

Original sponsor: Chance, Poland
and Rodey

Offered: 5/30/75

1 IN THE SENATE

BY THE FREE CONFERENCE COMMITTEE

2 FREE CONFERENCE CS FOR HOUSE CS FOR SENATE BILL NO. 261

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 the admissibility of evidence
7 in prosecutions for rape and related offenses; changing
8 Rule 43(g)(11), Rules of Civil Procedure; and providing
9 for an effective date."

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

11 * Section 1. AS 12.45 is amended by adding a new section to read:

12 Sec. 12.45.045. EVIDENCE OF PAST SEXUAL CONDUCT IN TRIALS OF
13 RAPE AND ASSAULT WITH INTENT TO COMMIT RAPE. (a) In prosecutions for
14 the crime of rape, assault with intent to commit rape, and attempted
15 rape, evidence of the complaining witness' previous sexual conduct
16 shall not be admitted nor reference made to it in the presence of the
17 jury except as provided in this section. When the defendant seeks to
18 admit the evidence for any purpose, he may apply for an order of the
19 court at any time before or during the trial or preliminary hearing.
20 After the application is made, the court shall conduct a hearing in
21 camera to determine the admissibility of the evidence. If the court
22 finds that evidence offered by the defendant regarding the sexual
23 conduct of the complaining witness is relevant, and that the probative
24 value of the evidence offered is not outweighed by the probability
25 that its admission will create undue prejudice, confusion of the
26 issues, or unwarranted invasion of the privacy of the complaining
27 witness, the court shall make an order stating what evidence may be
28 introduced and the nature of the questions which shall be permitted.
29 The defendant may then offer evidence under the order of the court.

1 (b) In the absence of a persuasive showing to the contrary,
2 evidence of the complaining witness' sexual conduct occurring more
3 than one year before the date of the offense charged is presumed to be
4 inadmissible under this section.

5 (c) In this section "complaining witness" means the alleged
6 victim of the crime charged, the prosecution of which is subject to
7 this section.

8 * Sec. 2. Section 1 of this Act has the effect of changing Rule 43(g)(11)
9 Rules of Civil Procedure, by requiring certain procedures to be followed in
10 order for the defendant to offer evidence of sexual conduct of the complain-
11 ing witness under AS 11.15.120.

12 * Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-
13 070(c).