

Introduced: 5/21/75  
Referred: Judiciary

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 HOUSE BILL NO. 515

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 sexual assault; changing Rule 43-  
7 (g)(11), Rules of Civil Procedure; and providing for an  
8 effective date."

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

10 \* Section 1. AS 11.05.150 is amended to read:

11 Sec. 11.05.150. IMPOSING LESS THAN PRESCRIBED PENALTY. Except in  
12 a case of murder or aggravated sexual assault [RAPE], the court may,  
13 upon conviction, when in its opinion the facts and circumstances make  
14 the minimum penalty provided in this title manifestly too severe, impose  
15 a lesser penalty, either of a fine or imprisonment or both. When less  
16 than the minimum penalty is imposed, the court shall set out the reasons  
17 for its action on the record in the case.

18 \* Sec. 2. AS 11.15.010 is amended to read:

19 Sec. 11.15.010. FIRST DEGREE MURDER. A person who, being of sound  
20 memory and discretion, purposely, and either of deliberate and premedi-  
21 tated malice or by means of poison, or in perpetrating or in attempting  
22 to perpetrate, aggravated sexual assault [RAPE], arson, robbery, or  
23 burglary kills another, is guilty of murder in the first degree, and  
24 shall be sentenced to imprisonment for not less than 20 years to life.

25 \* Sec. 3. AS 11.15 is amended by adding new sections to read:

26 Sec. 11.15.125. PETTY SEXUAL ASSAULT. (a) A person who has  
27 sexual contact with another not his spouse or causes the other to have  
28 sexual contact with him, without consent, is guilty of petty sexual  
29 assault if

1 (1) he knows that the contact is offensive to the other  
2 person;

3 (2) he knows that the other person suffers from a mental  
4 disease or defect rendering him incapable of appraising the nature of  
5 his conduct;

6 (3) he knows that the other person is unaware that a sexual  
7 act is being committed;

8 (4) the other person is less than 16 years old;

9 (5) he has substantially impaired the other person's power  
10 to appraise or control his conduct by administering or employing with-  
11 out the other's knowledge drugs, intoxicants or other means for the  
12 purpose of preventing resistance; or

13 (6) the other person is in custody of law or detained in a  
14 hospital or other institution and the actor has supervisory or discip-  
15 linary authority over him.

16 (b) The offense of petty sexual assault is a misdemeanor. In this  
17 section "sexual contact" is any touching of the genitals of the person  
18 for the purpose of arousing or gratifying sexual desire.

19 Sec. 11.15.127. AGGRAVATED SEXUAL ASSAULT. (a) A person who has  
20 sexual intercourse with another person not his spouse is guilty of  
21 aggravated sexual assault if

22 (1) the other person is compelled to submit by force or by  
23 threat of imminent death, serious bodily injury, extreme pain or kid-  
24 napping, to be inflicted on anyone;

25 (2) the person substantially impairs the other person's power  
26 to appraise or control his conduct by administering or employing without  
27 his knowledge or consent drugs, intoxicants or other means for the pur-  
28 pose of preventing resistance;

29 (3) the other person is unconscious; or

1 (4) the other person is less than 16 years old.

2 (b) Aggravated sexual assault is a felony.

3 (c) For the purpose of this section, sexual intercourse includes  
4 intercourse by means of the mouth or rectum, with some penetration  
5 however slight; emission is not required.

6 (d) In secs. 125 - 127 of this chapter, when the definition of  
7 an offense excludes conduct with a spouse, the exclusion extends to  
8 persons living as man and wife, regardless of the legal status of their  
9 relationship. When the definition of an offense excludes conduct with  
10 a spouse or conduct by a woman, this does not preclude conviction of a  
11 spouse or woman as accomplice in a sexual act which he or she causes  
12 another person, not within the exclusion, to perform.

13 \* Sec. 4. AS 11.15.160 is amended to read:

14 Sec. 11.15.160. ASSAULT WITH INTENT TO KILL OR COMMIT AGGRAVATED  
15 SEXUAL ASSAULT [RAPE] OR ROBBERY. A person who assaults another with  
16 intent to kill, or to commit aggravated sexual assault [RAPE] or robbery  
17 upon the person assaulted, is punishable by imprisonment [IN THE PENI-  
18 TENTIARY] for not more than 15 years nor less than one year.

19 \* Sec. 5. AS 11.15.295 is amended to read:

20 Sec. 11.15.295. USE OF FIREARMS DURING THE COMMISSION OF CERTAIN  
21 CRIMES. A person who uses or carries a firearm during the commission  
22 of a robbery, assault, murder, aggravated sexual assault [RAPE],  
23 burglary, or kidnapping is guilty of a felony and upon conviction for a  
24 first offense is punishable by imprisonment for not less than 10 years.  
25 Upon conviction for a second or subsequent offense in violation of this  
26 section, the offender shall be imprisoned for not less than 25 years.

27 \* Sec. 6. AS 12.30.040(b) is amended to read:

28 (b) Notwithstanding the provisions of (a) of this section, if the  
29 offense a person has been convicted of is first degree murder, armed

1 robbery, kidnapping, or aggravated sexual assault (as defined in AS 11.-  
2 15.127) [RAPE (AS DEFINED IN AS 11.15.130)], he may not be released on  
3 bail either before sentencing or pending appeal.

4 \* Sec. 7. AS 12.45 is amended by adding a new section to read:

5 Sec. 12.45.045. JURY INSTRUCTIONS IN AGGRAVATED SEXUAL ASSAULT  
6 CASES. In a criminal prosecution for aggravated sexual assault or  
7 attempted aggravated sexual assault, the jury may not be instructed that  
8 the prior sexual conduct of the complaining witness in and of itself may  
9 be considered in determining the credibility of the complaining witness,  
10 and the jury may not be instructed that it may be inferred that a female  
11 who has previously consented to sexual intercourse with a person other  
12 than the defendant is more likely to have consented to sexual inter-  
13 course with the defendant.

14 \* Sec. 8. Section 1 of this Act has the effect of changing Rule 43(g)(11),  
15 Rules of Civil Procedure, by requiring certain procedures to be followed in  
16 order for the defendant to offer evidence of sexual conduct of the complain-  
17 ing witness under AS 11.15.120.

18 \* Sec. 9. AS 11.15.120 - 11.15.134 and AS 11.40.120 are repealed.

19 \* Sec. 10. This Act takes effect immediately in accordance with AS 01.10.  
20 070(c).