS 12.63.020, as amended by sec. 3 of
 21 this Act, and AS 12.63.100(6), as amended by sec. 4 of this Act, apply to offenses committed
 22 on or after the effective date of this Act.