

Offered: 5/6/90  
Referred: Rules

6-1663P

Original sponsor(s): SEN. FISCHER

1 IN THE SENATE BY THE JUDICIARY COMMITTEE  
2 HOUSE CS FOR 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 sit-  
8 uations 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 and revocation of teaching certificates  
12 for persons convicted of certain crimes involving a  
13 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 has [IS IN A POSITION OF]  
6 authority over the victim; or

7 (B) the offender occupies a position of authority in  
8 relation to the victim [TEMPORARILY ENTRUSTED TO THE OFFENDER'S  
9 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 has [IS IN A POSITION OF]  
10 authority over the victim; or

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

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

15           (a) An offender commits the crime of sexual abuse of a minor in  
16 the third degree if [,]

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

20           (2) being 18 years of age or older, the offender engages in  
21 sexual penetration with a person who is 16 or 17 years of age and at  
22 least three years younger than the offender, and the offender occupies  
23 a position of authority in relation to the victim.

24 \* Sec. 4. AS 11.41.440(a) is amended to read:

25           (a) An offender commits the crime of sexual abuse of a minor in  
26 the fourth degree if [,]

27           (1) being under 16 years of age, the offender engages in  
28 sexual penetration or sexual contact with a person who is under 13  
29 years of age and at least three years younger than the offender; or

1           (2) being 18 years of age or older, the offender engages in  
2           sexual contact with a person who is 16 or 17 years of age and at least  
3           three years younger than the offender, and the offender occupies a  
4           position of authority in relation to the victim.

5       \* Sec. 5. AS 11.41.470 is amended by adding new paragraphs to read:

6           (5) "legal guardian" means a person who is under a duty to  
7           exercise general supervision over a minor as a result of a court  
8           order, statute, or regulation, and includes foster parents and staff  
9           members and other employees of group homes or youth correctional  
10          facilities where a child is placed as a result of a court order or the  
11          action of the division of family and youth services, and police offi-  
12          cers and probation officers when those officers are exercising custo-  
13          dial control over a minor;

14          (6) "position of authority" means an employer, youth lead-  
15          er, scout leader, coach, teacher, counselor, school administrator,  
16          religious leader, doctor, nurse, psychologist, guardian ad litem,  
17          babysitter, or a substantially similar position, and a police officer  
18          or probation officer other than when the officer is exercising custo-  
19          dial control over a minor.

20       \* Sec. 6. AS 14.20.020(a) is amended to read:

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

24       \* Sec. 7. AS 14.20.020 is amended by adding a new subsection to read:

25          (f) Except as otherwise provided in this subsection, the depart-  
26          ment may not issue a teacher certificate to a person who has been  
27          convicted of a crime involving a minor under AS 11.41.434 - 11.41.442,  
28          11.41.455, or 11.41.460, or under a law in another jurisdiction with  
29          elements substantially similar to an offense described in

1 AS 11.41.434 - 11.41.442, 11.41.455, or 11.41.460. When five years  
2 have elapsed after a person has received an unconditional discharge  
3 for a conviction of a crime listed in this subsection, the person may  
4 petition the department to issue the certificate in spite of the  
5 conviction if the person otherwise satisfies the requirements for the  
6 certificate. When deciding whether to grant or deny the petition, the  
7 department shall consider the nature of the particular crime, whether  
8 and to what extent the person has been rehabilitated, and the other  
9 factors that the department determines are significant.

10 \* Sec. 8. AS 14.20.030 is amended by adding a new subsection to read:

11 (b) The commissioner or the Professional Teaching Practices  
12 Commission shall revoke for life the certificate of a person who has  
13 been convicted of a crime involving a minor under AS 11.41.434 -  
14 11.41.442, 11.41.455, or 11.41.460, or under a law in another juris-  
15 diction with elements substantially similar to an offense described in  
16 AS 11.41.434 - 11.41.442, 11.41.455, or 11.41.460. When five years  
17 have elapsed after the person has received an unconditional discharge  
18 for the conviction, the person may petition the commission for re-  
19 certification. When deciding whether to grant or deny the petition,  
20 the commission shall consider the nature of the particular crime,  
21 whether and to what extent the person has been rehabilitated, and the  
22 other factors that the commission determines are significant.

23 \* Sec. 9. AS 14.20.215 is amended by adding a new paragraph to read:

24 (7) "unconditional discharge" has the meaning given in  
25 AS 12.55.185.

26 \* Sec. 10. AS 14.20.020(f), as enacted by sec. 7 of this Act, and  
27 AS 14.20.030(b), as enacted by sec. 8 of this Act, do not apply when the  
28 crime occurred before the effective date of this Act.