

1 IN THE SENATE

BY CHANCE

2 SENATE BILL NO. 305

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; and providing for  
7 an effective date."

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

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

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

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

18 Sec. 11.15.010. FIRST DEGREE MURDER. A person who, being of  
19 sound memory and discretion, purposely, and either of deliberate and  
20 premeditated malice or by means of poison, or in perpetrating or in  
21 attempting to perpetrate, aggravated sexual assault [RAPE], arson,  
22 robbery, or burglary kills another, is guilty of murder in the first  
23 degree, and shall be sentenced to imprisonment for not less than 20 years  
24 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 (c) No court may suspend the sentence of a person convicted of  
20 violating this section until the court obtains a report from a reputable  
21 psychiatrist stating the mental condition of the person. No paroling  
22 authority may parole a person convicted of violating this section until  
23 the paroling authority receives a report from a reputable psychiatrist  
24 stating the mental condition of the person and stating that the person  
25 was under observation while confined in prison.

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

29 (1) the other person is compelled to submit by force or by

1 threat of imminent death, serious bodily injury, extreme pain or kid-  
2 napping, to be inflicted on anyone;

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

7 (3) the other person is unconscious; or

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

9 (b) Aggravated sexual assault is a felony.

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

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

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

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

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

27 Sec. 11.15.295. USE OF FIREARMS DURING THE COMMISSION OF CERTAIN  
28 CRIMES. A person who uses or carries a firearm during the commission  
29 of a robbery, assault, murder, aggravated sexual assault [RAPE],

1 burglary, or kidnapping is guilty of a felony and upon conviction for a  
2 first offense is punishable by imprisonment for not less than 10 years.  
3 Upon conviction for a second or subsequent offense in violation of this  
4 section, the offender shall be imprisoned for not less than 25 years.

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

6 (b) Notwithstanding the provisions of (a) of this section, if the  
7 offense a person has been convicted of is first degree murder, armed  
8 robbery, kidnapping, or aggravated sexual assault (as defined in AS 11.-  
9 15.127) [RAPE (AS DEFINED IN AS 11.15.130)], he may not be released on  
10 bail either before sentencing or pending appeal.

11 \* Sec. 7. AS 11.15.120 - 11.15.134 and AS 11.40.120 are repealed.

12 \* Sec. 8. This Act takes effect immediately in accordance with AS 01.10.-  
13 070(c).