

Introduced: 4/3/81
Referred: Judiciary

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1 IN THE HOUSE

2 HOUSE BILL NO. 473

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act changing the classification of and punishment
7 for certain crimes against the person.

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

9 * Section 1. AS 11.41.110(a)(3) is amended to read:

10 (3) acting either alone or with one or more persons, he
11 commits or attempts to commit arson in the first degree, kidnapping,
12 sexual assault in the first degree [UNDER AS 11.41.410(a)(1) OR (2)],
13 sexual assault in the third [SECOND] degree, burglary in the first
14 degree, escape in the first or second degree, or robbery in any degree
15 and, in the course of or in furtherance of that crime, or in immediate
16 flight from that crime, any person causes the death of a person other
17 than one of the participants.

18 * Sec. 2. AS 11.41.410 is amended by adding a new subsection to read:

19 (c) Sexual assault in the first degree is an unclassified felony
20 and is punishable as provided in AS 12.55.

21 * Sec. 3. AS 11.41 is amended by adding a new section to read:

22 Sec. 11.41.415. SEXUAL ASSAULT IN THE SECOND DEGREE. (a) A
23 person commits the crime of sexual assault in the second degree if,

24 (1) being 16 years of age or older, he engages in sexual
25 penetration with another person under 13 years of age or aids, induces,
26 causes, or encourages a person under 13 years of age to engage in
27 sexual penetration with another person; or

28 (2) being 18 years of age or older, he engages in sexual
29 penetration with another person who is under 18 years of age and who

1 (A) is entrusted to his care by authority of law; or
2 (B) is his son or daughter, whether adopted, illegiti-
3 mate, or stepchild.

4 (b) Sexual assault in the second degree is a class A felony.

5 * Sec. 4. AS 11.41.420 is amended to read:

6 Sec. 11.41.420. SEXUAL ASSAULT IN THE THIRD [SECOND] DEGREE. (a)
7 A person commits the crime of sexual assault in the third [SECOND]
8 degree if he coerces another person to engage in sexual contact by the
9 express or implied threat of imminent death, imminent physical injury,
10 or imminent kidnapping to be inflicted on anyone or by causing physical
11 injury to any person, regardless of whether the victim resists.

12 (b) Sexual assault in the third [SECOND] degree is a class B
13 felony.

14 * Sec. 5. AS 11.41.430 is amended to read:

15 Sec. 11.41.430. SEXUAL ASSAULT IN THE FOURTH [THIRD] DEGREE. (a)
16 A person commits the crime of sexual assault in the fourth [THIRD]
17 degree if he engages in sexual penetration with a person who he knows
18 (1) is suffering from a mental disorder or defect which
19 renders him incapable of appraising the nature of the conduct under
20 circumstances in which a person who is capable of appraising the nature
21 of the conduct would not engage in sexual penetration; or

22 (2) is incapacitated.

23 (b) Sexual assault in the fourth [THIRD] degree is a class C
24 felony.

25 * Sec. 6. AS 11.81.250(a) is amended to read:

26 (a) For purposes of sentencing under AS 12.55, all offenses de-
27 fined in this title, except murder in the first and second degree, sex-
28 ual assault in the first degree, and kidnapping, are classified on the
29 basis of their seriousness, according to the type of injury character-

1 istically caused or risked by commission of the offense and the culpa-
2 bility of the offender. Except for murder in the first and second
3 degree, sexual assault in the first degree, and kidnapping, the offenses
4 in this title are classified into the following categories:

5 (1) class A felonies, which characteristically involve
6 conduct resulting in serious physical injury or a substantial risk of
7 serious physical injury to a person;

8 (2) class B felonies, which characteristically involve
9 conduct resulting in less severe violence against a person than class A
10 felonies, aggravated offenses against property interests, or aggravated
11 offenses against public administration or order;

12 (3) class C felonies, which characteristically involve
13 conduct serious enough to deserve felony classification but not serious
14 enough to be classified as A or B felonies;

15 (4) class A misdemeanors, which characteristically involve
16 less severe violence against a person, less serious offenses against
17 property interests, less serious offenses against public administration
18 or order, or less serious offenses against public health and decency
19 than felonies;

20 (5) class B misdemeanors, which characteristically involve a
21 minor risk of physical injury to a person, minor offenses against
22 property interests, minor offenses against public administration or
23 order, or minor offenses against public health and decency;

24 (6) violations, which characteristically involve conduct
25 inappropriate to an orderly society but which do not denote criminality
26 in their commission.

27 * Sec. 7. AS 11.81.250(b) is amended to read:

28 (b) The classification of each felony defined in this title,
29 except murder in the first and second degree, sexual assault in the

1 first degree, and kidnapping, is designated in the section defining it.
2 A felony under Alaska law defined outside this title for which no
3 penalty is specifically provided is a class C felony.

4 * Sec. 8. AS 11.81.335(a)(2) is amended to read:

5 (2) the person reasonably believes the use of deadly force
6 is necessary to defend himself from death, serious physical injury,
7 kidnapping, sexual assault in the first degree [UNDER AS 11.41.410(a)-
8 (1) or (2)], sexual assault in the third [SECOND] degree, or robbery in
9 any degree.

10 * Sec. 9. AS 12.55.035(b)(1) is amended to read:

11 (1) \$75,000 for murder in the first or second degree, sexual
12 assault in the first degree, or kidnapping;

13 * Sec. 10. AS 12.55.125(a) is amended to read:

14 (a) Except as provided in (i) of this section, a [A] defendant
15 convicted of murder in the first degree shall be sentenced to a definite
16 term of imprisonment of at least 20 years but not more than 99 years.

17 * Sec. 11. AS 12.55.125(b) is amended to read:

18 (b) Except as provided in (i) of this section, a [A] defendant
19 convicted of murder in the second degree, sexual assault in the first
20 degree, or kidnapping shall be sentenced to a definite term of imprison-
21 ment of at least five years but not more than 99 years.

22 * Sec. 12. AS 12.55.125(f) is amended to read:

23 (f) If a defendant is sentenced under (a), [OR] (b), or (i) of
24 this section:

25 (1) imprisonment for the prescribed minimum term may not be
26 suspended under AS 12.55.80;

27 (2) imposition of sentence may not be suspended under AS 12.-
28 55.85;

29 (3) imprisonment for the prescribed minimum term may not be

1 otherwise reduced.

2 * Sec. 13. AS 12.55.125 is amended by adding new subsections to read:

3 (1) A defendant convicted of

4 (1) murder in the first degree and two other unclassified
5 felonies committed in the course of a single criminal incident or in
6 immediate flight from the criminal incident shall be sentenced to a
7 definite term of imprisonment of at least 99 years;

8 (2) murder in the first degree and one other unclassified
9 felony committed in the course of a single criminal incident or in
10 immediate flight from the criminal incident shall be sentenced to a
11 definite term of imprisonment of at least 75 years;

12 (3) three unclassified felonies other than murder in the
13 first degree committed in the course of a single criminal incident or
14 in immediate flight from the criminal incident shall be sentenced to a
15 definite term of imprisonment of at least 60 years;

16 (4) two unclassified felonies other than murder in the first
17 degree committed in the course of a single criminal incident or in
18 immediate flight from the criminal incident shall be sentenced to a
19 definite term of imprisonment of at least 50 years;

20 (5) sexual assault in the first degree who has a prior
21 conviction of sexual assault in the first degree, or a prior conviction
22 of an offense which if charged in this state would be sexual assault in
23 the first degree shall be sentenced to a definite term of imprisonment
24 of at least 20 years.

25 * Sec. 14. AS 33.15.180(b) is amended to read:

26 (b) A state prisoner who has been imprisoned in accordance with
27 AS 12.55.125(a), [OR] (b), or (1) may not be released on parole until
28 he has served at least the prescribed minimum term of imprisonment.

29 * Sec. 15. AS 11.41.410(a)(3), (a)(4) and (b) are repealed.