

SCR

19

Relating to special investigative units for cases involving sexual offenses.

COMMITTEE REPORT

5/5/75

HOUSE

Mr. Speaker:

Date 5/11/75

The Committee on JUDICIARY has had CSSCR 19

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR _____ AND THAT

CS FOR _____ DO PASS

"and" recommends it BE REFERRED TO THE _____

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

<u>[Signature]</u>	_____	_____
<u>[Signature]</u>	_____	_____
<u>[Signature]</u>	_____	_____

Members NOT concurring in the Majority report:

<u>[Signature]</u>	recommends: <u>none</u>
_____	recommends:
_____	recommends:
_____	recommends:
_____	recommends:

[Signature] Chairman

SENATOR GENE CHANCE

SEXUAL ASSAULT LEGISLATION

SENATE CONCURRENT RESOLUTION NO. 15 - ASSIGNMENT OF POLICEWOMEN TO REPORTED INCIDENTS OF RAPE

Rape victims believe that female officers would be more sensitive to their needs and that more policewomen should be available to respond to calls from rape victims. This concurrent resolution recommends that local law enforcement agencies undertake an affirmative assignment program to place more policewomen in positions which will enable them to respond to rape victims. It states that special efforts should be made to assign female officers to night duty when most rapes occur.

SENATE CONCURRENT RESOLUTION NO. 16 - MEDICAL EXAMINATIONS OF VICTIMS
SEXUAL ASSAULT

Emergency medical facilities provide inadequate treatment for rape victims. A woman who has been raped is often beaten and traumatized. The extent of the medical treatment is frequently limited to a vaginal examination for the purpose of gathering potential evidence.

This concurrent resolution recommends to the director of each public medical facility in the state and to each private medical emergency facility in the state having a contractual relationship with the state or local political subdivision that each victim of sexual assault who is treated by them should be given a thorough examination for both physical and emotional trauma. The staff of such facilities should be instructed on the appropriate care and treatment of victims of sexual assault. In addition, such facilities, as standard operating procedure should inform the victim of venereal disease, pregnancy, and psychiatric services, of the possibility of financial aid from the Violent Crimes Compensation Board, and of any other services or aids available in the community which could serve to alleviate the eventual trauma occasioned by a sexual assault.

SENATE CONCURRENT RESOLUTION NO. 17 - PEACE OFFICER TRAINING PROGRAMS
RELATED TO TREATMENT OF RAPE
VICTIMS

The training and instruction police officers receive generally emphasizes the legal elements of the crime of rape. Little, if any, training time is spent discussing the psychological and emotional needs of the rape victim. Consequently, peace officers often display a significant lack of sensitivity in their handling of rape victims.

This concurrent resolution recommends that Alaska Police Standards Council in conjunction with local community women's organizations and representatives of local medical professions, develop courses of instruction for law enforcement personnel regarding the proper investigation of rape cases, with emphasis on the psychological and emotional effects on the victim.

SENATE CONCURRENT RESOLUTION NO. 18 - TRAINING IN NONAGGRESSIVE SELF-
DEFENSE IN SECONDARY SCHOOLS OF
THE STATE

With the high incidence of violent crimes against individuals, there is a need for public high schools to include as part of their physical education program training in nonaggressive self-defense. If persons were better able to defend themselves, they would be less vulnerable to rape and other violent bodily assault.

This concurrent resolution requests that each school district ascertain the need for offering physical education classes in nonaggressive self-defense and if a need exists to report to the Department of Education by July 1, 1976. It further requests that the Department of Education work with and assist school districts, including the state operated school system, in developing programs in nonaggressive self-defense and that the Department should submit a summary and evaluation of its findings to the Tenth Legislature - First Session.

SENATE CONCURRENT RESOLUTION NO. 19 - SPECIAL INVESTIGATIVE UNITS FOR
CASES INVOLVING SEXUAL OFFENSES

Most law enforcement agencies have inadequately staffed and trained investigative units for sexual offenses. Special rape investigative units which have been established by a few departments provide more thorough and effective investigation of rape reports.

This concurrent resolution requests the Alaska Police Standards Council to develop a plan for the training of specialists to investigate charges of rape and other sexual assaults and to encourage local law enforcement agencies to develop special investigative units for cases involving sexual assaults.

SENATE BILL NO. 261 - PROVIDING FOR AN INCAMERA HEARING TO DETERMINE THE
RELEVANCY OF THE PROSECUTING WITNESS' PREVIOUS
SEXUAL CONDUCT

Many times the victim of sexual assault is extensively questioned about his/her sexual history in open court, without a showing that such questioning is relevant to the innocence or guilt of the accused. The fear of such detailed examination about a very personal aspect of an individual's life may deter victims from bringing criminal complaints, and may be a significant factor in the low percentage of reported rapes.

Senate Bill 261 requires that the defense attorney be required, by specified procedures and out of the hearing of the jury, to "lay a foundation" as to the relevancy of the victim's prior sexual history; and that the judge make a determination of the relevancy of the prior history before such evidence is admissible. A showing of relevancy should not be required when the prior sexual activity occurred with the accused. In no event may evidence of previous sexual conduct of the prosecuting witness committed more than one year before the date of the alleged crime be admissible, except previous conduct with the defendant.

SENATE BILL NO. 262 - JURY INSTRUCTIONS IN RAPE CASES.

During the last few years there has been great disagreement in various states with regard to the types and content of jury instructions in criminal prosecutions for rape, attempted rape, and assault with intent to commit rape.

There is little doubt that the charge of sexual assault is difficult to defend and to prosecute. The law requires that the jury be informed that the charge is difficult to defend and that the jury must examine the testimony of the prosecution's witness with caution. The question in most cases of sexual assault is whether or not the victim consented to the sexual act.

The jury should not be permitted to draw an inference that a woman who has previously consented to sexual intercourse would be more likely to consent again, except where the previous sexual intercourse occurred with the accused. The jury should be permitted to consider the prior sexual history of the victim, if relevant, only on the issue of whether the victim consented to the alleged rape, and not be permitted to consider such acts in judging her credibility regarding other facts in dispute. The issue of chastity should not be confused with the issue of veracity.

Senate Bill 262 states that a jury may not be instructed that the prior sexual conduct of the complaining witness, in and of itself, may be considered in determining the credibility of the complaining witness. In addition, the Bill states that the jury may not be instructed that it may be inferred that a victim who has previously consented to sexual intercourse with a person other than the defendant is more likely to have consented to sexual intercourse with the defendant.

SENATE BILL NO. 273 - MEDICAL TREATMENT AND COSTS INCURRED BY A VICTIM OF SEXUAL ASSAULT

Often emergency medical facilities provide inadequate treatment for rape victims. A person who has been sexually assaulted is often beaten and traumatized. The extent of the medical treatment is frequently limited to a vaginal examination for the purposes of gathering potential evidence. Many physicians on duty at emergency medical facilities are not experienced in the examining procedures necessary to gather evidence from victims of sexual assault. Cases are dropped for insufficient evidence as a result of inadequate examinations which ignored valuable evidence. Hospital and emergency medical facilities charge victims of rape for costs of the medical examination necessary to compile evidence for possible prosecution. Victims of sexual assault oftentimes go without necessary medical treatment because of its high cost.

Senate Bill 273 requires the Department of Health and Social Services to provide within each organized borough and city that a person experienced in the examination of victims of criminal sexual assaults is available on call 24 hours each day for the examination of reported victims of these offenses.

Each reported victim shall be given a thorough examination for both physical and emotional trauma, shall be provided all treatment indicated as a direct result of either the physical or emotional trauma and shall be informed of available venereal disease, pregnancy, and psychiatric services and of the Violent Crimes Compensation Board.

All incurred costs of examination, treatment and where required to obtain treatment not adequately available locally, costs of transportation to another place where treatment is adequately available and return transportation shall be paid directly by the state.

All costs of treatment shall not exceed the normal charges for the service in the locality in which the service is rendered.

SENATE BILL NO.305 - REVISION OF STATUTES INCLUDING RAPE AND SODOMY

With the continual revision of statutes involving crimes of sex and the changing morality of the society, the Alaska statutes pertaining to sex are outmoded and confused.

Sexual acts involving force, specifically forced oral copulation, have recently gone unprosecuted because of this confusion. To remedy this problem and many others, this Senate Bill revises Chapter 11.

Throughout Chapter 11, "rape" is deleted and aggravated sexual assault is inserted in the following sections:

Sec. 11.05.150. Imposing Less than Prescribed Penalties

Sec. 11.15.010 First Degree Murder

Sec. 11.15.160. Assault with Intent to Kill or Commit Rape or Robbery

Sec. 11.15.295 Use of Fire Arms during the Commission of Certain Crimes

Sec. 11.30.040(b)

Chapter 11 is amended by adding two new sections. Section 11.15.125 Petty Sexual Assault and 11.15.127 Aggravated Sexual Assault. The purpose of these new sections is to define categories of sexual contact or sexual intercourse where one of the parties is unable to consent or does not consent to the sexual act.

Sec. 11.15.125 Petty Sexual Assault defines a situation in which a person who has sexual contact with another, not his spouse, or causes the other to have sexual contact with him, without consent, is guilty of petty sexual assault if (1) he knows that the contact is offensive to the other person; (2) he knows that the other person suffers from a mental disease or defect rendering him incapable of appraising the nature of his conduct; (3) he knows that the other person is unaware that a sexual act is being committed; (4) the other person is less than 16 years old; (5) he has substantially impaired the other person's power to appraise or control his conduct by administering or employing without the other's knowledge drugs, intoxicants or other means for the purpose of preventing resistance; or (6) the other person is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over him. The offense of petty sexual assault is a misdemeanor. In this section "sexual contact" is any touching of the genitals of the person for the purpose of arousing or gratifying sexual desire.

Sec. 11.15.127 Aggravated Sexual Assault defines a situation in which a person who has sexual intercourse with another person, not his spouse, is guilty of aggravated sexual assault if (1) the other person is compelled to submit by force or by threat of imminent death, serious bodily injury, extreme pain or kidnapping, to be inflicted on anyone; (2) the person substantially impairs the other person's power to appraise or control his conduct by administering or applying, without his knowledge or consent drugs, intoxicants or other means for the purpose of preventing resistance; (3) the other person is unconscious; or (4) the other person is less than 16 years old. Aggravated sexual assault is a felony. For the purpose of this section, sexual intercourse includes intercourse by means of the mouth, vagina, or rectum, with some penetration however slight; emission is not required.

Chapter 11 is amended by repealing AS 11.14.120 - 11.14.134 and AS 11.40.120. These amendments create a category of crime called "sexual assault". There are two degrees of crime under sexual assault: Petty Sexual Assault and Aggravated Sexual Assault. Victims of these crimes either do not consent to the sexual act described under the sections or are incapable of consenting to the act. Sexual acts between consenting adults are legal regardless of whether they are for the purposes of arousal or intercourse and involve either oral, anal, or vaginal sex.