

HOUSE BILL NO. 361

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES B.DAVIS, Ellis, Barnes, Ulmer, Lincoln, Bruckman, Brown, Boyer, Koponen

Introduced: 1/13/92

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the offenses of sexual assault committed against a person who is
2 unaware that a sexual act is being committed."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1. FINDINGS AND PURPOSE.** The legislature finds that existing law as set out in
5 AS 11.41.410(a)(1) and (2) covers the conduct defined in AS 11.41.420(a)(3)(C), added by sec. 2 of this
6 Act, and that existing law as set out in AS 11.41.420(a)(1) covers the conduct defined in
7 AS 11.41.425(a)(3), added by sec. 3 of this Act. However, the legislature finds that the penalty for that
8 conduct is inappropriate, and the offenses should be reclassified. It is therefore the purpose of this Act
9 to reclassify existing conduct and not to criminalize conduct that is not currently criminal.

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

11 (a) An offender commits the crime of sexual assault in the second degree if

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

14 (2) the offender engages in sexual contact with a person

1 (A) who the offender knows is mentally incapable; and
2 (B) who is entrusted to the offender's care
3 (i) by authority of law; or
4 (ii) in a facility or program that is required by law to be licensed
5 by the Department of Health and Social Services; or
6 (3) the offender engages in sexual penetration with a person who the offender
7 knows is

8 (A) mentally incapable; [OR]
9 (B) incapacitated; or
10 (C) unaware that a sexual act is being committed.

11 * Sec. 3. AS 11.41.425(a) is amended to read:

12 (a) An offender commits the crime of sexual assault in the third degree if the offender
13 engages in sexual contact with a person who the offender knows is
14 (1) mentally incapable; [OR]
15 (2) incapacitated; or
16 (3) unaware that a sexual act is being committed.

17 * Sec. 4. AS 11.41.432 is amended by adding a new subsection to read:

18 (c) It is an affirmative defense to a crime charged under AS 11.41.420(a)(3)(C) or
19 11.41.425(a)(3) that the defendant held a reasonable belief that the victim of the sexual act would
20 not have objected to the act if the victim had been aware of the act.

21 * Sec. 5. AS 11.41.470 is amended by adding a new paragraph to read:

22 (7) "sexual act" means sexual penetration or sexual contact.