

BY BRADNER, BEIRNE, BOWMAN,  
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MILLER, OSE, OSTROSKY, PARKER,  
SMITH, SULLIVAN AND URION

1 IN THE HOUSE

2 HOUSE BILL NO. 187

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to prosecution under AS 11.15.120;  
7 and changing Rule 43(g)(11), Rules of Civil Procedure."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 11.15 is amended by adding a new section to read:

10 Sec. 11.15.125. EVIDENCE IN PROSECUTIONS UNDER SEC. 120 OF THIS  
11 CHAPTER. (a) In a prosecution under sec. 120 of this chapter, or  
12 for assault with intent to commit, attempt to commit, or conspiracy  
13 to commit a crime defined in sec. 120 of this chapter, if evidence of  
14 sexual conduct of the complaining witness is offered to attack the  
15 credibility of the complaining witness, the following procedure shall  
16 be followed:

17 (1) a written motion shall be made by the defendant to the  
18 court and prosecutor stating that the defense has an offer of proof  
19 of the relevancy of evidence of the sexual conduct of the complaining  
20 witness proposed to be presented and its relevancy in attacking the  
21 credibility of the complaining witness;

22 (2) the written motion shall be accompanied by an affidavit  
23 in which the offer of proof shall be stated;

24 (3) if the court finds that the offer of proof is suffi-  
25 cient, the court shall order a hearing out of the presence of the jury,  
26 if any, and at the hearing allow the questioning of the complaining  
27 witness regarding the offer of proof made by the defendant;

28 (4) at the conclusion of the hearing, if the court finds  
29 that evidence proposed to be offered by the defendant regarding the

1 sexual conduct of the complaining witness is relevant in determining  
2 the credibility of the complaining witness, and the probative value  
3 of the evidence proposed to be offered is not outweighed by the  
4 probability that its admission will create undue prejudice, confusion  
5 of the issues, or undue consumption of time, the court shall make an  
6 order stating what evidence may be introduced and the nature of the  
7 questions to be permitted. The defendant may then offer evidence  
8 under the order of the court.

9 (b) In this section "complaining witness" means the alleged  
10 victim of the crime charged, the prosecution of which is subject to  
11 this section.

12 \* Sec. 2. In sec. 1 of this Act, AS 11.15.125 has the effect of changing  
13 Rule 43(g)(11), Rules of Civil Procedure, by requiring certain procedures  
14 to be followed in order for the defendant to offer evidence of sexual conduct  
15 of the complaining witness in a prosecution under AS 11.15.120.  
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