

Offered: 3/17/89
Referred: Judiciary

go0919hE

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

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CS FOR HOUSE BILL NO. 121 (HESS)

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IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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For an Act entitled: "An Act relating to crimes of sexual assault on
mentally incapable or incapacitated persons, and
amending the penalty for the crime of sexual assault
in the third degree; and providing for an effective
date."

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

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* Section 1. AS 11.41.410(a) is amended to read:

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(a) A person commits the crime of sexual assault in the first
degree if, being any age,

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(1) [BEING ANY AGE,] the defendant engages in sexual pene-
tration with another person without consent of that person;

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(2) [BEING ANY AGE,] the defendant attempts to engage in
sexual penetration with another person without consent of that person
and causes serious physical injury to that person;

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(3) [BEING OVER THE AGE OF 18,] the defendant engages in
sexual penetration with another person

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(A) who the defendant knows is mentally incapable; and

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(B) who is entrusted to the defendant's care

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(i) by authority of law; or

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(ii) in a facility or program that is required by

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law to be licensed by the Department of Health and Social

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Services.

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* Sec. 2. AS 11.41.420(a) is amended to read:

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(a) An offender commits the crime of sexual assault in the

1 second degree if

2 (1) the offender engages in sexual contact with another
3 person without consent of that person;

4 (2) [BEING OVER THE AGE OF 18,] the offender engages in
5 sexual contact with a person

6 (A) who the offender knows is mentally incapable; and

7 (B) who is entrusted to the offender's care

8 (i) by authority of law; or

9 (ii) in a facility or program that is required by
10 law to be licensed by the Department of Health and Social
11 Services; or

12 (3) [BEING OVER THE AGE OF 18,] the offender engages in
13 sexual penetration with a person who the offender knows is

14 (A) mentally incapable; or

15 (B) incapacitated.

16 * Sec. 3. AS 11.41.425 is amended to read:

17 Sec. 11.41.425. SEXUAL ASSAULT IN THE THIRD DEGREE. (a) An
18 offender commits the crime of sexual assault in the third degree if
19 [BEING OVER THE AGE OF 18,] the offender engages in sexual contact
20 with a person who the offender knows is

21 (1) mentally incapable; or

22 (2) incapacitated [TEMPORARILY INCAPABLE OF APPRAISING THE
23 NATURE OF THE PERSON'S CONDUCT AND IS PHYSICALLY UNABLE TO EXPRESS
24 UNWILLINGNESS TO ACT].

25 (b) Sexual assault in the third degree is a class A misdemeanor
26 [CLASS C FELONY].

27 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).