

HB

334

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: HB334-LAW-CDCO-1-23
 Bill Version: HB 334
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to unlawful exploitation of RDU Criminal
a minor." Component CDCO
 Sponsor Representative Meyer
 Requester House Judiciary Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would make unlawful exploitation of a minor a Class A felony, rather than a Class B felony.

These cases, involving making child pornography are rare and usually plead out. Consequently, passage of this legislation will have no foreseeable fiscal impact on the Department of Law.

Prepared by: Kathryn A. Daughhete, Director
 Division: Administrative Services
 Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General
 Agency: Department of Law

Phone 465-3673
 Date/Time 1/23/04 3:57 PM
 Date 1/23/2004

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB334-DOC-IDO-01-23-04
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
Title Unlawful Exploitation of a Minor RDU Administration & Operations
Component Institution Director's Office
Sponsor Representative Meyer
Requester _____ Component No. 1381

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type-Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill may have an impact on the inmate population at some time in the future but will not impact the number of incarcerated felons within the next five years.

Prepared by: Jerry D. Burnett, Director Phone (907) 465-3339
Division Administrative Services Date/Time 1/27/04 2:20 PM
Approved by: Portia C.K. Parker, Deputy Commissioner Date 1/27/2004
Agency Department of Corrections

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB334
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title Al. Act relating to unlawful exploitation BRU Legal and Advocacy Services
of a minor Component Public Defender Agency
 Sponsor Representative Meyer
 Requester (H) Judiciary Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
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						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill should have minimal fiscal impact on the operations of the Public Defender Agency. The Agency does not handle a significant number of these offenses.

Prepared by: Linda K. Wilson, Deputy Director Phone (907)-334-4416
 Division Public Defender Agency Date/Time _____
 Approved by: Mike Miller, Commissioner Date _____
 Agency Administration



REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

MEMORANDUM

DATE: March 4, 2004
TO: House Judiciary Committee Members
FROM: Representative Kevin Meyer *K.*
RE: Blank Committee Substitute for HB 334 Unlawful Exploitation of a Minor

The subcommittee for HB 334 met on February 26 in order to discuss amendments to HB 334. The two subjects that the subcommittee was charged with addressing were: the distribution of child pornography and the automatic waiver of juveniles, age 16 or 17 years old, into adult court for committing crimes that are unclassified and class A felonies.

There was significant discussion on the matter of age distinction in HB 334. The subcommittee requested a draft of HB 334 that included an age limiting factor; those that were under 18, with no more than 3 years of age difference between the offender and the victim, would face the criminal penalty of a class B felony. This amendment would address the concerns of the Division of Juvenile Justice and the Public Defender Agency.

By providing the age distinction in HB 334, a possible conflict in statutes was noted by legal services and the Department of Law. AS 11.41.436(a)(4) Sexual Abuse of a Minor in the Second Degree makes it illegal for a person 16 years of age or older to "aid, induce, cause, or encourage a person who is under 16 years of age to engage in" conduct described under AS 11.41.455 Unlawful Exploitation of a Minor. As these provisions may criminalize the same conduct, a court may possibly not be able to apply the increase in punishment due to the overlap in the statutes.

After consulting with legal services and the Department of Law, I requested a blank committee substitute that eliminated the age distinction. I requested the following amendment be included in the substitute version:

1. Distribution of Child Pornography is a class A felony if the person has been previously convicted of distribution of child pornography or a similar crime in this or another jurisdiction.

2. AS 47.12.030 is amended to exclude the crime of Unlawful Exploitation of a Minor from the automatic waiver into adult court provision, for minors age 16 or 17 years of age.

I believe that these two amendments accurately reflect the concerns of the subcommittee members, the House Judiciary Committee membership as a whole, the Division of Juvenile Justice, and the Public Defender Agency.

I would like to thank Rep. Samuels, Rep. Anderson, Rep. Gruenberg, and Vanessa Tondini for working diligently on the drafting of this version of HB 334.

I urge the committee members for their support.

23-LS1246\H
Luckhaupt
3/3/04

CS FOR HOUSE BILL NO. 334()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE MEYER

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to unlawful exploitation of a minor and to distribution of child**
2 **pornography."**

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

4 *** Section 1.** AS 11.41.455(c) is amended to read:

5 (c) Unlawful exploitation of a minor is a class A [CLASS B] felony.

6 *** Sec. 2.** AS 11.61.125(e) is amended to read:

7 (e) Distribution of child pornography is a

8 (1) class B felony; or

9 (2) class A felony if the person has been previously convicted of
10 distribution of child pornography in this jurisdiction or a similar crime in this or
11 another jurisdiction.

12 *** Sec. 3.** AS 47.12.030(a) is amended to read:

13 (a) When a minor who was at least 16 years of age at the time of the offense is
14 charged by complaint, information, or indictment with an offense specified in this

1 subsection, this chapter and the Alaska Delinquency Rules do not apply to the offense
2 for which the minor is charged or to any additional offenses joinable to it under the
3 applicable rules of court governing criminal procedure. The minor shall be charged,
4 held, released on bail, prosecuted, sentenced, and incarcerated in the same manner as
5 an adult. If the minor is convicted of an offense other than an offense specified in this
6 subsection, the minor may attempt to prove, by a preponderance of the evidence, that
7 the minor is amenable to treatment under this chapter. If the court finds that the minor
8 is amenable to treatment under this chapter, the minor shall be treated as though the
9 charges had been heard under this chapter, and the court shall order disposition of the
10 charges of which the minor is convicted under AS 47.12.120(b). The provisions of
11 this subsection apply when the minor is charged by complaint, information, or
12 indictment with an offense

13 (1) that is an unclassified felony or a class A felony and the felony is a
14 crime against a person other than AS 11.41.455;

15 (2) of arson in the first degree; or

16 (3) that is a class B felony and the felony is a crime against a person in
17 which the minor is alleged to have used a deadly weapon in the commission of the
18 offense and the minor was previously adjudicated as a delinquent or convicted as an
19 adult, in this or another jurisdiction, as a result of an offense that involved use of a
20 deadly weapon in the commission of a crime against a person or an offense in another
21 jurisdiction having elements substantially identical to those of a crime against a
22 person, and the previous offense was punishable as a felony; in this paragraph, "deadly
23 weapon" has the meaning given in AS 11.81.900(b).

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 1, 2004

SUBJECT: Increase in punishment for unlawful exploitation of a minor
(CSHB 334(JUD); Work Order No. 23-LS1246\D)

TO: Representative Lesil McGuire
Attn: Vanessa Tondini

FROM: Gerald P. Luckhaupt *GPL*
Legislative Counsel

Enclosed is the draft CSHB 334(JUD) you requested. In addition to the comments I made to Vanessa over the phone concerning this draft, I have an additional comment. AS 11.41.436(a)(4) makes it illegal for a person 16 years of age or older to "aid, induce, cause, or encourage a person who is under 16 years of age to engage in" certain conduct described in the unlawful exploitation of a minor statute. Currently, this provision and AS 11.41.455 specify the same penalty, a class B felony. The changes being made to AS 11.41.455 in secs. 1 and 2 of the bill purport to increase the penalty to a class A felony for some conduct that appears to be covered by AS 11.46.436(a)(4).¹ As these provisions may criminalize the same conduct, a court possibly may not be able to apply the increase in punishment due to the overlap in the statutes and the equal protection requirements of the constitution.

GPL:mdr
04-079.mdr

Enclosure

¹ "Inducing" a child to engage in certain conduct are elements of each crime.

23-LS1246D
Luckhaupt
3/1/04

CS FOR HOUSE BILL NO. 334(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVE MEYER

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to unlawful exploitation of a minor and to distribution of child**
2 **pornography."**

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

4 *** Section 1.** AS 11.41.436(a) is amended to read:

5 (a) An offender commits the crime of sexual abuse of a minor in the second
6 degree if

7 (1) being 16 years of age or older, the offender engages in sexual
8 penetration with a person who is 13, 14, or 15 years of age and at least three years
9 younger than the offender, or aids, induces, causes, or encourages a person who is 13,
10 14, or 15 years of age and at least three years younger than the offender to engage in
11 sexual penetration with another person;

12 (2) being 16 years of age or older, the offender engages in sexual
13 contact with a person who is under 13 years of age or aids, induces, causes, or
14 encourages a person under 13 years of age to engage in sexual contact with another

1 person;

2 (3) being 18 years of age or older, the offender engages in sexual
3 contact with a person who is under 18 years of age, and the offender is the victim's
4 natural parent, stepparent, adopted parent, or legal guardian;

5 (4) being 16 years of age or older, the offender aids, induces, causes,
6 or encourages a person who is under 16 years of age to engage in conduct described in
7 AS 11.41.455(a)(1)(B) - (F) or 11.41.455(a)(2)(B) - (F) [AS 11.41.455(a)(2) - (6)]; or

8 (5) being 18 years of age or older, the offender engages in sexual
9 contact with a person who is under 16 years of age, and

10 (A) the victim at the time of the offense is residing in the
11 same household as the offender and the offender has authority over the victim;

12 or

13 (B) the offender occupies a position of authority in relation to
14 the victim.

15 * Sec. 2. AS 11.41.455(a) is amended to read:

16 (a) A person commits the crime of unlawful exploitation of a minor if, in the
17 state and with the intent of producing a live performance, film, audio, video,
18 electronic, or electromagnetic recording, photograph, negative, slide, book,
19 newspaper, magazine, or other material that visually or aurally depicts the conduct
20 listed in (1)(A) - (G) or (2)(A) - (G) [(1) - (7)] of this subsection, the person
21 knowingly induces or employs a child under 18 years of age

22 (1) who is at least three years younger than the person, to engage
23 in, or photographs, films, records, or televises a child under 18 years of age, who is at
24 least three years younger than the person, engaged in, the following actual or
25 simulated conduct:

26 (A) [(1)] sexual penetration;

27 (B) [(2)] the lewd touching of another person's genitals, anus,
28 or breast;

29 (C) [(3)] the lewd touching by another person of the child's
30 genitals, anus, or breast;

31 (D) [(4)] masturbation;

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(E) [(5)] bestiality;

(F) [(6)] the lewd exhibition of the child's genitals; or

(G) [(7)] sexual masochism or sadism; or

(2) to engage in, or photographs, films, records, or televises a child under 18 years of age engaged in, the following actual or simulated conduct:

(A) sexual penetration;

(B) the lewd touching of another person's genitals, anus, or breast;

(C) the lewd touching by another person of the child's genitals, anus, or breast;

(D) masturbation;

(E) bestiality;

(F) the lewd exhibition of the child's genitals; or

(G) sexual masochism or sadism.

* Sec. 3. AS 11.41.455(c) is amended to read:

(c) Unlawful exploitation of a minor under (a)(1) of this section is a class A felony. Unlawful exploitation of a minor under (a)(2) of this section is a class B felony.

* Sec. 4. AS 11.61.125(e) is amended to read:

(e) Distribution of child pornography is a
(1) class B felony; or
(2) class A felony if the person has been previously convicted of distribution of child pornography in this jurisdiction or a similar crime in this or another jurisdiction.

900 W. 5th Avenue, Suite 200
Anchorage, AK 99501
(907)334-4400 FAX: (907)269-5478



Fax

CONFIDENTIAL !!!
IF RECEIVED IN ERROR PLEASE SEND BACK
IMMEDIATELY TO FAX # ABOVE.
THANK YOU!

DATE: 2-19-04
TO: Vanessa, House Judiciary
AGENCY: _____
TELEPHONE #: _____ FAX #: 465-6592

Number of Pages (Including cover sheet): 9

FROM: Linda Wilson
AGENCY: Public Defender
TELEPHONE #: 334-4416 FAX #: 269-5476

COMMENTS:
Vanessa, Could you pass out
this handout of relevant statutes concerning
HB.334 to the members of the committee before
hearing on 2/20/04. Dave Reimcke will
be calling in to testify on this one +
HB 342 (DUI fines)

Thanks,
Linda Wilson

affirmative defense that, at the time of the alleged offense, the victim was the legal spouse of the defendant unless the offense was committed without the consent of the victim.

(b) In a prosecution under AS 11.41.410 — 11.41.440, whenever a provision of law defining an offense depends upon a victim's being under a certain age, it is an affirmative defense that, at the time of the alleged offense, the defendant

(1) reasonably believed the victim to be that age or older; and

(2) undertook reasonable measures to verify that the victim was that age or older. (§ 8 ch 166 SLA 1978; am § 2 ch 43 SLA 1985; am § 1 ch 83 SLA 2002)

COMMENTARY

From Senate Journal Supp. No. 47, at 26 (June 12, 1978):

Under existing law, a person can never be charged with the rape of his spouse. The Code substantially limits this immunity from prosecution by providing for the affirmative defense specified in AS 11.41.445(a). A person charged with sexual assault of his spouse under the Code will only be afforded a defense if the spouses were not living apart at the time of assault and if he did not cause physical injury to his spouse. [Note: The commentary in this paragraph accompanied the version of this section appearing under the Prior Criminal Code heading.]

In AS 11.41.445(b), the Code recognizes the limited affirmative defense (which the defendant must establish by a preponderance of the evidence) of reasonable mistake as to age when liability for sexual assault or sexual abuse of a minor is dependent on that factor. The defense may only be raised when the victim is 18 or older at the time of the assault. If the victim is less than 18, the defendant will be strictly liable regardless of his belief as to the victim's age.

CROSS REFERENCES

Definition of "affirmative defense," "physical injury" - AS 11.81.900(b)

Definition of "victim" - AS 11.41.470

Spousal relationship no defense - AS 11.41.448

Sexual assault in the first and second degree - AS 11.41.410, 11.41.420

Sexual abuse of a minor in the first, second, third and fourth degree - AS 11.41.434 — 11.41.440

Assault in the first, second, third and fourth degree - AS 11.41.200 — 11.41.230

Offenses defined by age or value - AS 11.81.615

Sec. 11.41.450. Incest. (a) A person commits the crime of incest if, being 18 years of age or older, that person engages in sexual penetration with another who is related, either legitimately or illegitimately, as

(1) an ancestor or descendant of the whole or half blood;

(2) a brother or sister of the whole or half blood; or

(3) an uncle, aunt, nephew, or niece by blood.

(b) Incest is a class C felony. (§ 3 ch 166 SLA 1978)

COMMENTARY

From Senate Journal Supp. No. 47, at 26 (June 12, 1978):

This statute prohibits consensual acts of sexual penetration by a person 18 or older with a person who falls in one of the three classes of relationships listed in (a)(1)-(3). Incest is a class C felony.

CROSS REFERENCES

Definition of "sexual penetration" - AS 11.81.900(b)

Sexual abuse of a minor in the first and second degree - AS 11.41.434(a)(2), 11.41.436(a)(8)

Statute of limitations in prosecutions under AS 11.41.410—11.41.460 - AS 12.10.020(c)

Original Code Provision - AS 11.40.110.

Sec. 11.41.455. Unlawful exploitation of a minor. (a) A person commits the crime of unlawful exploitation of a minor if, in the state and with the intent of producing a live performance, film, audio, video, electronic, or electromagnetic recording, photograph, negative, slide, book, newspaper, magazine, or other material that visually or aurally depicts the conduct listed in (1) — (7) of this subsection, the person knowingly induces or employs a child under 18 years of age to engage in, or photographs, films, records, or televisages a child under 18 years of age engaged in, the following actual or simulated conduct:

(1) sexual penetration;

(2) the lewd touching of another person's genitals, anus, or breast;

(3) the lewd touching by another person of the child's genitals, anus, or breast;

(4) masturbation;

(5) bestiality;

(6) the lewd exhibition of the child's genitals; or

(7) sexual masochism or sadism.

(b) A parent, legal guardian, or person having custody or control of a child under 18 years of age commits the crime of unlawful exploitation of a minor if, in the state, the person permits the child to engage in conduct described in (a) of this section knowing that the conduct is intended to be used in producing a live performance, film, audio, video, electronic, or electromagnetic recording, photograph, negative, slide, book, newspaper, magazine, or other material that visually or aurally depicts the conduct.

(c) Unlawful exploitation of a minor is a class B felony.

(d) In this section, "audio recording" means a nonbook prerecorded item without a visual component, and includes a record, tape, cassette, and compact disc. (§ 8 ch 166 SLA 1978; am § 1 ch 57 SLA 1983; am §§ 1 — 3, ch 161 SLA 1990; am § 8 ch 79 SLA 1992; am §§ 1, 2 ch 85 SLA 2000)

COMMENTARY

The commentary that follows, which accompanied the version of the statute that existed between January 1, 1980 and October 10, 1983, is from Senate Journal Supp. No. 47, at 26 (June 12, 1978):

Though this section is new to Alaska law, similar conduct has arguably been covered by the broad proscription of existing AS 11.40.130, which imposes felony penalties on one who "by threats, command or persuasion endeavors to induce a child under 16 to perform an act . . . which would manifestly tend to cause him to become or remain a delinquent."

The statute can be violated by a person who induces or employs a child under 16 to engage in one of the six sexual acts specified in paragraphs (1)-(6) as well as by the person who photographs, films or televises such conduct. The defendant must act with the intent of producing a depiction of the act for a commercial purpose.

The legislature did not adopt any commentary when it amended the statute in 1983. However, as part of its annual summary of criminal justice legislation, the Department of Law prepared the following explanation of the 1983 amendments which should be of assistance to the reader in interpreting the current statute:

This measure changes the law relating to sexual exploitation of children in several significant ways. Previously, AS 11.41.455 prohibited a person from producing, "for any commercial purpose," a live performance, film, photograph, etc., that depicted children under 16 engaged in certain sexually explicit conduct. This legislation revises the statute to delete the requirement that the production of this material be for a "commercial purpose," thus applying the law to those persons who produce materials of this sort for their own use. The new law raises the age limit of the children protected from "under 16 years of age" to "under 18 years of age." In contrast to prior law, which required that the child must actually have engaged in the prohibited sexual conduct, the new law prohibits production of material which portrays a child engaged in actual or simulated sexual conduct.

A new subsection has been added to the unlawful exploitation of a minor statute. This new subsection provides that a parent or legal guardian of a child under 18 commits the crime of unlawful exploitation of a minor (a class B felony) if he or she "permits" the child to engage in the prohibited conduct knowing that a live performance, film, photograph, etc. will be produced. If a parent does more than "permit" the objectionable conduct, and actually "induces, causes or encourages" the child to take part, the (proper charge would be) the more serious offense of Sexual Abuse of a Minor in the appropriate degree. . . .

The legislature did not adopt any commentary when it amended the statute in 1990. However, as part of its annual summary of criminal justice legislation, the Department of Law prepared the following explanation of the 1990 amendments which should be of assistance to the reader in interpreting the current statute.

The amendments make it a crime to make audio recordings of a child under 18 years of age en-

gaged in actual or simulated sexual conduct. The legislation was specifically intended to address the conduct of the defendant in *State v. Felchtinger*, 9AN-888-7011 Cr., in which the defendant made audio recordings of minors engaged in actual and simulated sexual conduct.

CROSS REFERENCES

Definition of "intentionally," "knowingly" - AS 11.81.900(a)

Definition of "sexual penetration" - AS 11.81.900(b)

Sexual assault in the first degree - AS 11.41.410(a)(3)

Sexual abuse of a minor in the second degree - AS 11.41.436(a)(4)

Distribution of child pornography - AS 11.61.125

TD: V, 68-69.

Sec. 11.41.458. Indecent exposure in the first degree. (a) An offender commits the crime of indecent exposure in the first degree if

- (1) the offender violates AS 11.41.460(a);
- (2) while committing the act constituting the offense, the offender knowingly masturbates; and
- (3) the offense occurs within the observation of a person under 16 years of age.

(b) Indecent exposure in the first degree is a class C felony. (§ 3 ch 81 SLA 1998)

Sec. 11.41.460. Indecent exposure in the second degree. (a) An offender commits the crime of indecent exposure in the second degree if the offender knowingly exposes the offender's genitals in the presence of another person with reckless disregard for the offensive, insulting, or frightening effect the act may have.

(b) Indecent exposure in the second degree before a person under 16 years of age is a class A misdemeanor. Indecent exposure in the second degree before a person 16 years of age or older is a class B misdemeanor. (§ 4 ch 78 SLA 1983; am § 4 ch 81 SLA 1998)

COMMENTARY

The legislature did not adopt any commentary when it passed this statute in 1983. However, as part of its annual summary of legislation, the Department of Law prepared the following explanation of the crime which should be of assistance to the reader in interpreting the current statute:

A new crime entitled Indecent Exposure has been created in AS 11.41.460. It is defined as the intentional exposure of a person's genitals to another person with reckless disregard for the offensive, insulting or frightening effect that the exposure that might have on the other person. Under prior law this conduct was Disorderly Conduct, a class B misdemeanor offense with a maximum penalty of ten days in jail. The new law raises the penalty classification to an A misdemeanor level if the witness to the exposure is a child under the age of 16. The offense remains a B misdemeanor (but with a maximum sentence of 90 days) if the witness to the exposure is an adult.

(1) mentally incapable; or
 (2) married to the person and neither party has filed with the court for a separation, divorce, or dissolution of the marriage.

(b) Except as provided in (a) of this section, in a prosecution under AS 11.41.410 or 11.41.420, it is not a defense that the victim was, at the time of the alleged offense, the legal spouse of the defendant. (§ 4 ch 96 SLA 1988; am § 27 ch 50 SLA 1989) ★

CROSS REFERENCES

Definition of mentally incapable - AS 11.41.470

Sexual assault in the first, second and third degree - AS 11.41.41 - 11.41.425

Original Code Provision - None.

Sec. 11.41.434. Sexual abuse of a minor in the first degree. (a) An offender commits the crime of sexual abuse of a minor in the first degree if

(1) being 16 years of age or older, the offender engages in sexual penetration with a person who is under 13 years of age or aids, induces, causes, or encourages a person who is under 13 years of age to engage in sexual penetration with another person;

(2) being 18 years of age or older, the offender engages in sexual penetration with a person who is under 18 years of age, and the offender is the victim's natural parent, stepparent, adopted parent, or legal guardian; or

(3) being 18 years of age or older, the offender engages in sexual penetration with a person who is under 16 years of age, and

(A) the victim at the time of the offense is residing in the same household as the offender and the offender has authority over the victim; or

(B) the offender occupies a position of authority in relation to the victim.

(b) Sexual abuse of a minor in the first degree is an unclassified felony and is punishable as provided in AS 12.65. (§ 2 ch 78 SLA 1983; am § 3 ch 66 SLA 1988; am § 1 ch 151 SLA 1990)

Sec. 11.41.436. Sexual abuse of a minor in the second degree. (a) An offender commits the crime of sexual abuse of a minor in the second degree if

(1) being 16 years of age or older, the offender engages in sexual penetration with a person who is 13, 14, or 15 years of age and at least three years younger than the offender, or aids, induces, causes or encourages a person who is 13, 14, or 15 years of age and at least three years younger than the offender to engage in sexual penetration with another person;

(2) being 18 years of age or older, the offender engages in sexual contact with a person who is under 18 years of age or aids, induces, causes, or encourages a person under 18 years of age to engage in sexual contact with another person;

(3) being 18 years of age or older, the offender engages in sexual contact with a person who is under 18 years of age, and the offender is the victim's natural parent, stepparent, adopted parent, or legal guardian;

(4) being 18 years of age or older, the offender aids, induces, causes, or encourages a person who is under 16 years of age to engage in conduct described in AS 11.41.455(c)(3) - (6); or

(5) being 18 years of age or older, the offender engages in sexual contact with a person who is under 16 years of age, and

(A) the victim at the time of the offense is residing in the same household as the offender and the offender has authority over the victim; or

(B) the offender occupies a position of authority in relation to the victim.

(b) Sexual abuse of a minor in the second degree is a class B felony. (§ 2 ch 78 SLA 1983; am § 4 ch 66 SLA 1988; am § 2 ch 151 SLA 1990)

Sec. 11.41.438. Sexual abuse of a minor in the third degree. (a) An offender commits the crime of sexual abuse of a minor in the third degree if

(1) being 16 years of age or older, the offender engages in sexual contact with a person who is 13, 14, or 15 years of age and at least three years younger than the offender; or

(2) being 18 years of age or older, the offender engages in sexual penetration with a person who is 16 or 17 years of age and at least three years younger than the offender, and the offender occupies a position of authority in relation to the victim.

(b) Sexual abuse of a minor in the third degree is a class C felony. (§ 2 ch 78 SLA 1983; am § 3 ch 151 SLA 1990)

Sec. 11.41.440. Sexual abuse of a minor in the fourth degree. (a) An offender commits the crime of sexual abuse of a minor in the fourth degree if

(1) being under 16 years of age, the offender engages in sexual penetration or sexual contact with a person who is under 13 years of age and at least three years younger than the offender; or

(2) being 18 years of age or older, the offender engages in sexual contact with a person who is 16 or 17 years of age and at least three years younger than the offender, and the offender occupies a position of authority in relation to the victim.

(b) Sexual abuse of a minor in the fourth degree is a class A misdemeanor. (§ 3 ch 188 SLA 1978; am § 9 ch 102 SLA 1980; am § 3 ch 78 SLA 1983; am § 4 ch 151 SLA 1990)

COMMENTARY

The following commentary, which accompanied the crime of Sexual Assault in the First Degree, AS 11.41.410, when it was first enacted in 1978, is from Senate Journal Supp.

property whether to the obtainer or another or to exert control over property of another; or

(B) in relation to a service, to secure performance of the service;

(13) "property of another" means property in which a person has an interest which the defendant is not privileged to infringe, whether or not the defendant also has an interest in the property and whether or not the person from whom the property was obtained or withheld also obtained the property unlawfully; "property of another" does not include property in the possession of the defendant in which another has only a security interest, even if legal title is in the secured party under a conditional sales contract or other security agreement; in the absence of a specific agreement to the contrary, the holder of a security interest in property is not privileged to infringe the debtor's right of possession without the consent of the debtor;

(14) "stolen property" means property of another that was obtained unlawfully. (§ 4 ch 166 SLA 1978; am § 4 ch 79 SLA 1984; am § 19 ch 85 SLA 2000)

COMMENTARY

See commentary accompanying AS 11.46.100, AS 11.46.500 — 11.46.510.

CROSS REFERENCES

Definition of "property," "deception" — AS 11.81.900(b)
Definition of "intentionally," "knowingly" — AS 11.81.900(a)

Original Code Provision — None.

TD: III, 20-23, 89.

Chapter 50.

Syndicalism.

[Repealed, § 21 ch 166 SLA 1978. For law on terroristic threatening, see AS 11.56.810.]

Chapter 51.

Offenses Against the Family and Vulnerable Adults.

Article

1. Offenses Against the Family (§§ 11.51.100 — 11.51.140)
2. Vulnerable Adults (§§ 11.51.200 — 11.51.220)

Article 1.

Offenses Against the Family.

Section

100. Endangering the welfare of a child in the first degree
110. Endangering the welfare of a child in the second degree
120. Criminal nonsupport

Section

122. Aiding the nonpayment of child support
125. Failure to permit visitation with a minor
130. Contributing to the delinquency of a minor
140. Unlawful marrying

Sec. 11.51.100. Endangering the welfare of a child in the first degree. (a) A person commits the crime of endangering the welfare of a child in the first degree if, being a parent, guardian, or other person legally charged with the care of a child under 16 years of age, the person

(1) intentionally deserts the child in a place under circumstances creating a substantial risk of physical injury to the child;

(2) leaves the child with another person who is not a parent, guardian, or lawful custodian of the child knowing that the person

(A) is registered or required to register as a sex offender under AS 12.63 or a law or ordinance in another jurisdiction with similar requirements;

(B) has been charged by complaint, information, or indictment with a violation of AS 11.41.410 — 11.41.455 or a law or ordinance in another jurisdiction with similar elements; or

(C) has been charged by complaint, information, or indictment with an attempt, solicitation, or conspiracy to commit a crime described in (B) of this paragraph; or

(3) leaves the child with another person knowing that the person has previously physically mistreated or had sexual contact with any child, and the other person causes physical injury or engages in sexual contact with the child.

(b) In this section, "physically mistreated" means

(1) having committed an act punishable under AS 11.41.100 — 11.41.250; or

(2) having applied force to a child that, under the circumstances in which it was applied, or considering the age or physical condition of the child, constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation because of the substantial and unjustifiable risk of

(A) death;

(B) serious or protracted disfigurement;

(C) protracted impairment of health;

(D) loss or impairment of the function of a body member or organ;

(E) substantial skin bruising, burning, or other skin injury;

(F) internal bleeding or subdural hematoma;

(G) bone fracture; or

(H) prolonged or extreme pain, swelling, or injury to soft tissue.

(c) Endangering the welfare of a child in the first degree under (a)(1) or (2) of this section is a class C felony.

(d) Endangering the welfare of a child in the first degree under (a)(3) of this section is a

(1) class B felony if the child dies; *

COMMENTARY

From Senate Journal Supp. No. 47, at 96-97 (June 12, 1978):

The crime of harassment, a class B misdemeanor, can be committed in any of five ways, each of which requires that the defendant act with an "intent to harass or annoy" another. The terms "harass" and "annoy" have in other contexts been subject to strict constitutional scrutiny when used to describe results of conduct. See, *Pool v. State*, 524 P.2d 288 (Alaska 1974); *Marks v. City of Anchorage*, 500 P.2d 644 (Alaska 1972). The Code, however, uses these terms not to describe a result of conduct which might vary with the "ideological vicissitudes" of the victim, but rather to describe the specific intent with which the defendant must act. See, *Anniskette v. State*, 489 P.2d 1012, 1015 (Alaska 1971).

Paragraph (1) prohibits insulting, taunting, or challenging another in a manner likely to provoke an immediate and violent response. Directed principally at preserving the public peace, the provision will penalize speech only when it falls within the unprotected "fighting words" category. See *Chaplinsky v. New Hampshire*, 315 U.S. 568 (1942).

Paragraph (2) covers another form of harassing conduct in which a call may be placed, and the line held open indefinitely after the call is answered. The defendant must act with an intent to impair the ability of the person to place or receive telephone calls.

Paragraph (3) prohibits repeated telephone calls at extremely inconvenient hours. Use of the word "repeated" is intended to preclude a prosecution based on a single call. However, if the calls continue and if it can be shown that the defendant acted with an intent to harass or annoy the recipient, prosecution could then be brought. Paragraph (4) applies to the making of a single anonymous or obscene telephone call or a call that threatens physical injury.

Paragraph (5) covers subjecting a person to offensive physical contact if done with an intent to harass or annoy. Conduct included in the category would be minor shoves or slaps that do not qualify as "physical injury" as well as sexual touchings that do not qualify as sexual assaults.

CROSS REFERENCES

Definition of "physical injury" — AS 11.61.900(b)

Definition of "intentionally" — AS 11.61.900(a)

Disorderly conduct — AS 11.61.110(a)(6)

Domestic violence injunctions — AS 25.35.010, 25.35.020

Violating a Domestic Violence Restraining Order — AS 11.56.740

Original Code Provision — AS 11.45.035

TD: V, 87-89.

Sec. 11.61.123. Indecent viewing or photography. (a) A person commits the crime of indecent viewing or photography if, in the state, the person knowingly views, or produces a picture of, the pri-

vate exposure of the genitals, anus, or female breast of another person and the view or production is without the knowledge or consent of

(1) the parent or guardian of the person viewed, or who is shown in the picture, if the person who is viewed or shown is under 18 years of age; and

(2) the person viewed or shown in the picture, if the person viewed or shown is at least 13 years of age.

(b) Each viewing of a person, and each production of a picture of a person, whose genitals, anus, or female breast are viewed or are shown in a picture constitutes a separate violation of this section.

(c) This section does not apply to viewing or photography conducted by a law enforcement agency for a law enforcement purpose.

(d) In a prosecution under this section, it is an affirmative defense that the viewing or photography was conducted as a security surveillance system, notice of the viewing or photography was posted, and any viewing or use of pictures produced is done only in the interest of crime prevention or prosecution.

(e) In this section,

(1) "picture" means a film, photograph, negative, slide, book, newspaper, or magazine, whether in print, electronic, magnetic, or digital format; and

(2) "private exposure" means that a person has exposed the person's body or part of the body in a place, and under circumstances, that the person reasonably believed would not result in the person's body or body parts being (A) viewed by the defendant; or (B) produced in a picture; "private exposure" does not include the exposure of a person's body or body parts in a law enforcement facility, correctional facility, designated treatment facility, or a juvenile detention facility; in this paragraph, "correctional facility" has the meaning given in AS 93.30.901, "designated treatment facility" has the meaning given in AS 47.80.915, and "juvenile detention facility" has the meaning given in AS 47.12.990.

(f) Indecent viewing or photography is a

(1) class C felony if the person viewed or shown in a picture was, at the time of the viewing or production of the picture, a minor;

(2) class A misdemeanor if the person viewed or shown in a picture was, at the time of the viewing or production of the picture, an adult. (§ 1 ch 29 SLA 1995; am § 5 ch 33 SLA 1999)

Sec. 11.61.125. Distribution of child pornography. (a) A person commits the crime of distribution of child pornography if the person brings or causes to be brought into the state for distribution, or in the state distributes, or in the state possesses, prepares, publishes, or prints with intent to distribute, any material that visually or aurally depicts conduct described in AS 11.41.455(a), knowing that the production of the material involved the use of a child under 18 years of age who engaged in the conduct.

(b) This section does not apply to acts that are an integral part of the exhibition or performance of a motion picture if the acts are performed within the scope of employment by a motion picture operator or projectionist employed by the owner or manager of a theater or other place for the showing of motion pictures, unless the motion picture operator or projectionist

(1) has a financial interest in the theater or place in which employed; or

(2) causes the performance or motion picture to be performed or exhibited without the consent of the manager or owner of the theater or other place of showing.

(c) The possession of 100 or more films, audio, video, electronic, or electromagnetic recordings, photographs, negatives, slides, books, newspapers, magazines, or other materials, including a combination of these items totalling 100 or more, is prima facie evidence of distribution and intent to distribute under (a) of this section.

(d) In this section, "distribution" includes the following, whether or not for monetary or other consideration: delivering, selling, renting, leasing, lending, giving, circulating, exhibiting, presenting, providing, exchanging, placing on a computer network or computer system, and providing billing collection, or other ancillary services for or otherwise supporting these activities.

(e) Distribution of child pornography is a class B felony. (§ 2 ch 57 SLA 1988; am §§ 1, 2 ch 39 SLA 1986; am § 4 ch 161 SLA 1990; am §§ 5, 6 ch 81 SLA 1998; am § 15 ch 65 SLA 2000; am § 3 ch 41 SLA 2003)

COMMENTARY

The legislature did not adopt commentary when it enacted this statute in 1988. However, as part of its 1988 annual summary of legislation, the Department of Law prepared the following discussion of this crime which should be of assistance to the reader in interpreting the statute:

The major change in the law is contained in new AS 11.61.125, which prohibits the distribution of child pornography. A person commits the crime of distribution of child pornography if he brings or causes to be brought into the state for sale or distribution, or possesses, prepares, publishes, or prints with intent to distribute, sell, or exhibit for commercial consideration, any material that visually depicts the sexually explicit conduct prohibited in AS 11.41.455(a), "knowing that the production of this material involved the use of a child under 18 years of age."

Under the definition of "knowingly" contained in AS 11.81.900(a)(2) the state need not prove that the defendant actually knew the child involved to be under the age of 18; the evidence must demonstrate only that he was aware of a substantial probability that the child was under age. In most cases, this awareness can be proven through a jury's review of the pornographic material. Although it probably will not be possible to determine only from a viewing whether a particular

participant is age 17 or 18; a defendant should not be able to successfully assert to that he "did not know" that a child was under age 18 when the child's appearance clearly indicates that he or she is 10 or 12, for example.

The prohibition against distribution of child pornography does not apply to a motion picture projectionist, unless the projectionist has a financial interest in the movie theater or exhibits the movie without the consent of the manager or owner of the theater. This provision was included so that a person who is only an employee of the theater and who has no control over the selection of the movies could not be prosecuted. Distribution of child pornography is a class C felony.

The new child pornography law does not require that the material which gives rise to the criminal prosecution be "obscene." The United States Supreme Court recently upheld a New York statute which prohibited the distribution of material depicting sexual performances by children under 18 and contained no requirement that the prohibited material be obscene. *New York v. Ferber*, 73 L.Ed.2d 1113, 102 S.Ct. 3348 (1982). In upholding the New York statute, the Court relied upon the "surpassing importance" of the state's interest in preventing the sexual exploitation and abuse of children. 73 L.Ed.2d at 1128. It should be noted, however, that both the New York and Alaska statutes apply only to material which "visually depicts" sexual conduct by children, such as photographs or movies. Thus, under Alaska's law, a person would continue to be free to write about, and another free to read about, sexual acts involving children.

The legislature did not adopt any commentary when it amended the statute in 1990. However, as part of its annual summary of criminal justice legislation, the Department of Law prepared the following explanation of the 1990 amendments which should be of assistance to the reader in interpreting the current statute:

The amendment makes it a crime to distribute audio recordings of a child under 18 years of age engaged in actual or simulated sexual conduct. The legislation was specifically intended to address materials prepared by the defendant in *State v. Feichtinger*, 8AN-888-7011 Cr., in which the defendant made audio recordings of minors engaged in actual and simulated sexual conduct.

CROSS REFERENCES

Definition of "knowing," "intent" — AS 11.81.900(a)
 Definition of "possess" — AS 11.81.900(b)
 Unlawful exploitation of a minor — AS 11.41.455
 Sexual abuse of a minor in the first, second, third, and fourth degree — AS 11.41.434 — 11.41.440

Sec. 11.61.127. Possession of child pornography. (a) A person commits the crime of possession of child pornography if the person knowingly possesses any material that visually or aurally depicts conduct described in AS 11.41.455(a) knowing that the production of the material involved the use of a child under 18 years of age who engaged in the conduct.

§ 11.61.129

CRIMINAL LAW

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(b) This section does not apply to persons providing plethysmograph assessments in the course of a sex offender treatment program that meets the minimum standards under AS 33.30.011(5).

(c) Each film, audio, video, electronic, or electromagnetic recording, photograph, negative, slide, book, newspaper, magazine, or other material that visually or aurally depicts conduct described in AS 11.41.455(a) that is possessed by a person knowing that the production of the material involved the use of a child under 18 years of age that engaged in the conduct is a separate violation of this section.

(d) Possession of child pornography is a class C felony. (§ 1 ch 51 SLA 1994; am § 1 ch 70 SLA 1996; am §§ 7, 8, 9 ch 81 SLA 1998)

Sec. 11.61.129. Forfeiture of property used in indecent viewing or photography or child pornography. (a) Property used to aid a violation of AS 11.61.128 — 11.61.127 or to aid the solicitation of, attempt to commit, or conspiracy to commit a violation of AS 11.61.128 — 11.61.127 may be forfeited to the state upon the conviction of the offender.

(b) In this section, "property" has the meaning given in AS 11.41.468. (§ 4 ch 41 SLA 2003)

Sec. 11.61.130. Misconduct involving a corpse. (a) A person commits the crime of misconduct involving a corpse if

(1) except as authorized by law or in an emergency, the person intentionally disinters, removes, conceals, or mutilates a corpse;

(2) the person engages in sexual penetration of a corpse; or

(3) the person detains a corpse for a debt or demand or upon a lien or charge.

(b) Misconduct involving a corpse is a class A misdemeanor. (§ 7 ch 166 SLA 1978)

COMMENTARY

From Senate Journal Supp. No. 47, at 96 (June 12, 1978):

This statute provides that a person commits the crime of misconduct involving a corpse, a class A misdemeanor, if he intentionally disinters, removes, conceals, mutilates or engages in sexual penetration of a corpse. By including within the coverage of the statute the act of concealing a corpse, the provision allows for prosecution of the person who conceals the death of a child, conduct now prohibited in AS 11.40.090.

The qualifying phrase in paragraph (1) "except as authorized by law or in an emergency" exempts from coverage of the statute the legitimate activities of person such as coroners, physicians, ambulance attendants, and morticians as well as the good samaritan who might remove a corpse from a fire or automobile wreck.

Misconduct involving a corpse also occurs when a person detains a corpse for a debt. This prohibition parallels the coverage of the existing "attach-

ing or detaining a dead body for debt" statute, AS 11.40.450.

CROSS REFERENCES

Definition of "sexual penetration" — AS 11.81.900(b)

Original Code Provision — AS 11.40.440; AS 11.40.450; AS 11.40.090.

TD: V, 89-90.

Sec. 11.61.140. Cruelty to animals. (a) A person commits the crime of cruelty to animals if the person

(1) knowingly inflicts severe physical pain or prolonged suffering on an animal;

(2) with criminal negligence, fails to care for an animal and, as a result, causes the death of the animal or causes severe physical pain or prolonged suffering to the animal; or

(3) kills an animal by the use of a decompression chamber.

(b) It is a defense to a prosecution under (a)(1) or (2) of this section that the conduct of the defendant

(1) conformed to accepted veterinary or animal husbandry practice;

(2) was part of scientific research governed by accepted standards;

(3) was necessarily incident to lawful hunting or trapping activities; or

(4) conformed to professionally accepted training and disciplinary methods.

(c) In this section, "animal" means a vertebrate living creature not a human being, but does not include fish.

(d) Cruelty to animals is a class A misdemeanor. (§ 7 ch 166 SLA 1978; am § 1 ch 78 SLA 1980; am § 20 ch 59 SLA 1982; am §§ 1, 2 ch 61 SLA 1998)

Sec. 11.61.145. Promoting an exhibition of fighting animals. (a) A person commits the crime of promoting an exhibition of fighting animals if the person

(1) owns, possesses, keeps, or trains an animal with intent that it be engaged in an exhibition of fighting animals;

(2) instigates, promotes, or has a pecuniary interest in an exhibition of fighting animals; or

(3) attends an exhibition of fighting animals.

(b) The animals, equipment, vehicles, money, and other personal property used by a person in a violation of (a)(1) or (2) of this section shall be forfeited to the state if the person is convicted of an offense under this section.

(c) In this section, "animal" means a vertebrate living creature not a human being, but does not include fish.

(d) Promoting an exhibition of fighting animals

(1) under (a)(1) or (2) of this section is a class C felony;

(2) under (a)(3) of this section is a violation for the first offense and a class B misdemeanor for the

CROSS REFERENCES

Definition of "conduct," "offense" — AS 11.81.900(b)

Original Code Provision — None.

TD: V, 7-8.

Article 3.

Classification of Offenses.

Section

250. Classification of offenses

Sec. 11.81.250. Classification of offenses.

(a) For purposes of sentencing under AS 12.55, all offenses defined in this title, except murder in the first and second degree, attempted murder in the first degree, solicitation to commit murder in the first degree, conspiracy to commit murder in the first degree, sexual assault in the first degree, sexual abuse of a minor in the first degree, misconduct involving a controlled substance in the first degree, and kidnapping, are classified on the basis of their seriousness, according to the type of injury characteristically caused or risked by commission of the offense and the culpability of the offender. Except for murder in the first and second degree, attempted murder in the first degree, solicitation to commit murder in the first degree, conspiracy to commit murder in the first degree, sexual assault in the first degree, sexual abuse of a minor in the first degree, misconduct involving a controlled substance in the first degree, and kidnapping, the offenses in this title are classified into the following categories:

(1) class A felonies, which characteristically involve conduct resulting in serious physical injury or a substantial risk of serious physical injury to a person;

(2) class B felonies, which characteristically involve conduct resulting in less severe violence against a person than class A felonies, aggravated offenses against property interests, or aggravated offenses against public administration or order;

(3) class C felonies, which characteristically involve conduct serious enough to deserve felony classification but not serious enough to be classified as A or B felonies;

(4) class A misdemeanors, which characteristically involve less severe violence against a person, less serious offenses against property interests, less serious offenses against public administration or order, or less serious offenses against public health and decency than felonies;

(5) class B misdemeanors, which characteristically involve a minor risk of physical injury to a person, minor offenses against property interests, minor offenses against public administration or order, or minor offenses against public health and decency;

(6) violations, which characteristically involve conduct inappropriate to an orderly society but which do not denote criminality in their commission.

(b) The classification of each felony defined in this title, except murder in the first and second degree, attempted murder in the first degree, solicitation to commit murder in the first degree, conspiracy to commit murder in the first degree, sexual assault in the first degree, sexual abuse of a minor in the first degree, misconduct involving a controlled substance in the first degree, and kidnapping, is designated in the section defining it. A felony under Alaska law defined outside this title for which no penalty is specifically provided is a class C felony.

(c) The classification of each misdemeanor defined in this title is designated in the section defining it. A misdemeanor under Alaska law defined outside this title for which no penalty is provided is a class A misdemeanor. (§ 10 ch 166 SLA 1978; am §§ 9, 10 ch 143 SLA 1982; am §§ 17, 18 ch 87 SLA 1986; am §§ 2, 3 ch 59 SLA 1988; am §§ 7, 8 ch 54 SLA 1999)

COMMENTARY

From Senate Journal Supp. No. 47, at 124 (June 12, 1978):

This section lists the six classes of offenses in title 11: Class A, B and C felonies, class A and B misdemeanors and violations. Only three offenses are not classified: murder in the first and second degree and kidnapping.

The terms "offense", "crime", "felony", "misdemeanor", and "violation" are defined in AS 11.81.900. All forms of prohibited conduct described in the Code are offenses. An offense is either a crime or a violation. A crime is an offense for which a sentence of imprisonment is authorized. Crimes are either felonies or misdemeanors. A felony is a crime for which a sentence of imprisonment of more than one year is authorized. A misdemeanor is a crime for which a sentence for a term of more than one year may not be imposed. A violation is a noncriminal offense punishable only by fines.

Offenses are classified based on the type of injury "characteristically caused or risked by commission of the offense and the culpability of the defendant." The injury risked or caused may be to a person, property, the family, public administration, public order, or public health and decency. The "culpability of the defendant" refers to which culpable mental state — intentionally, knowingly, recklessly, or criminal negligence — the defendant committed the acts constituting the offense.

From House Journal Supp. No. 64, at 3 (May 29, 1980):

These sections make only technical changes to reflect the fact that the classification of Sexual Assault in the First Degree has been changed from a class A to an unclassified felony.

CROSS REFERENCES

Definition of "offense," "crime," "conduct," "felony," "serious physical injury," "misdemeanor," "physical injury," "violation" — AS 11.81.900(b)

Original Code Provision — None.



REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

MEMORANDUM

DATE: February 19, 2004
TO: House Judiciary Committee Members
FROM: Representative Kevin Meyer *K.*
RE: HB 334 Unlawful Exploitation of a Minor

Attached to this memo is additional information that I would like committee members to consider for the hearing on HB 334 on Friday.

The spreadsheets contain information that the Department of Corrections compiled on the fifteen offenders currently in State custody for the crime of Unlawful Exploitation of a Minor.

I am also including a letter of support from the Alaska Peace Officers Association.

I hope that you find this information helpful when reviewing HB 334. Thank you for your time and consideration of this matter.

STATE OFFICE
ALASKA PEACE OFFICERS ASSOCIATION

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February 9, 2004

Representative Kevin Meyer
House of Representatives
State Capitol
Juneau AK 99801-1182

Dear Representative Meyer,

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for introducing HB 334, an act relating to unlawful exploitation of a minor.

This proposed legislation will raise the classification of the offense from a class B to a class A felony. This legislation should be of great benefit to the citizens and law enforcement in Alaska. We thank you for addressing this issue.

Please contact the APOA office in Anchorage at 277-0515 if there is anything our organization can do to assist in the passage of this bill.

Sincerely,

A handwritten signature in cursive script that reads "Leo J. Brandlen".

Leo J. Brandlen
State President

FEB 16 2004

Sexual Exploitation of a Minor Offenders in ADOC Custody

175710	GR	AS11.41.434(A)(1)	SEX ABUSE MINOR 1- PENETRATE VIC <13	FU	5844	
175710	GR	AS11.41.434(A)(1)	SEX ABUSE MINOR 1- PENETRATE VIC <13	FU	5844	
175710	GR	AS11.41.434(A)(1)	SEX ABUSE MINOR 1- PENETRATE VIC <13	FU	5844	
175710	GR	AS11.41.434(A)(1)	SEX ABUSE MINOR 1- PENETRATE VIC <13	FU	5844	
175710	MD	AS11.61.200(A)(1)	MISC/WEAPONS 3-FELON IN POSSESSION	FC	365	
175710	GR	AS11.41.434(A)(1)	SEX ABUSE MINOR 1- PENETRATE VIC <13	FU	5844	
175710	GR	AS11.41.434(A)(1)	SEX ABUSE MINOR 1- PENETRATE VIC <13	FU	5844	
175710	GR	AS11.41.434(A)(1)	SEX ABUSE MINOR 1- PENETRATE VIC <13	FU	5844	
175710	GR	AS11.41.434(A)(1)	SEX ABUSE MINOR 1- PENETRATE VIC <13	FU	5844	
175710	GR	AS11.41.455	UNLWFL EXPLOIT OF MINOR -MAKE CHILD PORN	FB	3287	
175710	HI	AS11.41.434(ATT)	ATTEMPTED SEX ABUSE I	FA	3287	
175710	GR	AS11.41.434(A)(1)	SEX ABUSE MINOR 1- PENETRATE VIC <13	FU	5844	
175710	GR	AS11.41.455	UNLWFL EXPLOIT OF MINOR -MAKE CHILD PORN	FB	3287	
175710	GR	AS11.41.434(A)(1)	SEX ABUSE MINOR 1- PENETRATE VIC <13	FU	5844	
175710	GR	AS11.41.434(A)(1)	SEX ABUSE MINOR 1- PENETRATE VIC <13	FU	5844	
175710	GR	AS11.41.434(A)(1)	SEX ABUSE MINOR 1- PENETRATE VIC <13	FU	5844	
175710	GR	AS11.41.434(A)(1)	SEX ABUSE MINOR 1- PENETRATE VIC <13	FU	5844	
175710	GR	AS11.41.434(A)(1)	SEX ABUSE MINOR 1- PENETRATE VIC <13	FU	5478	
175710	GR	AS11.41.434(A)(1)	SEX ABUSE MINOR 1- PENETRATE VIC <13	FU	5844	
175710	GR	AS11.41.434(A)(1)	SEX ABUSE MINOR 1- PENETRATE VIC <13	FU	5844	
175710	GR	AS11.41.434(A)(1)	SEX ABUSE MINOR 1- PENETRATE VIC <13	FU	5844	
175710 Total					231932	634.7345375
191310	LO	AS11.41.460(B)(<16)	INDECENT EXPOSURE 2 - VICTIM <16	MA		
191310	MD	AS11.61.127	POSSESS CHILD PORNOGRAPHY	FC		
191310	GR	AS11.41.434	SEX ABUSE MINOR 1	FU		
191310	HI	AS11.41.436(A)(2)	SEX ABUSE MINOR 2- CONTACT, VICTIM <13	FB		
191310	HI	AS11.41.455(A)(6)	EXPLOIT MINOR-MAKE PORN, LEWD EXHIBTN	FB		
191310 Total						0
204633	MD	AS11.71.040(A)(3)(F)	MICS 4-POSSESS > 1 POUND VIA	FC		
204633	HI	AS11.41.455(A)(1)	EXPLOIT MINOR-MAKE PORN, SEX PENETRATE	FB		
204633 Total						0
290721	MD	PAROLE	PAROLE VIOLATION	F	1218	
290721	HI	AS11.71.030(A)(2)	MICS 3-DELIVER IVA,VA,VIA TO MINOR,>3YRS	FB	730	
290721	HI	AS11.41.455(A)(6)	EXPLOIT MINOR-MAKE PORN, LEWD EXHIBTN	FB	731	
290721	HI	AS11.41.420(A)(3)	SEX ASSAULT 2- PENETRATE INCAP VICTIM	FB	1461	
290721	LO	AS04.16.051(A)	FURNISH ALCOHOL TO MINOR	MA	731	
290721	MD	PROB	PROBATION VIOLATION	F	0	

Sexual Exploitation of a Minor Offenders in ADOC Custody

290721 Total						4871	13.33059661
304722	HI	AS11.41.455(A)(1)	EXPLOIT MINOR-MAKE PORN, SEX PENETRATE	FB			
304722 Total						0	
319575	GR	AS11.71.010(A)(2)	MICS 1-DELIVER IIA, IIA TO MINOR, >3 YRS	FU		3553	
319575	HI	AS11.41.455	UNLWFL EXPLOIT OF MINOR -MAKE CHILD PORN	FB		1461	
319575	MD	AS11.61.127	POSSESS CHILD PORNOGRAPHY	FC		731	2.000547345
319575 Total						5845	
359673	MD	AS11.41.438(A)(1)	SEX ABUSE MINOR 3-CONTACT 13-15,3 YR DIF	FC		61	
359673	MD	AS11.41.436(A)(2)	SEX ABUSE MINOR 2- CONTACT, VICTIM <13	FB		61	
359673	MD	AS11.61.125	DISTRIBUTE CHILD PORNOGRAPHY	FB		61	
359673	MD	AS11.61.123(F)(1)	INDECENT VIEW/PHOTO W/O CONSENT-OF MINOR	FC		61	
359673	MD	AS11.41.455(A)(4)	EXPLOIT MINOR-MAKE PORN, CHLD MASTRBTN	FB		61	
359673	GR	AS11.41.434	SEX ABUSE MINOR 1	FU		2922	
359673	LO	A-01	OMVI-ALCOHOL	MA		20	
359673	MD	AS11.61.127	POSSESS CHILD PORNOGRAPHY	FC		61	
359673 Total						3308	9.053092501
414984	MD	AS11.61.127	POSSESS CHILD PORNOGRAPHY	FC		0	
414984	HI	AS11.41.436(A)(4)	SEX ABUSE MINOR 2- EXPLOIT/PORNO,VIC <16	FB		366	
414984	HI	AS11.41.455(A)(6)	EXPLOIT MINOR-MAKE PORN, LEWD EXHIBTN	FB		366	
414984 Total						732	
428844	GR	AS11.41.434	SEX ABUSE MINOR 1	FU		2922	7.996715928
428844	HI	AS11.41.455	UNLWFL EXPLOIT OF MINOR -MAKE CHILD PORN	FB		92	
428844	MD	AS11.41.455	UNLWFL EXPLOIT OF MINOR -MAKE CHILD PORN	FB		92	
428844 Total						3106	8.500273673
430440	MD	AS11.41.450	INCEST	FC		366	
430440	HI	AS11.41.455	UNLWFL EXPLOIT OF MINOR -MAKE CHILD PORN	FB		731	
430440	MD	AS11.41.438(A)(2)	SEX ABUSE MINOR 3-AUTH FIG PENETR 16-17	FC		366	
430440 Total						1463	
456825	MD	AS11.56.610	TAMPERING W/ PHYSICAL EVIDENCE	FC		60	
456825	HI	AS11.41.455(A)(1)	EXPLOIT MINOR-MAKE PORN, SEX PENETRATE	FB		365	
456825 Total						425	1.163108922
457518	HI	AS11.41.455(A)(6)	EXPLOIT MINOR-MAKE PORN, LEWD EXHIBTN	FB			
457518	HI	AS11.41.455(A)(1)	EXPLOIT MINOR-MAKE PORN, SEX PENETRATE	FB			
457518 Total						0	
484386	MD	AS11.41.455(A)(1)	EXPLOIT MINOR-MAKE PORN, SEX PENETRATE	FB			
484386 Total						0	
Grand Total						259332	709.7208539

Sexual Exploitation of a Minor Offenders in ADOC Custody

Offender Number	Race Code	Sex	Race Description	DOB	Age Days	Age
3228	W	MALE	CAUCASIAN	13-Dec-52	18693	51
53583	W	MALE	CAUCASIAN	27-Nov-54	17979	49
175710	W	MALE	CAUCASIAN	24-Jun-53	18500	51
191310	W	MALE	CAUCASIAN	24-Feb-67	13507	37
204633	W	MALE	CAUCASIAN	04-May-68	13072	36
290721	L	MALE	NATIVE AMERICAN	04-Jan-42	22689	62
304722	B	MALE	BLACK	28-Oct-75	10339	28
319575	W	MALE	CAUCASIAN	23-Oct-46	20936	57
359673	B	MALE	BLACK	04-Apr-73	11276	31
414984	W	FEMALE	CAUCASIAN	30-Oct-57	16911	46
428844	W	MALE	CAUCASIAN	04-Sep-54	18063	49
430440	L	MALE	NATIVE AMERICAN	22-Sep-65	14027	38
456825	W	MALE	CAUCASIAN	11-Jan-80	8803	24
457518	W	MALE	CAUCASIAN	03-Feb-48	20468	56
484386	W	MALE	CAUCASIAN	16-Dec-63	14673	40

Sexual Exploitation of a Minor Offenders in ADOC Custody

Offender Number	Age Days	Age	Age at Arrest	Date of Arrest
3228	18693	51	49	4/1/2002
53583	17979	49	48	10/14/2002
175710	18500	51	48	2/28/2001
191310	13507	37	35	6/3/2002
290721	22689	62	61	1/14/2003
319575	20936	57	55	8/20/2001
359673	11276	31	29	5/5/2002
414984	16911	46	44	4/26/2002
428844	18063	49	48	5/8/2002
430440	14027	38	37	12/28/2002
456825	8803	24	22	11/21/2001
457518	20468	56	53	4/30/2001
484386	14673	40	39	5/14/2003

Division of Juvenile Justice/ DHSS
Information RE: HB 334- February 20, 2004

Fiscal Year	Total # Youth Charged	Age	Race	Other Charges Present ?	Case Outcome
FY '94	1	12	Multirace	No	Dismissed
FY '95	0				
FY '96	1	12	Caucasian	No	Dismissed
FY '97	0				
FY '98	0				
FY '99	4	16	Caucasian	No	Dismissed
		16	Caucasian	No	Dismissed
		16	Unknown	No	Dismissed
		15	Unknown	No	Dismissed
FY '00	0				
FY '01	2	14	Caucasian	Yes	Adjudicated
		16	Caucasian	Yes	Adjudicated
FY '02	5	13	Unknown	Yes	Adjudicated
		15	Caucasian	No	Dismissed
		16	Caucasian	Yes	Adjudicated
		16	Caucasian	No	Dismissed
		16	Caucasian	Yes	Adjudicated
FY '03	1	13	AK Native	Yes	Adjudicated/Sex Offender Treatment
FY '04	1	18*	Caucasian	Yes	Waived to Adult Court

* Although the youth was 18 at the time the charges surfaced, the offenses had occurred a few years prior to the juvenile turning 18.

Summary Points:

- ❖ Fifteen (15) juveniles were charged with Unlawful Exploitation of a Minor in 10 years.
- ❖ Several of these incidents involved youths committing the behavior as a group, or stated differently, the 15 youths were involved in 8 separate incidents.
- ❖ Those cases referred with other charges (40% of the total referrals listed above) ultimately resulted in adjudication 100 % of the time. In some of these instances, the adjudication was at a later time for a subsequently referred charge.
- ❖ Seven (7) juveniles out of the total fifteen referred to the Division on this charge (47% of the total referrals for this offense in the past ten years) would have been waived to adult court under this proposed bill based on having been at least 16 at the time of the offense.

HB 334 Unlawful Exploitation of a Minor
Comparison of Sentences of Imprisonment

Class A Felonies: Sentences of Imprisonment (AS 12.55.125)

Definite Term: Not more than 20 years

Presumptive Term: **First Felony Conviction**
5 Years, other than for manslaughter
Second Felony Conviction
10 Years
Third Felony Conviction
15 Years

Class B Felonies: Sentences of Imprisonment (AS 12.55.125)

Definite Term: Not more than 10 years

Presumptive Term: **First Felony Conviction**
1-4 years
Second Felony Conviction
4 Years
Third Felony Conviction
6 Years

Class C Felonies: Sentences of Imprisonment (AS 12.55.125)

Definite Term: Not more than 5 years

Presumptive Term: **First Felony Conviction**
1-2 Years
Second Felony Conviction
2 Years
Third Felony Conviction
3 Years

HB 334 Unlawful Exploitation of a Minor
Comparison of Sentences of Imprisonment

Sexual Exploitation of Children (Title 18 U.S.C. 2251)

Description of Offense:

Proscribes the employment or enticement of a minor to engage in sexually explicit activity for the purpose of producing any visual depiction of such conduct. Prohibits any parent, legal guardian, or person having custody or control over a minor to permit the minor to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct. Penalizes anyone who makes, prints, or publishes any notice or advertisement seeking or offering to (1) to receive, exchange, buy, produce, display, distribute or reproduce a visual depiction of a minor engaging in sexually explicit conduct; or (2) to participate in any act of sexually explicit conduct by or with a minor.

Sentences:

First Offense: Mandatory minimum of 10 years imprisonment and/or a fine.
Maximum 20 years imprisonment and/or a fine.

Second Offense: Minimum of 15 years imprisonment with a fine
Maximum 30 years imprisonment with a fine

Subsequent Convictions: An offender with 2 or more such prior convictions faces a mandatory minimum of 30 years with a maximum sentence of life in prison.

Activities Relating to Material Involving the Sexual Exploitation of a Minor (Title 18 U.S.C. 2252)

Description of Offense:

Prohibits anyone from knowingly transporting in interstate or foreign commerce or mailing any visual depiction involving the use of a minor engaging in sexually explicit conduct. Prohibits anyone from knowingly receiving or distributing any visual depiction of a minor engaging in sexually explicit conduct that has been mailed or transported in interstate or foreign commerce or from knowingly reproducing such material for distribution. Prohibits anyone selling or possessing with the intent to sell any visual depiction of a minor engaged in sexually explicit conduct. Prohibits the possession of one or more books, magazines, periodicals, films, video tapes, or other matter containing any visual depiction of a minor engaging in sexually explicit conduct.

Sentences:

First Offense: Maximum 15 years imprisonment and/or a fine

Subsequent Convictions: Minimum 5 years imprisonment
Maximum 30 years imprisonment

Sentences for Possession of Material:

First Offense: Maximum 5 years imprisonment and/or a fine

Subsequent Convictions: Minimum of 2 years imprisonment
Maximum 10 years imprisonment

AS 47.12.030 Provisions Inapplicable

(a) When a minor who was at least 16 years of age at the time of the offense is charged by complaint, information, or indictment with an offense specified in this subsection, this chapter and the Alaska Delinquency Rules do not apply to the offense for which the minor is charged or to any additional offenses joinable to it under the applicable rules of court governing criminal procedure. The minor shall be charged, held, released on bail, prosecuted, sentenced, and incarcerated in the same manner as an adult. If the minor is convicted of an offense other than an offense specified in this subsection, the minor may attempt to prove, by a preponderance of the evidence, that the minor is amenable to treatment under this chapter. If the court finds that the minor is amenable to treatment under this chapter, the minor shall be treated as though the charges had been heard under this chapter, and the court shall order disposition of the charges of which the minor is convicted under AS 47.12.120(b). The provisions of this subsection apply when the minor is charged by complaint, information, or indictment with an offense

- (1) that is an unclassified felony or a class A felony and the felony is a crime against a person;
- (2) of arson in the first degree; or
- (3) that is a class B felony and the felony is a crime against a person in which the minor is alleged to have used a deadly weapon in the commission of the offense and the minor was previously adjudicated as a delinquent or convicted as an adult, in this or another jurisdiction, as a result of an offense that involved use of a deadly weapon in the commission of a crime against a person or an offense in another jurisdiction having elements substantially identical to those of a crime against a person, and the previous offense was punishable as a felony; in this paragraph, "deadly weapon" has the meaning given in AS 11.81.900(b).

(b) When a minor is accused of violating a statute specified in this subsection, other than a statute the violation of which is a felony, this chapter and the Alaska Delinquency Rules do not apply and the minor accused of the offense shall be charged, prosecuted, and sentenced in the district court in the same manner as an adult; if a minor is charged, prosecuted, and sentenced for an offense under this subsection, the minor's parent, guardian, or legal custodian shall be present at all proceedings; the provisions of this subsection apply when a minor is accused of violating

- (1) a traffic statute or regulation, or a traffic ordinance or regulation of a municipality;
- (2) AS 11.76.105, relating to the possession of tobacco by a person under 19 years of age;
- (3) a fish and game statute or regulation under AS 16;

HB 334 Unlawful Exploitation of a Minor
House Judiciary Committee
February 20, 2004

- (4) a parks and recreational facilities statute or regulation under AS 41.21;
 - (5) AS 04.16.050, relating to possession, control, or consumption of alcohol, except for conduct constituting habitual minor consuming or in possession or control under AS 04.16.050(d); and
 - (6) a municipal curfew ordinance, whether adopted under AS 29.35.085 or otherwise, unless the municipality provides for enforcement of its ordinance under AS 29.25.070(b) by the municipality; in place of any fine imposed for the violation of a municipal curfew ordinance, the court shall allow a defendant the option of performing community work; the value of the community work, which may not be lower than the amount of the fine, shall be determined under AS 12.55.055(c); in this paragraph, "community work" includes the work described in AS 12.55.055(b) or work that, on the recommendation of the municipal or borough assembly, city council, or traditional village council of the defendant's place of residence, would benefit persons within the municipality or village who are elderly or disabled.
- (c) The provisions of AS 47.12.010 - 47.12.260 and the Alaska Delinquency Rules do not apply to driver's license proceedings under AS 28.15.185; the court shall impose a driver's license revocation under AS 28.15.185 in the same manner as adult driver's license revocations, except that a parent or legal guardian shall be present at all proceedings.



REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

MEMORANDUM

DATE: February 5, 2004

TO: Representative Lesil McGuire
Chair, House Judiciary Committee

FROM: Representative Kevin Meyer *K* *😊*

RE: HB 334 Unlawful Exploitation of a Minor

On January 26, I sent a memo to your office requesting a hearing for HB 334 Unlawful Exploitation of a Minor.

I am still interested in having a hearing in the House Judiciary Committee for this legislation. Under HB 334, the criminal penalty for Unlawful Exploitation of a Minor (AS 11.41.455) is increased from a class B felony to a class A felony.

If there are any questions or concerns that I may address prior to the scheduling of HB 334, please feel free to contact my office.

Thank you for your time and consideration of this matter. I look forward to hearing from you soon.



REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

MEMORANDUM

DATE: January 26, 2004

TO: Representative Lesil McGuire
Chair, House Judiciary Committee

FROM: Representative Kevin Meyer *Ki ☺*

RE: House Bill 334 Unlawful Exploitation of a Minor

At your earliest convenience, please schedule HB 334 Unlawful Exploitation of a Minor for a hearing in the House Judiciary Committee.

HB 334 increases the criminal penalty for the Unlawful Exploitation of a Minor from a class B felony to a class A felony.

Thank you for your time and consideration of this matter.



REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

SPONSOR STATEMENT

HOUSE BILL 334

“An Act relating to unlawful exploitation of a minor.”

A major area of child victimization is the sexual exploitation of children, which includes child pornography. House Bill 334 Unlawful Exploitation of a Minor will increase the criminal penalty for AS 11.41.455 from a class B felony to a class A felony.

Photographs, videotapes, films, and magazines of children in sexual poses and sexual acts make up a multimillion-dollar world of child pornography. Child pornographers and pedophiles come from all walks of life. Pedophiles will use the child pornography they have collected to seduce other children into participating in sexual activities with them; proliferating sexually abusive behaviors and attitudes.

The sexual exploitation of a child has multiple victims and the effects can extend through a child's or adolescent's psychological, sociological, and behavioral development into adulthood. Child pornography places the children depicted in harmful situations including the contraction of sexually transmitted diseases, rape, assault, and torture. The production of explicit sexual material depicting children and adolescents warrants a severe criminal penalty. The criminal penalty for a class A felony is a definitive term of imprisonment not to exceed 20 years and fines of no more than \$250,000.

Child pornography has devastating effects on children, both on those who are exploited in the actual pictures and those who view it. The production of explicit sexual material involving children is sexual abuse. It becomes the permanent record of sexual abuse. The criminal penalty for the Unlawful Exploitation of a Minor should be the utmost stringent and severe.

Last Updated: January 14, 2004

Alaska Statutes-Title 11
Unclassified Felonies

Offense Citation	Offense Description	Criminal Classification	Criminal Penalty
AS 11.41.100	Murder in the First Degree	Felony	Unclassified
AS 11.41.100(a)(1)(A)	Murder in the First Degree-Intent to Cause Death	Felony	Unclassified
AS 11.41.100(a)(1)(B)	Murder in the First Degree-Induce Suicide	Felony	Unclassified
AS 11.41.100(a)(2)	Murder in the First Degree-Repeat Physical Injury to a Child	Felony	Unclassified
AS 11.41.100(a)(3)	Murder in the First Degree-w/child sex assault or kidnapping	Felony	Unclassified
AS 11.41.100(a)(4)	Murder in the First Degree-Involving Criminal Mischief in the First Degree	Felony	Unclassified
AS 11.41.100(a)(5)	Murder in the First Degree-Involving Terroristic Threatening in the First Degree	Felony	Unclassified
AS 11.41.100	Attempted Murder in the First Degree	Felony	Unclassified
AS 11.41.100	Conspiracy to Commit Murder in the First Degree	Felony	Unclassified
AS 11.41.100	Solicitation to Commit Murder in the First Degree	Felony	Unclassified
AS 11.41.110	Murder in the Second Degree	Felony	Unclassified
AS 11.41.110(a)(1)	Murder in the Second Degree-Intend Serious Injury	Felony	Unclassified
AS 11.41.110(a)(2)	Murder in the Second Degree-Extreme Indifference	Felony	Unclassified
AS 11.41.110(a)(3)	Murder in the Second Degree-Felony Murder	Felony	Unclassified
AS 11.41.110(a)(4)	Murder in the Second Degree-Gang Related	Felony	Unclassified
AS 11.41.110(a)(5)	Murder in the Second Degree-Repeated Crimes Against a Child	Felony	Unclassified
AS 11.41.300(a)	Kidnapping	Felony	Unclassified
AS 11.41.300(a)(1)(A)	Kidnapping for Ransom	Felony	Unclassified
AS 11.41.300(a)(1)(B)	Kidnapping-Use of Victim as Shield/Hostage	Felony	Unclassified
AS 11.41.300(a)(1)c	Kidnapping-Injury or Sexual Assault	Felony	Unclassified
AS 11.41.300(a)(1)(D)	Kidnapping-Interfering with Government Function	Felony	Unclassified
AS 11.41.300(a)(1)(E)	Kidnapping-To commit Felony or Escape	Felony	Unclassified
AS 11.41.300(a)(1)(F)	Kidnapping-To Sexually Abuse Child	Felony	Unclassified
AS 11.41.300(a)(2)(A)	Kidnapping-Restrain and Hide Victim	Felony	Unclassified
AS 11.41.300(a)(2)(B)	Kidnapping-Risk of Serious Injury	Felony	Unclassified
AS 11.41.410	Sexual Assault in the First Degree	Felony	Unclassified

Alaska Statutes-Title 11
Unclassified Felonies

AS 11.41.410(a)(1)	Sexual Assault in the First Degree- Penetration Without Consent	Felony	Unclassified
AS 11.41.410(a)(2)	Sexual Assault in the First Degree-Attempted Penetration and Injury	Felony	Unclassified
AS 11.41.410(a)(3)	Sexual Assault in the First Degree-Penetration of Mentally Incapable Person Under Care	Felony	Unclassified
AS 11.41.410(a)(4)	Sexual Assault in the First Degree-Penetration by a Health Professional	Felony	Unclassified
AS 11.41.434	Sexual Abuse of a Minor in the First Degree	Felony	Unclassified
AS 11.41.434(a)(1)	Sexual Abuse of a Minor in the First Degree- Penetration of a Victim Under 13 Years of Age	Felony	Unclassified
AS 11.41.434(a)(2)	Sexual Abuse of a Minor in the First Degree Penetration of Own Child Under 18 Years of Age	Felony	Unclassified
AS 11.41.434(a)(3)(A)	Sexual Abuse of a Minor in the First Degree- Penetration of a Child Under 16 Years of Age in the Same Household	Felony	Unclassified
AS 11.41.434(a)(3)(B)	Sexual Abuse of a Minor in the First Degree- Authority Figure Penetrating a Child Under 16	Felony	Unclassified
AS 11.71.010	Misconduct Involving a Controlled Substance in the First Degree	Felony	Unclassified
AS 11.71.010(a)(1)	Misconduct Involving a Controlled Substance in the First Degree- Delivery of 1A Drugs to a Minor	Felony	Unclassified
AS 11.71.010(a)(2)	Misconduct Involving a Controlled Substance in the First Degree-Delivery of Class II/IIIA Drugs to a Minor	Felony	Unclassified
AS 11.71.010(a)(3)	Misconduct Involving a Controlled Substance in the First Degree-Criminal Enterprise	Felony	Unclassified

Alaska Statutes-Title 11
Class A Felonies

Offense Citation	Offense Description	Criminal Classification	Criminal Penalty
AS 11.41.120	Manslaughter	Felony	Class A
AS 11.41.120(a)(1)	Manslaughter-Death that is not Murder in the First Degree or Second Degree	Felony	Class A
AS 11.41.120(a)(2)	Manslaughter-Aid in Suicide	Felony	Class A
AS 11.41.200	Assault in the First Degree	Felony	Class A
AS 11.41.200(a)(1)	Assault in the First Degree-Serious Injury Involving a Weapon	Felony	Class A
AS 11.41.200(a)(2)	Assault in the First Degree-Serious Injury Involving a Weapon-With the Intent to Cause Physical Injury	Felony	Class A
AS 11.41.200(a)(3)	Assault in the First Degree-Serious Injury with Extreme Indifference	Felony	Class A
AS 11.41.200(a)(4)	Assault in the First Degree-Serious Injury by Repeated Assaults Using a Weapon	Felony	Class A
AS 11.41.300(d)	Kidnapping-Releasing a Victim Unharmed	Felony	Class A
AS 11.41.500	Robbery in the First Degree	Felony	Class A
AS 11.41.500(a)(1)	Robbery in the First Degree-Armed with a Deadly Weapon	Felony	Class A
AS 11.41.500(a)(2)	Robbery in the First Degree-Using a Weapon	Felony	Class A
AS 11.41.500(a)(3)	Robbery in the First Degree-Causes or Attempts to Cause Physical Injury	Felony	Class A
AS 11.46.400	Arson in the First Degree-Danger of Serious Injury	Felony	Class A
AS 11.46.475	Criminal Mischief in the First Degree	Felony	Class A
AS 11.46.475(a)(1)	Criminal Mischief in the First Degree-Damage to the Pipeline	Felony	Class A
AS 11.46.475(a)(2)	Criminal Mischief in the First Degree-Damage to a Public Service Utility	Felony	Class A
AS 11.46.475(a)(3)	Criminal Mischief in the First Degree-Damage to Property by Dangerous Means that Exceeds \$100,000	Felony	Class A
AS 11.56.300	Escape in the First Degree	Felony	Class A
AS 11.61.190	Misconduct Involving a Weapon in the First Degree	Felony	Class A
AS 11.61.190(a)(1)	Misconduct Involving a Weapon in the First Degree-Involved in a Drug Crime	Felony	Class A
AS 11.61.190(a)(2)	Misconduct Involving a Weapon in the First Degree-From a Vehicle	Felony	Class A

Alaska Statutes-Title 11
Class A Felonies

AS 11.61.240(b)(1)	Possession of Explosives-With the Intent to Murder or Kidnap	Felony	Class A
AS 11.66.110(a)(2)	Promotion of Prostitution in the First Degree-Inducing a Person Under 16 Years of Age	Felony	Class A
AS 11.71.020	Misconduct Involving a Controlled Substance in the Second Degree	Felony	Class A
AS 11.71.020(a)(1)	Misconduct Involving a Controlled Substance in the Second Degree-Manufacture and Delivery of Class IA Drugs	Felony	Class A
AS 11.71.020(a)(2)	Misconduct Involving a Controlled Substance in the Second Degree-Manufacturing Methamphetamines	Felony	Class A
AS 11.71.020(a)(2)(A)	Misconduct Involving a Controlled Substance in the Second Degree-Manufacturing Methamphetamines	Felony	Class A
AS 11.71.020(a)(2)(B)	Misconduct Involving a Controlled Substance in the Second Degree-Manufacturing Methamphetamine Precursors	Felony	Class A
AS 11.71.020(a)(3)	Misconduct Involving a Controlled Substance in the Second Degree-Possessing Methamphetamine Precursors	Felony	Class A
AS 11.71.020(a)(4)	Misconduct Involving a Controlled Substance in the Second Degree-Possessing Methamphetamine Chemicals	Felony	Class A
AS 11.71.020(a)(4)(A)	Misconduct Involving a Controlled Substance in the Second Degree-Possessing Methamphetamine Chemicals	Felony	Class A
AS 11.71.020(a)(4)(B)	Misconduct Involving a Controlled Substance in the Second Degree-Possessing Methamphetamine Chemicals	Felony	Class A

FEDERAL LEGISLATION

1977 Sexual Exploitation of Children Act: 18 U.S.C. 2251-2253

The law prohibits the use of a minor in the making of pornography, the transport of a child across state lines, the taking of a pornographic picture of a minor, and the production and circulation of materials advertising child pornography.

1984 Child Protection Act: 18 U.S.C. 2251-2255

Defines anyone younger than the age of 18 as a child. Therefore, a sexually explicit photograph of anyone 17 years of age or younger is child pornography.

1986 Child Sexual Abuse and Pornography Act: 18 U.S.C. 2251-2256

Banned the production and use of advertisements for child pornography and included a provision for civil remedies of personal injuries suffered by a minor who is a victim. It also raised the minimum sentences for repeat offenders from imprisonment of not less than two years to imprisonment of not less than five years.

1988 Child Protection and Obscenity Enforcement Act: 18 U.S.C. 2251-2256

Unlawful to use a computer to transmit advertisements for or visual depictions of child pornography and it prohibited the buying, selling, or otherwise obtaining temporary custody or control of children for the purpose of producing child pornography.

1990: 18 U.S.C. 2252

Created a federal crime to possess three or more depictions of child pornography that were mailed or shipped in interstate or foreign commerce or that was produced using materials that were mailed or shipped by any means, including by computer.

1996 Telecommunications Act: 18 U.S.C. 2422

A federal crime for anyone using the mail, interstate or foreign commerce, to persuade, induce, or entice any individual younger than the age of 18 to engage in any sexual act for which the person may be criminally prosecuted.

1996 Child Pornography Prevention Act: 18 U.S.C.

Amended the definition of child pornography to include that which actually depicts the sexual conduct of minor children and that which appears to be a depiction of a minor engaging in sexual conduct. People who alter pornographic images to look like children can now be prosecuted under the law.

STATE LEGISLATION

1978 House Bill 661

Created the crime of Unlawful Exploitation of a Minor (AS 11.41.455).

Provided that a person commits the crime if, with the intent of producing for any commercial purpose a live performance, film, photograph, negative, slide, book, newspaper, or magazine, that depicts such conduct, a person knowingly induces or employs a child under the age of 16 to engage in, or photographs, films or televises a child under 16 years of age engaged in:

1. Sexual penetration;
2. The obscene touching of another person's genitals, anus, or female breast;
3. The obscene touching by another person of a child's genitals, anus, or female breast;
4. Masturbation;
5. Bestiality; or
6. The obscene exhibition of the child's genitals.

HB 661 created the criminal penalty for Unlawful Exploitation of a Minor as a class B felony.

1983 House Bill 270

This legislation repealed and reenacted AS 11.41.455.

Provided that a person commits the crime if in the state and with the intent of producing a live performance, film, photograph, negative, slide, book, newspaper, magazine, or other printed material that visually depicts the conduct listed in (1)-(6) of this subsection, the person knowingly induces or employs a child under 18 years of age in, or photographs, films, or televises a child under the age of 18 engaged in the following actual or simulated conduct:

1. Sexual penetration;
2. The lewd touching of another person's genitals, anus, or female breast;
3. The lewd touching by another person of a child's genitals, anus, or female breast;
4. Masturbation
5. Bestiality
6. The lewd exhibition of the child's genitals

Created a new subsection that prohibits a parent, legal guardian, or person having custody or control of a child under 18 years of age from permitting the child to engage in conduct described in the previous subsection, knowing that the conduct is intended to be used in producing a live performance, film, photograph, negative, slide, book, newspaper, magazine or other printed material that depicts the actual or simulated conduct.

The criminal penalty for AS 11.41.455 remained a class B felony.

Sexual Exploitation of Children

Title 18 U.S.C. 2251 sets forth three offenses. Section (a) proscribes the employment or enticement of a minor to engage in sexually explicit activity for the purpose of producing any visual depiction of such conduct. Either the visual depiction must be actually transported in interstate or foreign commerce, or mailed, or the person must know or have reason to know that it will be so transported, or the visual depiction must be produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer.

Subsection (b) prohibits any parent, legal guardian, or person having custody or control over a minor to permit such minor to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct.

Subsection (c) penalizes anyone who makes, prints, or publishes any notice or advertisement seeking or offering: (1) to receive, exchange, buy, produce, display, distribute or reproduce a visual depiction of a minor engaging in sexually explicit conduct; or (2) to participate in any act of sexually explicit conduct by or with a minor. Such person should know or have reason to know that such notice or advertisement will be transported in interstate or foreign commerce by any means, including by computer or mail.

Section 2251 imposes a mandatory minimum of 10 years' imprisonment and/or a fine to a twenty year maximum for the first offense and a minimum of 15 years' to a maximum thirty years' imprisonment together with a fine for the second offense if the offender has one prior conviction under Chapter 10, Chapter 109A, or Chapter 117, or under the laws of any state relating to the sexual exploitation of children. An offender with two or more such prior convictions faces a mandatory minimum of thirty years with a maximum sentence of life in prison.

Selling or Buying of Children (Section 2251 A)

Title 18 U.S.C. section 2251 A (a) punishes any parent, legal guardian, or other person with rights of custody or control over a minor who sells or otherwise transfers control of such minor with knowledge that the minor will be used to depict sexually explicit conduct or with the intent of promoting the minor in sexually explicit conduct.

The penalties for subsections (a) and (b) are imprisonment for 20 years to life and a fine if during the course of conduct the minor traveled in or was transported in interstate or foreign commerce; or offers to transport were made in interstate or foreign commerce, including by computer, or the conduct occurred in any territory or possessions of the United States.

**Certain Activities Relating to Material Involving the Sexual Exploitation of Minors
(Section 2252 and 2252 A)**

Title 18 U.S.C. section 2252 sets forth four offenses. Subsection (a)(1) prohibits anyone from knowingly transporting in interstate or foreign commerce or mailing any visual depiction involving the use of a minor engaging in sexually explicit conduct.

Subsection (a)(2) prohibits anyone from knowingly receiving or distributing any visual depiction of a minor engaging in sexually explicit conduct that has been mailed or transported in interstate or foreign commerce or from knowingly reproducing any such visual depiction for distribution in interstate or foreign commerce or through the mail.

Subsection (a)(3)(A) prohibits anyone in the special maritime and territorial jurisdiction of the United States, or on any government land, or in any government facility, from selling or possessing with the intent to sell any visual depiction of a minor engaged in sexually explicit conduct that has been shipped in interstate or foreign commerce or was made with materials sent in interstate or foreign commerce. Subsection (a)(3)(B) penalizes the knowing sale or possession with the intent to sell of any visual depiction of a minor engaged in sexually explicit conduct shipped in interstate or foreign commerce, or produced using materials mailed or shipped by any means, including by computer where the production involved the use of a minor engaged in sexually explicit conduct and the visual depiction of such conduct.

Subsection (a)(4) prohibits the possession of one or more books, magazines, periodicals, films, video tapes, or other matter containing any visual depiction of a minor engaging in sexually explicit conduct, which was shipped or transported or made with materials shipped or transported in interstate or foreign commerce, including by computer.

Section 2252 imposes, for the first three offenses, a maximum 15 years' imprisonment and/or a fine for the first offense and a minimum five years' imprisonment to a maximum 30 years' imprisonment and/or a fine for a subsequent conviction under this Section, under Chapter 109 A, under Chapter 117, or under the laws of any state relating to aggravated sexual abuse, or abusive sexual conduct involving a minor or ward, or the trafficking in child pornography. The penalty for violation of Subsection (a)(4) is a maximum sentence of five years and/or a fine for the first offense, and a two year mandatory minimum with a ten year statutory maximum if the offender has a prior conviction as set forth above.

**Certain Activities Relating to Material Involving the Sexual Exploitation of Minors
(2252 A)**

Title 18 U.S.C. Section 2252 A is identical to 18 U.S.C. Section 2252, with two exceptions. First, section 2252 A expands the definition of the prohibited material by using the more inclusive term "child pornography" instead of the words "visual depiction of a minor engaging in sexually explicit conduct" that is utilized in Section 2252. A second difference is

found in the possessory offense set forth in Section 2252 A (a)(5)(B), which makes it illegal to possess an image of child pornography.

Section 2252 A imposes, for the first four offenses, a maximum 15 years' imprisonment and/or a fine for the first offense and a minimum five years' imprisonment to a maximum 30 years' imprisonment and/or a fine for a subsequent conviction under this Section, under Chapter 109 A, or under the laws of any state relating to aggravated sexual abuse, or abusive sexual conduct involving a minor or ward, or the trafficking in child pornography. The penalty for violation of Subsection (a)(5) is a maximum sentence of five years and/or a fine for the first offense, and a two year mandatory minimum with a ten year statutory maximum if the offender has a prior conviction as set forth above.

Definitions for 18 U.S.C. Sections 2251, 2251 A, 2252, and 2252 A

"Minor" refers to any person under the age of eighteen years.

"Sexually explicit conduct" means actual or simulated: sexual intercourse, bestiality, masturbation, sadistic or masochistic abuse, or lascivious exhibition of the genitals or pubic area.

"Child pornography" is defined to include the following:

- (1) Visual depictions where minors are depicted engaging in sexually explicit conduct;
- (2) Visual depictions which are, or appear to be, or a minor engaging in sexually explicit conduct;
- (3) Visual depictions which have been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct; or
- (4) Visual depictions which are advertised, promoted, presented, described or distributed in such a manner that conveys the impression that the material is or contains a visual depiction of a minor engaging in sexually explicit conduct.

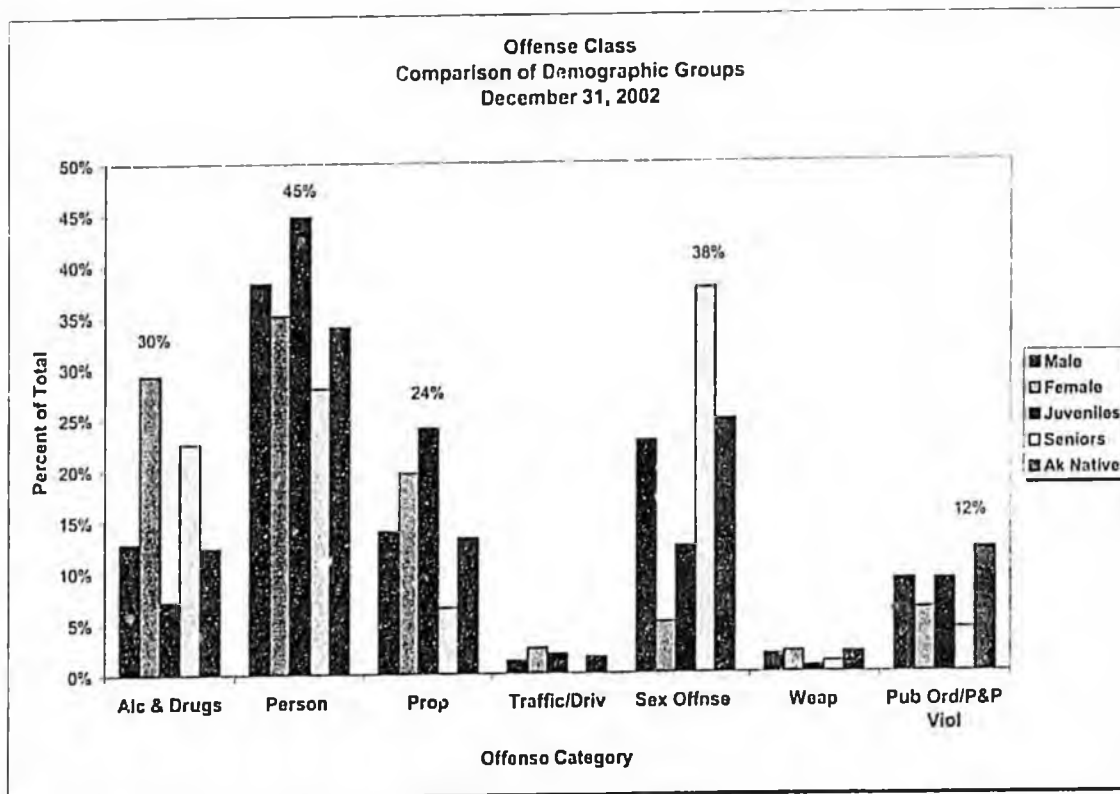
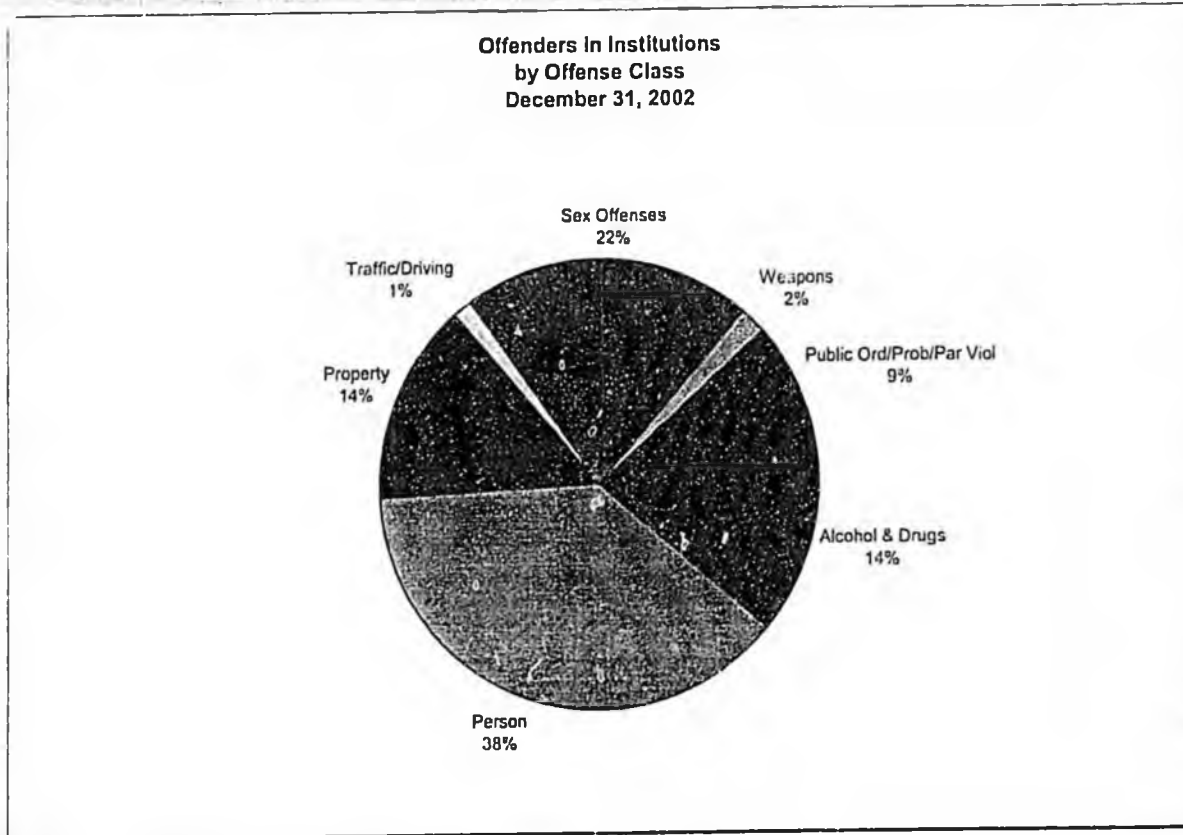
"Identifiable minor" is defined as a person who was a minor at the time the visual depiction was created, adapted, or modified; or whose image as a minor was used in creating, adapting, or modifying the visual depiction; and who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature.

**Crime Classifications of Offenders in Institutions
December 31, 2002**

	Female	Male	Total
Alcohol			
Driving While Intoxicated	10	70	80
Drunk Person on Lic Premises	0	9	9
Felony DWI - 2+ Priors w/in 5 Yrs	18	126	144
Felony Refusal of Chem Test- 2+ Priors	0	5	5
Furnish Alcohol to Minor - Felony	0	2	2
Furnish Alcohol to a Minor	2	4	6
License or Permit Required	0	5	5
Manuf/Sell Alcohol w/o lic - in Dry Area	1	8	9
Minor Consuming/Possessing Alcohol	0	2	2
Refuse to Submit to Chem Test	1	2	3
Trans Alcohol by Carrier to Dry Area	1	5	6
Total	33	238	271
Drugs			
Attempted Drugs 2	0	2	2
Attempted Drugs 3	0	3	3
Attempted Drugs 4	0	1	1
Dangerous Drugs - Other	0	1	1
Misconduct - Controlled Substance 1	0	5	5
Misconduct - Controlled Substance 2	8	25	33
Misconduct - Controlled Substance 3	9	58	67
Misconduct - Controlled Substance 4	19	88	107
Misconduct - Controlled Substance 5	0	1	1
Misconduct - Controlled Substance 6	1	0	1
Total	37	179	216
Person			
Assault 1	4	78	82
Assault 2	1	78	79
Assault 3	19	239	258
Assault 4	16	125	141
Attempted Assault 1	0	1	1
Attempted Assault 2	0	1	1
Attempted Kidnapping	0	2	2
Attempted Murder 1	5	28	33
Attempted Robbery 2	0	1	1
Child Abuse	0	2	2
Custodial Interference 1	1	1	2
Coercion	0	8	8
Conspiracy Murder 1	0	1	1
Criminally Negligent Homicide	0	11	11
DV Assault	1	11	12
Endanger Vulnerable Adult 1	0	1	1
Endanger Welfare Minor 1	0	1	1
Kidnapping	1	55	56
Manslaughter	4	42	46
Murder 1	13	208	221
Murder 2	7	157	164
Reckless Endangerment	0	3	3
Robbery 1	7	137	144
Robbery 2	3	61	64

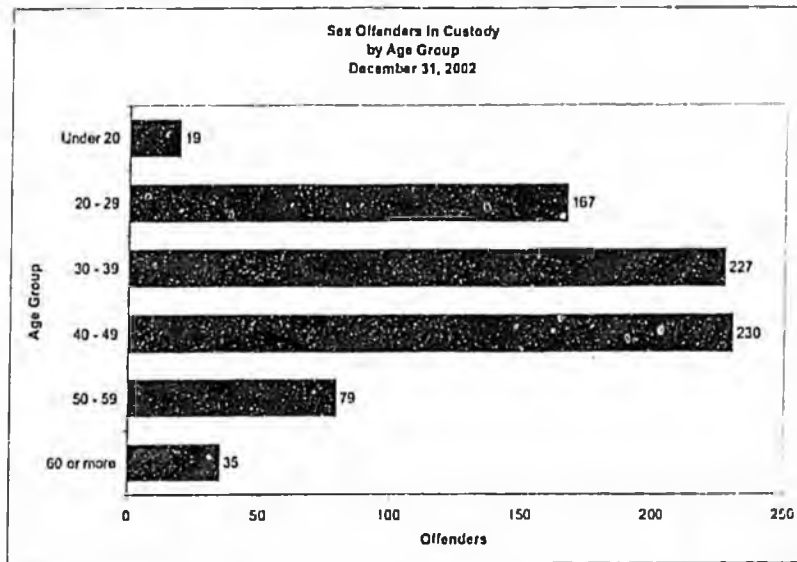
Person (cont'd)	Female	Male	Total
Solicitation Assault 4	0	1	1
Solicitation Murder 1	0	1	1
Solicitation Robbery 1	0	1	1
Stalking 1	0	9	9
Total	84	1,262	1,346
Property			
Arson 1	0	6	6
Arson 2	1	8	9
Attempted Burglary 1	0	2	2
Attempted Scheme to Defraud	0	1	1
Attempted Theft 1	0	1	1
Attempted Theft 2	0	1	1
Burglary 1	4	38	42
Burglary 2	0	58	58
Conceal Merch - Value \$500+	0	1	1
Conceal Merch - Value < \$500	1	15	16
Criminal Mischief 2	2	21	23
Criminal Mischief 3	1	1	2
Criminal Trespass 1	0	5	5
Criminal Trespass 2	3	9	12
Criminally Negligent Burning	0	1	1
Forgery 1	0	1	1
Forgery 2	8	16	24
Fraud Use Credit Card - Value \$500+	0	1	1
Issuing Bad Check - Value \$500-\$24,999	0	2	2
Issuing Bad Check - Value <\$50	0	1	1
Theft 1	0	2	2
Theft 2	18	167	185
Theft 3	1	11	12
Theft 4- Value <\$50	0	1	1
Theft by Deception	0	1	1
Theft by Receiving	0	3	3
Theft of Services	0	1	1
Unauthorized Entry	0	2	2
Vehicle Tampering	0	1	1
Vehicle Theft 1	4	86	90
Total	47	460	507
Public Order/Administration			
Contempt of Court	1	7	8
Escape 2	0	5	5
Failure to Appear	1	8	9
Failure to Comply	1	3	4
Failure to Reg as Sex Offender 1	0	4	4
False Information	2	5	7
Fugitive from Justice	3	7	10
Interfere w/ Report of DV Crime	0	1	1
Interference w/ Official Proceedings	1	3	4
Leaving Scene of Accident	1	4	5
Perjury	0	2	2
Promote Contraband 1	0	3	3
Resist/Interfere Arrest	0	4	4
14 Tamper Phys Evid	1	8	9

	Female	Male	Total
Public Order/Administration			
Tamper Witness 1	0	3	3
Terroristic Threat	0	1	1
Unlawful Evasion	0	1	1
Violate Conditions of Release	0	10	10
Violate DV Restraining Order	1	8	9
Total	12	87	99
Parole/Probation Violations			
Parole Violation	0	77	77
Probation Violation	3	136	139
Total	3	213	216
Non-Registerable Sex Offenses			
Family Violence	1	6	7
Indecent Exposure 2-Victim 16+	0	2	2
Indecent Exposure 2-Victim <16	0	1	1
Practicing Prostitution	1	0	1
Promoting Prostitution	0	1	1
Sex Abuse Minor 4-Vic 13, Ofndr <16	0	2	2
Total	3	11	14
Registerable Sex Offenses			
Attempted Sex Abuse Minor 1	0	22	22
Attempted Sex Abuse Minor 2	0	14	14
Attempted Sex Abuse Minor 3	0	3	3
Attempted Sex Assault 1	0	16	16
Attempted Sex Assault 2	0	12	12
Attempted Sex Assault 3	0	2	2
Conspiracy Sex Abuse 1	1	0	1
Incest	0	3	3
Indecent Exposure 1	0	2	2
Indecent View/Photo w/o Consent of Minor	0	1	1
Possess Child Pornography	0	1	1
Sex Abuse Minor 1	1	150	151
Sex Abuse Minor 2	1	171	172
Sex Abuse Minor 3	1	28	29
Sex Assault 1	1	168	169
Sex Assault 2	3	104	107
Sex Assault 3	1	39	40
Solicitation Sex Abuse 1	2	2	4
Total	9	716	725
Traffic/Driving			
Driving w/ Lic Rev/Sus	5	21	26
Eluding	0	1	1
Fail to Stop at Direction of Officer 1	1	20	21
Reckless Driving	0	1	1
Total	6	43	49



**Distribution of Sex Offenders
December 31, 2002**

In-State Institutions	Count	Percent
Anchorage Jail	43	5.7%
Anvil Mt Correctional Center	15	2.0%
Cook Inlet Pretrial Facility	63	8.3%
Fairbanks Correctional Center	16	2.1%
Hiland Mt. Correctional Center	76	10.0%
Ketchikan Correctional Center	6	0.8%
Lemon Creek Correctional Center	46	6.1%
Mat-Su Pretrial Facility	7	0.9%
Palmer Minimum Correctional Center	59	7.8%
Palmer Medium Correctional Center	35	4.6%
Spring Creek Correctional Center	99	13.1%
Wildwood Correctional Center	57	7.5%
Wildwood Pretrial Facility	6	0.8%
Yukon-Kuskokwim Correctional Center	22	2.9%
<i>Total</i>	<i>550</i>	<i>72.7%</i>
Out-of-State Institutions		
Central Arizona Detention Center	196	25.9%
<i>Total</i>	<i>196</i>	<i>25.9%</i>
CRC's		
Cordova Center	7	0.9%
Glacier Manor	1	0.1%
Glennwood Center	2	0.3%
North Star Center	1	0.1%
<i>Total</i>	<i>11</i>	<i>1.5%</i>
Special Offsite Programs		
<i>Total</i>	<i>0</i>	<i>0.0%</i>
Grand Total	757	100.0%



**Demographic Information for Sex Offenders
December 31, 2002**

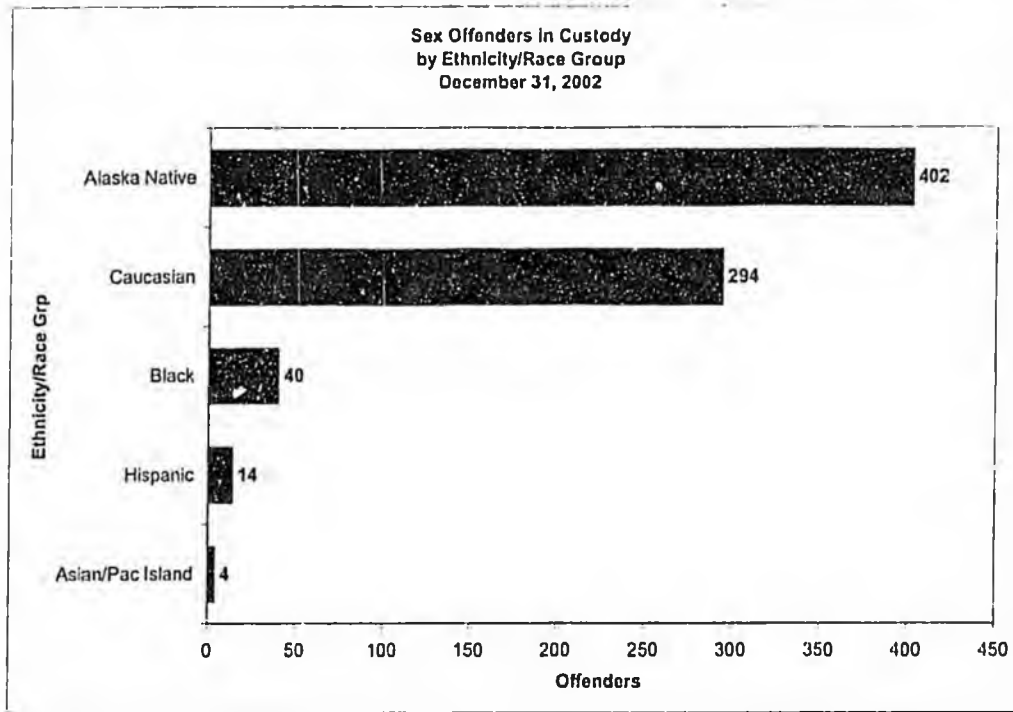
Sex	Count	Percent
Females	9	1.2%
Males	748	98.8%
Total	757	100.0%

Ethnicity	Count	Percent
Asian/Pacific Island	4	0.5%
Black	40	5.3%
Caucasian	294	38.8%
Hispanic	14	1.8%
Alaska Native	402	53.1%
Unknown	3	0.4%
Total	757	100.0%

Age Group (Years)	Count	Percent
19 and Under	19	2.5%
20 - 24	89	11.8%
25 - 29	78	10.3%
30 - 34	100	13.2%
35 - 39	127	16.8%
40 - 44	130	17.2%
45 - 49	100	13.2%
50 - 54	48	6.3%
55 - 59	31	4.1%
60 - 64	17	2.2%
65 and over	18	2.4%
Total	757	100.0%

Mean Age 38.79

Median Age 38.76



**Offense Classifications of Sex Offenders
December 31, 2002**

Offense Level		
Felony	752	99.3%
Misdemeanor	5	0.7%
Total	757	100.0%

Registerable Sex Offenses		
Attempted Sex Abuse Minor 1	22	2.9%
Attempted Sex Abuse Minor 2	14	1.8%
Attempted Sex Abuse Minor 3	3	0.4%
Attempted Sex Assault 1	16	2.1%
Attempted Sex Assault 2	12	1.6%
Attempted Sex Assault 3	2	0.3%
Conspiracy Sex Abuse 1	1	0.1%
Incest	3	0.4%
Indecent Exposure 1	2	0.3%
Possess Child Pornography	1	0.1%
Sex Abuse Minor 1	158	20.9%
Sex Abuse Minor 2	175	23.1%
Sex Abuse Minor 3	29	3.8%
Sex Assault 1	169	22.3%
Sex Assault 2	108	14.3%
Sex Assault 3	40	5.3%
Solicitation Sex Abuse 1	2	0.3%
Total	757	100.0%



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Channel 2 News - Oct. 23, 2003

Chase gets 5-year sentence for child pornography



Anchorage, Alaska, Oct. 23, 2003 - Randy Chase has a long infatuation with children, according to police, Thursday, he faced a judge to find out how much time he'll spend in prison on charges of possessing child pornography.

Chase, 38, was arrested in January at Stevens Anchorage International Airport as he returned from a trip, after his teenage foster son reported finding a videotape in their home of Chase having sex with a young boy.

After his arrest, police found 91 computer discs in Chase's home with more than 15,000 pictures of young boys dating back to March 2000.

Chase pleaded "no contest" to two counts of possessing child pornography.

The courtroom was full Thursday as a standing-room-only crowd gathered to hear Superior Court Judge Larry Carr deliver the sentence.

"Based on my findings and based on the criteria as I've ordered them, I'm going to impose five years on Count 1," he said. Another five years on Count 2 were suspended.

"This is a 38-year-old pedophile, and he's a sadistic pedophile," Assistant District Attorney Taylor Winston told the court. "And the state can say that, your honor, because (of) the pictures."

Chase also faces an indictment for the actual rape of the 8-year-old boy from the videotape, which was taken in Arizona. If convicted on that charge, Chase will face life in prison.

by Warren Williamson

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17-year-old seeks abuse charges against ex

48-year-old man also faces child-porn charges after relationship sours

Tuesday, June 10, 2003

**By MELANIE PLENDIA
JUNEAU EMPIRE © 2003**

A middle-aged Juneau man is facing 17 felony charges alleging he carried out a clandestine and illegal sexual relationship with a girl who was 14 when the affair started.

The girl, now 17, told the Empire on Monday that she pursued charges against the man earlier this month because he ended their three-year relationship.

Frederick L. Wigg, 48, a motor route carrier for the Juneau Empire, was arraigned Monday in Juneau Superior Court on three counts of second-degree sexual abuse of a minor, seven counts of unlawful exploitation of a minor and seven counts of possession of child pornography, all felonies.

According to court records, the charges stem from incidents between January 2000 and June 2003. He is accused of having sex with the girl, whose name wasn't released, from age 14 until she was 17, the record said. He also is accused of photographing her while she performed sexual acts with him and keeping the photos.

Wigg is not represented by an attorney yet, and was unavailable for comment following his Monday arraignment. Superior Court Judge Patricia Collins entered an innocent plea on his behalf at his arraignment.

"He was my first love and all that, and he was actually there for me through some stuff I've been through," the girl told the Empire Monday. "It started with e-mails when I was 14, and he said some stuff that made me uncomfortable at the time. I was going to tell someone, but I didn't. I didn't really know what to do. Then I fell in love with him.

"I think what he did was wrong, because I was pretty young and didn't really know what I was doing. I decided to press charges because we broke up and he started dating someone else."

According to court records, the couple's sexual relationship began while the girl was baby-sitting at the Wigg home. Over the next two and a half years, Wigg would pick the girl up from school and the two would have sex in his truck or in the woods while on camping trips, court records said.

The girl said few people knew about her relationship with Wigg. In October 2002, he suggested they end the relationship until she turned 18, because keeping their relationship a secret was too stressful, the girl said. The girl agreed and they ended the affair. She said she later found out Wigg had been seeing another woman for months before he ended the relationship.

Wigg's trial is set for Aug. 25. If convicted, he faces up to 10 years in prison for the abuse and exploitation charges and up to five years in prison for the pornography charges.

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Child porn charges disclosed

ANDREW THOMAS WEED: Indictment adds new details about Web site manager.

By NICOLE TSONG
Anchorage Daily News

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A new federal indictment against child pornography suspect Andrew Thomas Weed has revealed more details about the government's charges against him.

As manager of three pornographic Web sites, Weed required new users to post child pornography and banned those who didn't, according to the indictment. He also posted pictures of children ages 1 to 5 in February and March 2003, prosecutors said.

Weed, who once served as a soccer coach for the Boys and Girls Club of Southcentral Alaska for 8- and 9-year-old girls, was initially charged in November with one charge each of transportation and possession of child pornography. The indictment returned last week adds multiple counts of transporting the images through a computer, possessing images and two counts of advertising child pornography on the Internet.

The investigation began when Microsoft Corp. notified the National Center for Missing and Exploited Children that the corporation had shut down Internet groups that had child pornography, prosecutors said. The FBI traced four of the groups to Weed.

According to the indictment, Weed, 35, managed three Internet groups using the nicknames "slapdash," "sara" and "jack."

Managers of child pornography Web sites regularly require members to post pictures within a time frame, often 24 hours, to prove the member has access to such pornography, and to try to keep out law enforcement officers, the indictment says.

On Feb. 13, 2003, for example, Weed posted the message "some of you that joined on the 9th and still have not posted are now banned. same deal tommarow [sic] for the ones who joined on the 10th and have not posted," the indictment says.

During the same period, he uploaded pornographic pictures to the groups he managed and to a fourth Web site he belonged to, according to the indictment.

His attorney, Mary Geddes, said she had not seen the new indictment and had no comment.

Weed, who has been in custody since his arrest in November, faces a mandatory minimum penalty of 10 years in prison and a maximum of 20 years if convicted on the advertising charges, a maximum of 15 years for the transportation counts and a maximum of five years for the possession charges, prosecutors said. All the charges carry a maximum fine of \$250,000.

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