

HOUSE BILL NO. 440

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES ULMER, Barnes, Bruckman, B.Davis, C.Davis, M.A.Miller, G.Phillips, R.Phillips, Donley

Introduced: 2/3/92

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

**1 "An Act relating to registration and community notification of sex offenders and amending
2 Alaska Rule of Criminal Procedure 32(b)."**

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

**4 * Section 1. LEGISLATIVE FINDINGS AND POLICY. The legislature finds that sex offenders
5 pose a high risk of engaging in sex offenses even after being released from incarceration or commitment
6 and that protection of the public from sex offenders is a paramount governmental interest. The
7 legislature further finds that the penal and mental health components of our justice system are largely
8 hidden from public view and that lack of information from either may result in failure of both systems
9 to meet this paramount concern of public safety. Overly restrictive confidentiality and liability laws
10 governing the release of information about sex offenders raise a danger of reduced willingness to release
11 information that could be appropriately released under the public disclosure laws, and have increased
12 risks to public safety. Persons found to have committed a sex offense have a reduced expectation of
13 privacy because of the public's interest in public safety and in the effective operation of government.
14 Release of information about sex offenders to public agencies and under limited circumstances to the**

1 general public will serve the governmental interests of public safety and public scrutiny of the criminal
2 and mental health systems so long as the information released is rationally related to the furtherance of
3 those goals. Therefore, the state's policy as expressed in sec. 2 of this Act is to promote the exchange
4 of relevant information about sex offenders among public agencies and officials and to authorize the
5 release of necessary and relevant information about sex offenders to members of the general public.
6 Sections 2, 5 - 7, 11, and 12 of this Act serve the state's policy by enabling the state to obtain and store
7 relevant information about sex offenders, which can thereafter be appropriately disseminated. Sections
8 3, 4, 8 - 10, and 12 - 15 of this Act serve the state's policy by providing proper procedures and
9 associated policies for dissemination.

10 * Sec. 2. AS 11.41 is amended by adding a new section to read:

11 Sec. 11.41.465. FAILURE TO REGISTER AS A SEX OFFENDER. A person who
12 knowingly fails to register as required in AS 12.63.010 is guilty of a class B misdemeanor. It
13 is not a defense to prosecution under this section that a defendant did not receive notice from a
14 public official, public employee, or public agency of the duty to register under AS 12.63.010.

15 * Sec. 3. AS 12.62.030(a) is amended to read:

16 (a) Except as provided in (b), [AND] (c), (g), (h), (j), and (k) of this section and in
17 AS 12.62.035, access to specified classes of criminal justice information in criminal justice
18 information systems is available only to individual law enforcement agencies according to the
19 specific needs of the agency under regulations adopted by the commission under AS 12.62.010.
20 Criminal justice information may be used only for law enforcement purposes or for those
21 additional lawful purposes necessary to the proper enforcement or administration of other
22 provisions of law as the commission may prescribe by regulations adopted under AS 12.62.010.
23 Criminal justice information may not be disseminated to an agency before the commission
24 determines the agency's eligibility to receive that information.

25 * Sec. 4. AS 12.62.030 is amended by adding new subsections to read:

26 (g) Notwithstanding other provisions of this section, a public agency is authorized to
27 release relevant and necessary information regarding sex offenders to other employees or officials
28 or the general public when the release of the information is necessary for public protection.

29 (h) A public official, a public employee, or a public agency is immune from civil liability
30 for damages for a decision to release information under (g) of this section unless it is shown that
31 the official, employee, or agency acted with gross negligence.

1 (i) Nothing in (g) of this section imposes liability upon a public official, public employee,
2 or public agency for failing to release information regarding a sex offender.

3 (j) A pending appeal or writ of habeas corpus of a sex offender does not restrict the
4 authority of a public official, public employee, or public agency to release information under (g)
5 of this section.

6 (k) If a public official, public employee, or public agency releases information under (g)
7 of this section, the public official, public employee, or public agency shall also release the latest
8 dispositions of any charges or convictions contained in the information.

9 (l) In this section, "sex offender" means a person convicted in this state or another
10 jurisdiction of a sex offense as defined in AS 12.63.030.

11 * Sec. 5. AS 12 is amended by adding a new chapter to read:

12 CHAPTER 63. REGISTRATION OF SEX OFFENDERS.

13 Sec. 12.63.010. REGISTRATION OF SEX OFFENDERS. (a) An adult physically
14 present in the state who has been convicted of a sex offense shall register as provided in this
15 section.

16 (b) A person required to register under (a) of this section shall register within 45 days
17 of becoming physically present in the state, except that a person required to register who is
18 released from confinement in this state shall register within 30 days of release.

19 (c) A person required to register under (a) of this section shall do so with the division
20 of Alaska state troopers, Department of Public Safety, at the Alaska state trooper post located at
21 or nearest to where the person resides at the time of registration.

22 (d) Registration under (a) of this section must include the registrant's

23 (1) name;

24 (2) address;

25 (3) place of employment;

26 (4) crime for which convicted;

27 (5) date and place of conviction;

28 (6) aliases used;

29 (7) social security number; and

30 (8) court of conviction.

31 (e) If a registrant changes residence within the state, the registrant shall send written

1 notice of the change of address to the Alaska state trooper post located nearest to the new
2 residence within 10 days of establishing the new residence.

3 (f) At the time of registration, the Alaska state troopers shall obtain a photograph of a
4 person required to register under this section and shall obtain a copy of that person's fingerprints.

5 Sec. 12.63.020. TERMINATION OF SEX OFFENDER DUTY TO REGISTER. (a) The
6 duty to register under AS 12.63.010 ends, for a person convicted of a sex offense that is (1) an
7 unclassified or class A felony, only as provided in (b) of this section; (2) a class B felony, if the
8 person has not been convicted of a sex offense for 15 years following entry of judgment or the
9 last date of release from confinement resulting from the conviction, including full-time residential
10 treatment, whichever is later; and (3) a class C felony, a class A misdemeanor, or a class B
11 misdemeanor if the person has not been convicted of a sex offense for 10 years following entry
12 of judgment or the last date of release from confinement resulting from the conviction, including
13 full-time residential treatment, whichever is later. In determining the duration of the duty to
14 register in this section, a sex offense, whether committed in this state or another jurisdiction,
15 bears the most grievous classification, under the law of this state contemporaneous with
16 commission of the offense, whose requisites were fulfilled.

17 (b) A person having a duty to register under AS 12.63.010 may petition the superior
18 court to be relieved of that duty. A petition shall be made to the court in which the petitioner
19 was convicted of the offense that subjects the petitioner to the duty to register or, in the case of
20 convictions in other jurisdictions, to the superior court for the First Judicial District, in Juneau.
21 The district attorney whose office is nearest to the court in which the petition is filed shall be
22 named and served as the respondent in the petition. The court shall consider the nature of the
23 petitioner's sex offense, and the other criminal and relevant noncriminal behavior of the petitioner
24 both before and after conviction, and may consider other factors. The court may relieve the
25 petitioner of the duty to register only if the petitioner shows, with clear and convincing evidence,
26 that future registration of the petitioner will not serve the purposes of AS 12.63.010.

27 Sec. 12.63.030. DEFINITION. In this chapter, "sex offense" means a crime under
28 AS 11.41.410 - 11.41.470 or similar law in another jurisdiction.

29 * Sec. 6. AS 12.80 is amended by adding a new section to read:

30 Sec. 12.80.060. NOTICE TO DEFENDANTS OF REGISTRATION OF SEX
31 OFFENDERS. (a) The court shall provide written notification to a defendant charged with a

1 sex offense of the registration requirements of AS 12.63.010.

2 (b) The notice specified in (a) of this section shall be included on any guilty plea forms
3 and judgments and sentence forms provided to the defendant.

4 * Sec. 7. AS 18.65 is amended by adding a new section to read:

5 Sec. 18.65.087. CENTRAL REGISTRY OF SEX OFFENDERS. The Alaska state
6 troopers shall maintain at their headquarters a central registry of sex offenders required to register
7 under AS 12.63.010 and shall adopt regulations consistent with AS 12.62 and AS 18.65.010 -
8 18.65.110 necessary to carry out the purposes of this section and AS 11.41.465, AS 12.62.030,
9 AS 12.63, AS 12.80.060, AS 33.30.012, and 33.30.035. A post of the Alaska state troopers that
10 receives information and fingerprints under AS 12.63.010 shall forward the information and
11 fingerprints within five working days of receipt to the central registry described in this section.

12 * Sec. 8. AS 33.16.170(a) is amended to read:

13 (a) Except as provided in (b) and (d) of this section, the preparole reports listed in
14 AS 33.16.110, and other information obtained and used by the board under this chapter, are
15 confidential and may not be disclosed to anyone other than the board, the sentencing judge, the
16 prosecuting and defense attorneys, the prisoner, the prisoner's attorney, the attorney for the board,
17 the staff of the board, or others granted access to this information under this chapter.

18 * Sec. 9. AS 33.16.170 is amended by adding a new subsection to read:

19 (d) The confidentiality requirements of this section do not apply to information
20 concerning persons who have been convicted of a sex offense as defined in AS 12.63.030, to the
21 extent that disclosure of the information is either permitted or required under AS 12.62.030 or
22 AS 33.30.012.

23 * Sec. 10. AS 33.30 is amended by adding a new section to read:

24 Sec. 33.30.012. NOTICE OF RELEASE, PAROLE, COMMUNITY PLACEMENT,
25 WORK RELEASE PLACEMENT, FURLOUGH, OR ESCAPE OF SEX OFFENDER. (a) At
26 the earliest possible date, and in no event later than 10 days before release, the commissioner
27 shall send written notice of release, parole, community placement, work release placement or
28 furlough of a specific inmate convicted of a sex offense to all of the following:

29 (1) the chief of police of the community, if any, in which the inmate will reside
30 or in which placement will be made in a work release program; and

31 (2) the Alaska state trooper post located nearest to where the inmate will reside

1 or be placed in a work release program.

2 (b) If an inmate convicted of a sex offense escapes from a correctional facility, the
3 commissioner shall immediately notify, by the most reasonable and expedient means available,
4 the chief of police of the community and Alaska state trooper post located closest to where the
5 inmate resided immediately before the inmate's arrest and conviction.

6 * **Sec. 11.** AS 33.30 is amended by adding a new section to read:

7 Sec. 33.30.035. NOTICE TO PERSONS CONVICTED OF SEX OFFENSES OF
8 REGISTRATION REQUIREMENT. (a) The department shall provide written notification to
9 an inmate convicted of a sex offense of the registration requirements of AS 12.63.010 at the time
10 of the inmate's release from confinement and shall receive and retain a signed acknowledgement
11 of receipt.

12 (b) If the department takes supervision and legal authority, under the Interstate
13 Corrections Compact and AS 33.36.110, of an individual convicted of or found to have
14 committed a sex offense in another jurisdiction, then the department shall provide prompt written
15 notification to that individual of the registration requirements of AS 12.63.030.

16 * **Sec. 12.** AS 33.30.901 is amended by adding a new paragraph to read:

17 (14) "sex offense" has the meaning given in AS 12.63.030.

18 * **Sec. 13.** AS 47.30 is amended by adding a new section to read:

19 Sec. 47.30.781. NOTICE TO SEX OFFENDERS; DISCHARGE OF SEX OFFENDERS;
20 NOTIFICATION OF DISCHARGE OR ESCAPE. (a) Within 10 days before a discharge of a
21 person convicted of a sex offense, the department shall provide written notice to that person of
22 the registration requirements of AS 12.63.010 and shall receive and retain a signed
23 acknowledgement of receipt. If the person to be discharged is a minor or an adjudicated
24 incompetent, then the notification and acknowledgement requirements of this subsection also
25 apply to the person's parents, guardian, or conservator, if any.

26 (b) At the earliest possible date, and in no event later than 10 days before a discharge
27 of a person who has been convicted of a sex offense and who is in the custody of the department
28 under this chapter or AS 12.47, the department shall send written notice of the discharge to the
29 following:

30 (1) the chief of police of the community, if any, in which the person will reside;

31 and

1 (2) the Alaska state trooper post located nearest to where the person will reside.

2 (c) If a person convicted of a sex offense escapes from the custody of the department,
3 the department shall immediately send written notice of the escape to the chief of police of the
4 community and the Alaska state trooper post located closest to where the sex offender resided
5 immediately before the sex offender's arrest and conviction.

6 (d) The department shall notify a victim of a person convicted of a sex offense if the
7 offender escapes from the custody of the department or is discharged for any reason. The
8 department shall send notice under this subsection to the victim's last known address. The
9 victim's address may not be disclosed to the offender or the offender's attorney. As part of the
10 notice required under this subsection, the department shall send the victim a photograph of the
11 offender if the victim has specifically requested in writing that a photograph be sent. The
12 photograph must have been taken within three weeks of the offender's discharge or, if the
13 offender escapes from custody, must be the most recent photograph in the department's
14 possession. The photograph is for the victim's personal use, and the victim may not make copies
15 of the photograph for distribution to others. An offender who is discharged under (a) of this
16 section shall be notified that a photograph has been sent to the victim under this subsection.

17 (e) The notice requirements contained in this section are in addition to any other notice
18 requirements under this chapter.

19 (f) In this section,

20 (1) "discharge" means a conditional or temporary release, authorized absence,
21 furlough, final discharge, or transfer to a less restrictive facility than a state mental hospital;

22 (2) "sex offense" has the meaning given in AS 12.63.030.

23 * Sec. 14. AS 47.30.845 is amended by adding a new subsection to read:

24 (b) Notwithstanding other provisions of this section, AS 12.62.030(g) governs
25 dissemination of information concerning persons convicted of a sex offense as defined in
26 AS 12.63.030.

27 * Sec. 15. The provisions of AS 12.80.060(b), added by sec. 6 of this Act, have the effect of
28 changing Alaska Rule of Criminal Procedure 32(b) by adding a requirement that judgment and sentence
29 forms containing notification of the duty to register under AS 12.63.010 shall be provided to a defendant
30 charged with a sex offense.

31 * Sec. 16. AS 12.80.060(b), added by sec. 6 of this Act, takes effect only if sec. 15 of this Act

1 receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State
2 of Alaska.