

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 12

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - FIRST SESSION

BY SENATORS MICCICHE, Hughes, Shower, Coghill, Kawasaki, Costello, Stevens, Reinbold, Gray-Jackson, Hoffman, von Imhof, Bishop, Stedman, Wielechowski

Introduced: 2/13/19

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to crime and criminal procedure; relating to assault and sexual**
2 **assault; relating to harassment; relating to credit toward a sentence of imprisonment for**
3 **time spent in a treatment program or under electronic monitoring; and providing for an**
4 **effective date."**

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

6 * **Section 1.** AS 11.41.200(a) is amended to read:

7 (a) A person commits the crime of assault in the first degree if

8 (1) that person recklessly causes serious physical injury to another by
9 means of a dangerous instrument;

10 (2) with intent to cause serious physical injury to another, the person
11 causes serious physical injury to any person;

12 (3) the person knowingly engages in conduct that results in serious
13 physical injury to another under circumstances manifesting extreme indifference to the
14 value of human life; [OR]

1 (4) that person recklessly causes serious physical injury to another by
 2 repeated assaults using a dangerous instrument, even if each assault individually does
 3 not cause serious physical injury; or

4 **(5) that person knowingly causes another to become unconscious**
 5 **by means of a dangerous instrument; in this paragraph, "dangerous instrument"**
 6 **has the meaning given in AS 11.81.900(b)(15)(B).**

7 * **Sec. 2.** AS 11.41.425(a) is amended to read:

8 (a) An offender commits the crime of sexual assault in the third degree if the
 9 offender

10 (1) engages in sexual contact with a person who the offender knows is

11 (A) mentally incapable;

12 (B) incapacitated; or

13 (C) unaware that a sexual act is being committed;

14 (2) while employed in a state correctional facility or other placement
 15 designated by the commissioner of corrections for the custody and care of prisoners,
 16 engages in sexual penetration with a person who the offender knows is committed to
 17 the custody of the Department of Corrections to serve a term of imprisonment or
 18 period of temporary commitment;

19 (3) engages in sexual penetration with a person 18 or 19 years of age
 20 who the offender knows is committed to the custody of the Department of Health and
 21 Social Services under AS 47.10 or AS 47.12 and the offender is the legal guardian of
 22 the person;

23 (4) while employed in the state by a law enforcement agency as a
 24 peace officer, or while acting as a peace officer in the state, engages in sexual
 25 penetration with a person with reckless disregard that the person is in the custody or
 26 the apparent custody of the offender, or is committed to the custody of a law
 27 enforcement agency;

28 (5) while employed by the state or a municipality of the state as a
 29 probation officer or parole officer, or while acting as a probation officer or parole
 30 officer in the state, engages in sexual penetration with a person with reckless disregard
 31 that the person is on probation or parole; [OR]

1 (6) while employed as a juvenile probation officer or as a juvenile
 2 facility staff, engages in sexual penetration with a person 18 or 19 years of age with
 3 reckless disregard that the person is committed to the custody or probationary
 4 supervision of the Department of Health and Social Services; or

5 **(7) engages in masturbation and ejaculates on a person without the**
 6 **consent of that person.**

7 * **Sec. 3.** AS 11.61.118(a) is amended to read:

8 (a) A person commits the crime of harassment in the first degree if

9 (1) **under circumstances not proscribed under AS 11.41.425(a)(7),**
 10 the person violates AS 11.61.120(a)(5) and the offensive physical contact is contact
 11 with human or animal blood, mucus, saliva, semen, urine, vomitus, or feces; or

12 (2) under circumstances not proscribed under AS 11.41.434 -
 13 11.41.440, the person violates AS 11.61.120(a)(5) and the offensive physical contact
 14 is contact by the person touching through clothing another person's genitals, buttocks,
 15 or female breast.

16 * **Sec. 4.** AS 11.81.900(b)(60) is amended to read:

17 (60) "sexual contact" means

18 (A) the defendant's

19 (i) knowingly touching, directly or through clothing, the
 20 victim's genitals, anus, or female breast; [OR]

21 (ii) knowingly causing the victim to touch, directly or
 22 through clothing, the defendant's or victim's genitals, anus, or female
 23 breast; or

24 **(iii) knowingly causing the victim to come into**
 25 **contact with ejaculate;**

26 (B) but "sexual contact" does not include acts

27 (i) that may reasonably be construed to be normal
 28 caretaker responsibilities for a child, interactions with a child, or
 29 affection for a child;

30 (ii) performed for the purpose of administering a
 31 recognized and lawful form of treatment that is reasonably adapted to

1 promoting the physical or mental health of the person being treated; or
 2 (iii) that are a necessary part of a search of a person
 3 committed to the custody of the Department of Corrections or the
 4 Department of Health and Social Services;

5 * **Sec. 5.** AS 12.10.010(b) is amended to read:

6 (b) Except as otherwise provided by law or in (a) of this section, a person may
 7 not be prosecuted, tried, or punished for an offense unless the indictment is found or
 8 the information or complaint is instituted not later than

9 (1) 10 years after the commission of a felony offense in violation of
 10 AS 11.41.120 - 11.41.330, 11.41.425(a)(1) or (5) - (7) [11.41.425(a)(1),
 11 11.41.425(a)(5), 11.41.425(a)(6)], or 11.41.450 - 11.41.458; or

12 (2) five years after the commission of any other offense.

13 * **Sec. 6.** AS 12.55.027(d) is repealed and reenacted to read:

14 (d) A court may not grant credit against a sentence of imprisonment for time
 15 spent in a private residence or under electronic monitoring.

16 * **Sec. 7.** AS 12.55.027(e) is amended to read:

17 (e) If a defendant intends to claim credit toward a sentence of imprisonment
 18 for time spent in a treatment program [OR UNDER ELECTRONIC MONITORING]
 19 either as a condition of probation or as a condition of bail release after a petition to
 20 revoke probation has been filed, the defendant shall file notice with the court and the
 21 prosecutor 10 days before the disposition hearing. The notice shall include the amount
 22 of time the defendant is claiming. The defendant must prove by a preponderance of the
 23 evidence that the credit claimed meets the requirements of this section. A court may
 24 not consider, except for good cause, a request for credit made under this subsection
 25 more than 90 days after the disposition hearing.

26 * **Sec. 8.** AS 12.55.027(g) is repealed.

27 * **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to
 28 read:

29 APPLICABILITY. AS 11.41.200(a), as amended by sec. 1 of this Act,
 30 AS 11.41.425(a), as amended by sec. 2 of this Act, AS 11.61.118(a), as amended by sec. 3 of
 31 this Act, AS 11.81.900(b), as amended by sec. 4 of this Act, AS 12.10.010(b), as amended by

1 sec. 5 of this Act, AS 12.55.027(d), as repealed and reenacted by sec. 6 of this Act,
2 AS 12.55.027(e), as amended by sec. 7 of this Act, and AS 12.55.027(g), as repealed by sec. 8
3 of this Act, apply to offenses committed on or after the effective date of this Act.

4 * **Sec. 10.** This Act takes effect immediately under AS 01.10.070(c).