

HB

354

CS FOR HOUSE BILL NO. 354()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE BRICE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to criminal sexual inducement of a minor and to criminal
2 sentencing."

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

4 * **Section 1.** AS 11.41 is amended by adding a new section to read:

5 **Sec. 11.41.452. Criminal sexual inducement of a minor.** (a) A person
6 commits the crime of criminal sexual solicitation of a minor if, being 18 years of age
7 or older, the offender engages in a course of conduct with a person who the offender
8 believes is under 16 years of age and at least three years younger than the offender
9 with the intent to induce the person to engage in sexual penetration or sexual contact
10 or conduct described in AS 11.41.455(a)(1) - (7) with the offender or another person.

11 (b) In a prosecution under this section, it is not a defense that the victim was
12 not actually under 16 years of age or at least three years younger than the offender.

13 (c) Criminal sexual inducement of a minor is a class C felony.

14 * **Sec. 2.** AS 12.55.155(c) is amended by adding a new paragraph to read:

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(30) the defendant was convicted of the offense of sexual abuse of a minor under AS 11.41.434 - 11.41.440, attempted sexual abuse of a minor, solicitation of sexual abuse of a minor, or criminal sexual inducement of a minor and, before or during the offense, provided to the minor materials described in AS 11.41.455(a)(1) - (7).

*Sec. 1. AS 11.31.110(c) is amended to read:

(c) Except as provided in (e) of this section, solicitation [SOLICITATION] IS

(1) an unclassified felony if the crime solicited is murder in the first degree;

(2) a class A if the crime solicited is an unclassified felony other than murder
in the first degree;

(3) a class B felony if the crime solicited is a class A felony;

(4) a class C felony if the crime solicited is a class B felony;

(5) a class A misdemeanor if the crime solicited is a class C felony;

(6) a class B misdemeanor if the crime solicited is a class A or class B
misdemeanor.

*Sec. 2. AS 11.31.110 is amended by adding a new section to read:

(e) If the crime solicited is sexual abuse of a minor under AS 11.41.434 -
11.41.440, or unlawful exploitation of a minor under AS 11.41.455, solicitation to
commit the crime is the same classification as the crime solicited if the person uses a
computer, computer system, computer program, computer network, or any part of a
computer system or network in the commission of the offense.



Representative Tom Brice
ALASKA STATE LEGISLATURE

119 N. Cushman, Ste. 205
Fairbanks, AK 99701
907-456-7423 / Fax: 451-9293

While in Juneau
State Capitol
Juneau, AK 99801-1182
907-465-3466

MEMORANDUM

To: Representative Pete Kott
Chair, Judiciary Committee

From: Representative Tom Brice 

Date: February 15, 2000

RE: HB 354: An Act Relating to Criminal Sexual Inducement of a Minor, and to
Distribution of Pornography to Minors

I respectfully request HB 354 be set on for a hearing. Please find attached a sponsor statement, section analysis (by Rep. Brice's staff), and other pertinent information regarding HB 354.

Briefly, the purpose of this bill is to prohibit adults from soliciting minors over the internet for sexual purposes and to prohibit adults from providing minors pornographic materials.

Please let me know if there is any other information I can provide.





Representative Tom Brice

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Fairbanks, AK 99701
907-456-7423 / Fax: 451-9293

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Sponsor Statement

HB 354, An Act relating to Criminal Sexual Inducement of a Minor, and to Distribution of Pornography to Minors.

The Internet, or Information Superhighway, has enabled many people to gain greater access to information and faster communication. Unfortunately, this same superhighway provides adults who are inclined to abuse children greater, simpler, and easier access to children. These adults "troll" the highway to locate unsuspecting minors. They enter into teen "chat rooms" and represent themselves to be teens and develop friendships with them by discussing issues of interest to teens. After time the conversations become more personal and eventually of a sexual nature. The unscrupulous adult then solicits the teen to meet with him/her to engage in sexual acts.

HB 354 addresses this problem. It provides an avenue to prosecute an adult (over 18) who engages in a course of conduct with a minor (a person who the adult believes is under 16 and three years younger than the adult) with the intent to induce the minor to engage in sexual acts. These sex acts include sexual penetration, sexual contact and other acts which are described in AS 11.41.455 – a statute passed by the legislature in 1978.

While the focus of this statute is to stop solicitation of minors over the internet and it is anticipated that will be the media through which most of the illicit communication occurs the statute does not specifically refer to the internet nor does it limit the communication to the internet. It is written sufficiently broad to include solicitation through the mail or telephone. It is expected the pattern of these cases would be initial contact over the Internet, with a potential for the subsequent use of phones or mail or other types of contact.

HB 354 would prevent the provision of pornography to minors. In light of the recent technological advances including the Internet and digital photography, creating and distributing these materials is much easier and can be done with far less risk to their purveyors. The process by which an adult prepares a minor for his/her advances is called grooming. On some occasions this grooming includes showing the minor photos of or other materials describing people engaging in similar acts. Presently, the law prevents the possession and/or distribution of child pornography, that is, photos of children engaging in sexual acts. Current law does not prohibit provision of pornography to children. Individuals often escape prosecution for possession of what appears to be child pornography as the materials are boldly labeled "not using persons under 18". Yet these materials are used to entice and groom minors. This bill prohibits the provision of pornographic materials to minors, regardless of the claimed age of the actors. The definition of pornography in HB 354 is drawn from the definitions used in the current statutes regarding child pornography.



Sectional Summary of HB 354

Section 1, Creates a crime called "Criminal Sexual Inducement of a Minor". The elements of this offense are defined as: a) an adult [18 or older]; b) knowingly; c) engaging in a course of conduct; d) with a minor [under 16 and three years younger than the adult]; e) with the intent to induce the minor to engage in sexual acts. The ages of the adult and minor are patterned after and consistent with the current sexual abuse statutes. The prohibited sexual acts include sexual penetration and sexual contact which are presently defined by statute as well as sexual conduct described in the offense called Unlawful Exploitation of a Minor, AS 11.41.455. Criminal Sexual Inducement of a Minor would be C felony.

Section 2, Creates a crime called "Distribution of Pornography to Minors". The elements of this offense are defined as: a) an adult [18 or older]; b) knowingly; c) provides to or communicates with minors [under 16 and three years younger than the adult] materials that are or describe or discuss pornographic conduct. The section does not apply to distributions or material used for educational or therapeutic purposes nor does it apply to the distribution of motion pictures by a motion picture theatre. The definition for pornography taken from the definition found in AS 11.41.455, however but broadens it to include both children and adults. Distribution of Pornography to Minors would be a class B felony

Section 3, Adds a violation of 11.61.128 (distribution of pornography to minors) to the list of the crimes which fit the definition of a sex offense and thereby required to register as a sex offender. It should be noted that 11.41.452 would be included in this list as well. However, the statute presently provides that persons who commit crimes under "AS 11.41.450 - 11.41.458 must register. Criminal Sexual Inducement of a Minor is numbered within this range and therefore there is no need to amend that subsection of the registration statute

FAIRBANKS

Daily News - Miner

Sunday, January 30, 2000

Man faces sex abuse charges

By Staff report

A Fairbanks grand jury this past week indicted a Fort Wainwright man on charges that he sexually assaulted a teenage girl in North Pole.

Miguel Duque, 36, was indicted on charges of sexual abuse of a minor in the second degree, sexual abuse of a minor in the third degree, second degree sexual assault, and third-degree sexual assault.

Duque had apparently met a friend of the girl's in an Internet chat room, where he went by the name Macdaddy, Alaska State Troopers said.

In October he allegedly drove the girls either to a gravel pit or to the end of a road in North Pole, where he supplied them with alcohol, troopers said. One of the charges alleges that the girl was intoxicated at the time of the assault.

Troopers had thought the man's name might have been "Mike," and they had been looking for him over the past three months. They discovered his identity with the help of tips that came in after they distributed the man's description to the media earlier this month.

Anchorage Daily News

Eielson Airmen Face Sex Charges

By JON LITTLE
Daily News Peninsula Bureau

SOLDOTNA - Police investigators say two Fairbanks men drove some 500 miles for a night of sex in a Soldotna motel room with a couple of 14- and 15-year-old girls they met over the Internet.

The suspects, Eielson Air Force Base airmen Angel R. Berrios, 25, and Jeremy Nguyen, 20, were indicted Friday on three counts each of sexual abuse of a minor. Kenai Superior Court Judge Jonathan Link issued an arrest warrant for the men Tuesday. They were to be held on \$10,000 cash bail. Neither had been arrested by Wednesday evening, according to Eielson spokesman Master Sgt. Christopher Shock.

In addition to the abuse charges, the men were indicted on two misdemeanor charges each of furnishing alcohol to a minor.

Nguyen apparently struck up a relationship over the Internet with one of the girls, possibly through a chat room, said Soldotna Police Chief Shirley Warner, who investigated the case. The two then talked on the telephone and made arrangements to meet at Soldotna's King Salmon Motel over Labor Day weekend, Warner said. Police say Nguyen and Berrios spent the night of Sept. 4 with the girls.

Warner said she could not comment further about the computers that were used or how the men hooked up with the girls over the Internet.

"Since chat rooms have become available, I think this kind of thing happens," she said. "I don't think it's anything new."

Not only is the problem of sexual predators on the Internet not new, it is growing, said Lt. Mike Marrs, who supervises the Alaska State Troopers' Criminal Investigation Unit. Predators scan chat rooms, often in the guise of a teenager, looking for victims, he said. Giving out phone numbers is a bad idea, he said. "Some relationships work out fine, but you have to be extremely careful until you know exactly who you're dealing with."

Warner said the recent indictments might serve as a wake-up call to families.

"I think this is a case where the information needs to get out to parents that this type of thing happens, so they can provide a safeguard to protect their kids," Warner said. While parents cannot watch what their children are doing 24 hours a day, Marrs said they still can talk to their kids about the dangers. "They have to educate their children, make them understand that not all is good out there, even though it may seem that way," he said.

Last week's indictments came about after the girls' parents started asking questions, Warner said. "We did have some parents who were on the ball and had a suspicion that things were going on and gave us the call," she said.

* Reporter Jon Little can be reached at jlittle@adn.com