

Offered: 1/24/90  
Referred: Rules

6-1663H

Original sponsor(s): SEN. FISCHER

1 IN THE SENATE BY THE JUDICIARY COMMITTEE  
2 CS FOR SENATE BILL NO. 355 (Judiciary)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to crimes involving sexual penetra-  
7 tion or sexual contact with minors, including  
8 situations where the adult occupies a position of  
9 special trust in relation to the minor; defining  
10 'legal guardian' for certain crimes; and relating to  
11 the issuance to, and revocation of teaching  
12 certificates of, persons convicted of certain crimes  
13 involving a minor."

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

15 \* Section 1. AS 11.41.434(a) is amended to read:

16 (a) An offender commits the crime of sexual abuse of a minor in  
17 the first degree if

18 (1) being 16 years of age or older, the offender engages in  
19 sexual penetration with a person who is under 13 years of age or aids,  
20 induces, causes, or encourages a person who is under 13 years of age  
21 to engage in sexual penetration with another person;

22 (2) being 18 years of age or older, the offender engages in  
23 sexual penetration with a person who is under 18 years of age, and the  
24 offender is the victim's natural parent, stepparent, adopted parent,  
25 or legal guardian [WHO

26 (A) IS ENTRUSTED TO THE OFFENDER'S CARE BY AUTHORITY  
27 OF LAW; OR

28 (B) IS THE OFFENDER'S SON OR DAUGHTER, INCLUDING AN  
29 ILLEGITIMATE OR ADOPTED CHILD, OR A STEPCHILD]; or

1 (3) being 18 years of age or older, the offender engages in  
2 sexual penetration with a person who is under 16 years of age, and

3 (A) the victim at the time of the offense is [(A)]  
4 residing [AS A MEMBER OF THE SOCIAL UNIT] in the same household  
5 as the offender and the offender is in a position of authority  
6 over the victim; or

7 (B) the offender occupies a position of special trust  
8 in relation to the victim [TEMPORARILY ENTRUSTED TO THE OFFEND-  
9 ER'S CARE].

10 \* Sec. 2. AS 11.41.436(a) is amended to read:

11 (a) An offender commits the crime of sexual abuse of a minor in  
12 the second degree if

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

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

23 (3) being 18 years of age or older, the offender engages in  
24 sexual contact with a person who is under 18 years of age, and the  
25 offender is the victim's natural parent, stepparent, adopted parent,  
26 or legal guardian [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];

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); or

5 (5) being 18 years of age or older, the offender engages in  
6 sexual contact with a person who is under 16 years of age, and

7 (A) the victim at the time of the offense is [(A)]  
8 residing [AS A MEMBER OF THE SOCIAL UNIT] in the same household  
9 as the offender and the offender is in a position of authority  
10 over the victim; or

11 (B) the offender occupies a position of special trust  
12 in relation to the victim; or [TEMPORARILY ENTRUSTED TO THE  
13 OFFENDER'S CARE]

14 (6) being 18 years of age or older, the offender engages in  
15 sexual penetration with a person who is 16 or 17 years of age and at  
16 least three years younger than the offender, and the offender occupies  
17 a position of special trust in relation to the victim.

18 \* Sec. 3. AS 11.41.438(a) is amended to read:

19 (a) An offender commits the crime of sexual abuse of a minor in  
20 the third degree if [.]

21 (1) being 16 years of age or older, the offender engages in  
22 sexual contact with a person who is 13, 14, or 15 years of age and at  
23 least three years younger than the offender; or

24 (2) being 18 years of age or older, the offender engages in  
25 sexual contact with a person who is 16 or 17 years of age and at least  
26 three years younger than the offender, and the offender occupies a  
27 position of special trust in relation to the victim.

28 \* Sec. 4. AS 11.41.470 is amended by adding new paragraphs to read:

29 (5) "legal guardian" means a person who is under a duty to

1 exercise general supervision over a minor as a result of a court  
2 order, statute, or regulation, and includes foster parents and staff  
3 members and other employees of group homes or youth correctional  
4 facilities where a child is placed as a result of a court order or the  
5 action of the division of family and youth services;

6 (6) "position of special trust" means a youth leader,  
7 recreational leader, scout leader, athletic manager, coach, teacher,  
8 counselor, school administrator, religious leader, practitioner of the  
9 healing arts, police officer, probation officer, guardian ad litem,  
10 babysitter, or a substantially similar position; in this paragraph,  
11 "practitioner of the healing arts" has the meaning given in AS 47.17.-  
12 070.

13 \* Sec. 5. AS 14.20.020(a) is amended to read:

14 (a) Except as provided in (f) of this section, the [THE] depart-  
15 ment shall issue a teacher certificate to every person who meets the  
16 requirements in (b) and (c) of this section.

17 \* Sec. 6. AS 14.20.020 is amended by adding a new subsection to read:

18 (f) Except as otherwise provided in this subsection, the depart-  
19 ment may not issue a teacher certificate to a person who has been  
20 convicted of a crime involving a minor under AS 11.41.434 - 11.41.438,  
21 11.41.455, or 11.41.460, or under a law in another jurisdiction with  
22 elements substantially similar to an offense described in AS 11.41.-  
23 434 - 11.41.438, 11.41.455, or 11.41.460. When five years have  
24 elapsed after a person has received an unconditional discharge for a  
25 conviction of a crime listed in this subsection, the person may peti-  
26 tion the department to issue the certificate in spite of the convic-  
27 tion if the person otherwise satisfies the requirements for the cer-  
28 tificate. When deciding whether to grant or deny the petition, the  
29 department shall consider the nature of the particular crime, whether

1 and to what extent the person has been rehabilitated, and the other  
2 factors that the department determines are significant.

3 \* Sec. 7. AS 14.20.030 is amended by adding a new subsection to read:

4 (b) The commissioner or the Professional Teaching Practices  
5 Commission shall revoke for life the certificate of a person who has  
6 been convicted of a crime involving a minor under AS 11.41.434 -  
7 11.41.438, 11.41.455, or 11.41.460, or under a law in another juris-  
8 diction with elements substantially similar to an offense described in  
9 AS 11.41.434 - 11.41.438, 11.41.455, or 11.41.460. When five years  
10 have elapsed after the person has received an unconditional discharge  
11 for the conviction, the person may petition the commission for re-  
12 certification. When deciding whether to grant or deny the petition,  
13 the commission shall consider the nature of the particular crime,  
14 whether and to what extent the person has been rehabilitated, and the  
15 other factors that the commission determines are significant.

16 \* Sec. 8. AS 14.20.215 is amended by adding a new paragraph to read:

17 (7) "unconditional discharge" has the meaning given in  
18 AS 12.55.185.

19 \* Sec. 9. AS 14.20.020(f), as enacted by sec. 6 of this Act, and  
20 AS 14.20.030(b), as enacted by sec. 7 of this Act, do not apply when the  
21 crime occurred before the effective date of this Act.