

**SB**

**154**

SENATE BILL NO. 154

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Introduced: 4/7/95  
Referred: Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to an aggravating factor at sentencing."

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

3 \* Section 1. AS 12.55.155(c)(18) is amended to read:

4 (18) the offense was a felony [CRIME]

5 (A) specified in AS 11.41 and was committed against a spouse,  
6 a former spouse, or a member of the social unit comprised of those living  
7 together in the same dwelling as the defendant; or

8 (B) specified in AS 11.41.410 - 11.41.455 [AS 11.41.410 -  
9 11.41.460 AND WAS COMMITTED AGAINST A MINOR,] and the  
10 defendant has engaged in the same or other [SIMILAR] conduct prohibited  
11 by a provision of AS 11.41.410 - 11.41.460 involving the same or another  
12 victim [WHO WAS A MINOR; OR

13 (C) SPECIFIED IN AS 11.41.410 - 11.41.425 OR 11.41.455,  
14 AND THE DEFENDANT HAS PREVIOUSLY ENGAGED IN CONDUCT  
15 COVERED BY ONE OF THOSE SECTIONS INVOLVING THE SAME OR

1

ANOTHER VICTIM;

-2-

New Text Underlined [DELETED TEXT BRACKETED]

# Alaska State Legislature

Sen. Robin Taylor, Chairman  
Sen. Lyda Green, Vice Chairman  
Sen. Mike Miller  
Sen. Al Adams  
Sen. Johnny Ellis



State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-3717  
Fax: (907) 465-3922

## Senate Judiciary Committee

### Senate Bill 154

#### "An Act relating to an aggravating factor at sentencing"

In January, 1993 the Alaska Sentencing Commission recommended statutory changes which expand the use of other sexual offenses as aggravating factors in sentencing sex offenders.

Alaska Statute 12.55.155 (c) establishes a series of aggravating factors relevant to presumptive sentencing. Subsection (18) of this statute addresses aggravating factors to be used in sentencing people convicted of sex crimes. As the law now reads, there is an aggravating factor when a defendant is convicted of a sex crime against a minor and has engaged in the same or similar conduct against a minor. Also, there is an aggravating factor when the defendant is convicted of sexual assault (or unlawful exploitation of a minor) and previously engaged in sexual assault (or unlawful exploitation of a minor). However, the law does not currently provide an aggravating factor pertaining to a potential situation whereby a defendant is subject to presumptive sentencing for sexual abuse of a minor and he/she previously committed sexual assault against an adult.

This bill corrects an unfortunate "loophole" currently embodied in existing law. If passed, pursuant to this law, in all cases where a defendant is subject to presumptive sentencing for a sex crime, any other conduct which violates AS 11.41.410 - 11.41.460 constitutes an aggravating factor.

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## Senate Judiciary Committee

### Senate Bill 154

#### "An Act relating to an aggravating factor at sentencing"

#### SECTIONAL ANALYSIS

Section 1, which amends AS 12.55.155 (c) (18)(B) and deletes AS 12.55.155(c)(18)(C), expands the scope of other sex crimes as an aggravating factor in presumptive sentencing of sex offenders.

As amended, AS 12.55.155 (c)(18)(B) establishes an aggravating factor when the defendant is subject to presumptive sentencing for a crime "...specified in AS 11.41.410 - 11.41.460 and the defendant has engaged in conduct prohibited by a provision of AS 11.41.410 - 11.41.460."

This bill does not require that the conduct utilized as an aggravating factor be reduced to a conviction and it does not require that aid conduct have occurred prior to the crime for which the defendant is being sentenced.

*Indecent Exposure to person 16 - supervisor } 16 - B mes.*

*11.41.330 - Custodial Interference in 2nd 0 - A mes.*

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5 (A) specified in AS 11.41 and was committed against a spouse,  
6 a former spouse, or a member of the social unit comprised of those living  
7 together in the same dwelling as the defendant; or

8 (B) specified in AS 11.41.410 - 11.41.455 [AS 11.41.410 - a minor  
9 11.41.460 AND WAS COMMITTED AGAINST A MINOR,] and the  
10 defendant has engaged in the same or other [SIMILAR] conduct prohibited  
11 by a provision of AS 11.41.410 - 11.41.460 involving the same or another  
12 victim [WHO WAS A MINOR; OR

13 (C) SPECIFIED IN AS 11.41.410 - 11.41.425 OR 11.41.455,  
14 AND THE DEFENDANT HAS PREVIOUSLY ENGAGED IN CONDUCT  
15 COVERED BY ONE OF THOSE SECTIONS INVOLVING THE SAME OR

*11.41.270 - Stalking in 2nd 0 - A mes.*

*AS 11.41.230 - Assault in 4th 0 - A mes*

*11.41.250 - Reckless Endangerment - A mes*

*Sexual Assault 1, 2, 3  
Sexual Abuse of  
1, 2, 3,  
4 +  
Unlawful  
2nd 0  
A mes.*

ANOTHER VICTIM;

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### Senate Bill 154

#### "An Act relating to an aggravating factor at sentencing"

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As amended, AS 12.55.155 (c)(18)(B) establishes an aggravating factor when the defendant is subject to presumptive sentencing for a crime "...specified in AS 11.41.410 - 11.41.460 and the defendant has engaged in conduct prohibited by a provision of AS 11.41.410 - 11.41.460."

This bill does not require that the conduct utilized as an aggravating factor be reduced to a conviction and it does not require that aid conduct have occurred prior to the crime for which the defendant is being sentenced.

SECTIONAL ANALYSIS

# Alaska State Legislature

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Sen. Lyda Green, Vice Chairman  
Sen. Mike Miller  
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Juneau, Alaska 99801-1182  
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## Senate Judiciary Committee

### Senate Bill 154

#### "An Act relating to an aggravating factor at sentencing"

In January, 1993 the Alaska Sentencing Commission recommended statutory changes which expand the use of other sexual offenses as aggravating factors in sentencing sex offenders.

Alaska Statute 12.55.155 (c) establishes a series of aggravating factors relevant to presumptive sentencing. Subsection (18) of this statute addresses aggravating factors to be used in sentencing people convicted of sex crimes. As the law now reads, there is an aggravating factor when a defendant is convicted of a sex crime against a minor and has engaged in the same or similar conduct against a minor. Also, there is an aggravating factor when the defendant is convicted of sexual assault (or unlawful exploitation of a minor) and previously engaged in sexual assault (or unlawful exploitation of a minor). However, the law does not currently provide an aggravating factor pertaining to a potential situation whereby a defendant is subject to presumptive sentencing for sexual abuse of a minor and he/she previously committed sexual assault against an adult.

This bill corrects an unfortunate "loophole" currently embodied in existing law. If passed, pursuant to this law, in all cases where a defendant is subject to presumptive sentencing for a sex crime, any other conduct which violates AS 11.41.410 - 11.41.460 constitutes an aggravating factor.

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. SB 154 | \_\_\_\_\_

Revision Date: \_\_\_\_\_ Dept. Affected: Corrections  
 Title: An Act relating to an aggravating factor in BRU: \_\_\_\_\_  
sentencing Component: \_\_\_\_\_  
 Sponsor: Senate Judiciary  
 Requester: Sen. Taylor COMPONENT SERIAL NO. \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY95) cost: \$ 0.0

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

This bill would is not expected to noticably effect the lenght of time to be served by the inmate population and no fiscal impact is projected.

Prepared by: Jerry Shriner  
 Division: \_\_\_\_\_  
 Approved by Commissioner: *Margaret M. Paul*  
 Agency: Department of Corrections

Phone: 465-4640  
 Date: 5/1/95  
 Date: 5/1/95

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# FISCAL NOTE

No. 2

Bill Version: SB 154

(S) Publish Date: 4/29/95

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_

Title: "An Act relating to an aggravating factor at sentencing."

Sponsor: Senate Judiciary

Requestor: \_\_\_\_\_

Department Affected: Administration

BRU: Public Defender Agency

Component: Public Defender Agency

COMPONENT SERIAL NO. 1631

**EXPENDITURES/REVENUES:**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE:**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY 95) cost: \$ 0

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary.)

This proposal, if it becomes law, will have no fiscal impact on the Public Defender Agency.

Prepared by: John B. Salemi, Director

Division: Public Defender Agency

Phone: (907) 264-4412

Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer

Agency: Department of Administration

Date: 4/29/95

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# FISCAL NOTE

No. 3

Bill Version: SB154

BILL (S) Publish Date: 4/29/95

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

Revision Date:	Dept. Affected: <u>Department of Law</u>
Title: <u>"An Act relating to an aggravating factor at sentencing."</u>	BRU: <u>Prosecution</u>
Sponsor: <u>Senate Judiciary Committee</u>	Component: <u>All</u>
Requester: <u>Senator Taylor</u>	COMPONENT SERIAL NO. <u>0085-0090</u>

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE**

(Thousands of Dollars)

FUND SOURCE	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY95) cost: \$ 0.0

**POSITIONS**

POSITIONS	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

As recommended by the State Sentencing Committee, this bill covers a gap in the aggravating factors used in the state's presumptive sentencing laws under AS 12.55.155(c). This is a sentencing provision that occurs after conviction, and it will not have a fiscal impact.

Prepared by: <u>Richard I. Peques, Director</u>	Phone: <u>465-3672</u>
Division: <u>Administrative Services Division</u>	Date: <u>4/20/95</u>
Approved by Commissioner: <u>Bruce M. Botelho, Attorney General</u>	Date: <u>4/20/95</u>
Agency: <u>Department of Law</u>	

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FISCAL NOTE

No. 1

Bill Version: SB 154

(S) Publish Date: 4/29/95

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_

Title: "An Act relating to an aggravating factor at sentencing."

Department Affected: Administration

BRU: Office of Public Advocacy

Component: Office of Public Advocacy

Sponsor: (S) Judiciary Committee

Requestor: \_\_\_\_\_

COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ( )	0	0	0	0	0	0
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FUND SOURCE:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 95) cost: \$ -0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

There is no fiscal impact to the Office of Public Advocacy

Prepared by: Brant McGee

Division: Office of Public Advocacy

Phone: 274-1684

Date: \_\_\_\_\_

Approved by Commissioner: Mark Bover

Agency: Department of Administration

Date: 4/29/95

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