

Offered: 5/18/83
Referred: Judiciary

Original sponsors: Pettyjohn, Sturgulewski,
Halford, et al

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR SENATE BILL NO. 74 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act revising the laws relating to sexual abuse of
7 a minor, sexual assault, and indecent exposure; and
8 extending the time limitation for prosecution of
9 sexual offenses."

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

11 * Section 1. AS 11.41.420 is repealed and reenacted to read:

12 Sec. AS 11.41.420. SEXUAL ASSAULT IN THE SECOND DEGREE. (a) A
13 person commits the crime of sexual assault in the second degree if the
14 offender engages in

15 (1) sexual contact with another person without consent of
16 that person; or

17 (2) sexual penetration with a person who the offender knows

18 (A) is suffering from a mental disorder or defect
19 which renders the person incapable of appraising the nature of
20 the conduct under circumstances in which a person who is capable
21 of appraising the nature of the conduct would not engage in
22 sexual penetration; or

23 (B) is incapacitated.

24 (b) Sexual assault in the second degree is a class B felony.

25 * Sec. 2. AS 11.41 is amended by adding new sections to read:

26 Sec. AS 11.41.434. SEXUAL ABUSE OF A MINOR IN THE FIRST DEGREE.

27 (a) A person commits the crime of sexual abuse of a minor in the
28 first degree if

29 (1) being 16 years of age or older, the offender engages in

1 sexual penetration with a person who is under 13 years of age or aids,
2 induces, causes, or encourages a person who is under 13 years of age
3 to engage in sexual penetration with another person; or

4 (2) being 18 years of age or older, the offender engages in
5 sexual penetration with a person who is under 18 years of age and who

6 (A) is entrusted to the offender's care by authority
7 of law; or

8 (B) is the offender's son or daughter, including an
9 illegitimate or adopted child, or a stepchild.

10 (b) Sexual abuse of a minor in the first degree is a class A
11 felony.

12 Sec. 11.41.436. SEXUAL ABUSE OF A MINOR IN THE SECOND DEGREE.

13 (a) A person commits the crime of sexual abuse of a minor in the
14 second degree if

15 (1) being 16 years of age or older, the offender engages in
16 sexual penetration with a person who is 13, 14, or 15 years of age and
17 more than three years younger than the offender, or aids, induces,
18 causes or encourages a person who is 13, 14, or 15 years of age and
19 more than three years younger than the offender to engage in sexual
20 penetration with another person;

21 (2) being 16 years of age or older, the offender engages in
22 sexual contact with a person who is under 13 years of age or aids,
23 induces, causes, or encourages a person under 13 years of age to
24 engage in sexual contact with another person;

25 (3) being 18 years of age or older, the offender engages in
26 sexual contact with a person who is under 18 years of age and who

27 (A) is entrusted to the offender's care by authority
28 of law; or

29 (B) is the offender's son or daughter, including an

1 illegitimate or adopted child, or a stepchild; or

2 (4) being 16 years of age or older, the offender aids,
3 induces, causes, or encourages a person who is under 16 years of age
4 to engage in conduct described in AS 11.41.455(a)(2) - (6).

5 (b) Sexual abuse of a minor in the second degree is a class B
6 felony.

7 Sec. 11.41.438. SEXUAL ABUSE OF A MINOR IN THE THIRD DEGREE.

8 (a) A person commits sexual abuse of a minor in the third degree if,
9 being 16 years of age or older, the offender engages in sexual contact
10 with a person who is 13, 14, or 15 years of age and more than three
11 years younger than the offender.

12 (b) Sexual abuse of a minor in the third degree is a class C
13 felony.

14 * Sec. 3. AS 11.41.440 is repealed and reenacted to read:

15 Sec. 11.41.440. SEXUAL ABUSE OF A MINOR IN THE FOURTH DEGREE.

16 (a) A person commits sexual abuse of a minor in the fourth degree if,
17 being under 16 years of age, the offender engages in sexual penetra-
18 tion or sexual contact with a person who is under 13 years of age and
19 more than three years younger than the offender.

20 (b) Sexual abuse of a minor in the fourth degree is a class A
21 misdemeanor.

22 * Sec. 4. AS 11.41.445(a) is amended to read:

23 (a) In a prosecution under AS 11.41.410 - 11.41.440, it is
24 not a [AN AFFIRMATIVE] defense that, at the time of the alleged
25 offense, the victim was the legal spouse of the defendant [UNLESS

26 (1) THE SPOUSES WERE LIVING APART; OR

27 (2) THE DEFENDANT CAUSED PHYSICAL INJURY TO THE VICTIM].

28 * Sec. 5. AS 11.41 is amended by adding a new section to read:

29 Sec. 11.41.460. INDECENT EXPOSURE. (a) A person commits the

1 crime of indecent exposure if the offender intentionally exposes the
2 offender's genitals, buttock, anus, or female breast to another person
3 with reckless disregard for the offensive, insulting, or frightening
4 effect the act may have on that person.

5 (b) Indecent exposure before a person under 16 years of age is a
6 class A misdemeanor. Indecent exposure before a person 16 years of
7 age or older is a class B misdemeanor.

8 * Sec. 6. AS 11.41.470 is amended to read:

9 Sec. 11.41.470. DEFINITIONS. For purposes of AS 11.41.410 -
10 11.41.470, unless the context requires otherwise,

11 (1) "incapacitated" means [THAT A PERSON IS] temporarily
12 incapable of appraising the nature of one's own [HIS] conduct and [IS]
13 physically unable to express unwillingness to act;

14 (2) "victim" means the person alleged to have been sub-
15 jected to sexual assault in any degree or sexual abuse of a minor;

16 (3) "without consent" means that a person

17 (A) with or without resisting, is coerced by the use
18 of force against a person or property, or by the express or
19 implied threat of [IMMINENT] death, imminent physical injury, or
20 [IMMINENT] kidnapping to be inflicted on anyone; or

21 (B) is incapacitated as a result of an act of the
22 defendant.

23 * Sec. 7. AS 12.10.020 is amended by adding a new subsection to read:

24 (c) Even if the general time limitation has expired, a prosecu-
25 tion under AS 11.41.410 - 11.41.455 for an offense committed against a
26 person under the age of 16 may be commenced within one year after the
27 crime is reported to a peace officer or the person reaches the age of
28 16, whichever occurs first. This provision does not extend the period
29 of limitation by more than five years.

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* Sec. 8. AS 18.66.900(6) is amended to read:

(6) "sexual assault" means a crime specified in AS 11.41.-
410 - 11.41.450 [OR AS 11.51.130(a)(4)];

* Sec. 9. AS 11.41.410(a)(3) and (4), AS 11.41.430, AS 11.51.130(a)(4),
and AS 11.61.110(a)(7) are repealed.