

HB

278

<TARGET><BILL>HB 278</BILL><SUBJECT>HB
278</SUBJECT><COMM>HJUD27</COMM></TARGET>

Alaska State Legislature

State Capitol, Suite 422
Juneau, AK 99801-1182
Phone: 465-4939
Fax: 465-2418
Toll Free: (800) 465-4939
Representative_Pete_Petersen@legis.state.ak.us



received
3/16/2012
1:52 pm
716 W. 4th Ave, Suite 380 PS
Anchorage, AK 99501-2133
Phone: 269-0265
Fax: 269-0264

Representative Pete Petersen
Serving Northeast Anchorage and Muldoon

Memorandum

March 16, 2012

To: Rep. Carl Gatto
Chair, House Judiciary Committee

From: Rep. Pete Petersen *P.P.*

Re: Second Hearing Request for House Bill 278

I respectfully request that House Bill 278 be scheduled for a second hearing in the House Judiciary Committee. My office has been working diligently, and we believe that we have addressed the concerns that came up during the previous hearing. Attached you will find an explanation of the changes, a proposed committee substitute, and answers to questions that were raised during the hearing.

Please feel free to contact me or my aide, Monica Southworth, at 465-4939 with any thoughts, questions, or ideas.

Thank you for your consideration.

27-LS1197/I
Gardner
3/15/12

CS FOR HOUSE BILL NO. 278()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE PETERSEN

A BILL
FOR AN ACT ENTITLED

1 **"An Act allowing as a condition of probation for a defendant convicted of certain sex**
2 **offenses a prohibition against the defendant's residing at a residence where installed**
3 **outdoor recreational equipment suitable for use by children under 16 years of age is**
4 **located on the property."**

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

6 *** Section 1. AS 12.55.100(e) is amended to read:**

7 (e) In addition to other conditions imposed on the defendant, while on
8 probation and as a condition of probation

9 (1) for a sex offense, as described in AS 12.63.100, the defendant

10 (A) shall be required to submit to regular periodic polygraph
11 examinations;

12 (B) may be required to provide each electronic mail address,
13 instant messaging address, and other Internet communication identifier that the
14 defendant uses to the defendant's probation officer; the probation officer shall

1 forward those addresses and identifiers to the Alaska state troopers and to the
2 local law enforcement agency;

3 (2) if the defendant was convicted of a violation of AS 11.41.434 -
4 11.41.455, AS 11.61.125 - 11.61.128, or a similar offense in another jurisdiction, the
5 defendant may be required to refrain from

6 (A) using or creating an Internet site;

7 (B) communicating with children under 16 years of age;

8 (C) possessing or using a computer; or

9 (D) residing within 500 feet of school grounds; in this
10 subparagraph, "school grounds" has the meaning given in AS 11.71.900;

11 (3) if the probation condition in (e)(2)(B) or (D) of this section is
12 imposed on the defendant, the defendant shall, as a condition of probation,
13 provide notice to the defendant's probation officer before or not later than 24
14 hours after moving into a residence where installed outdoor recreational
15 equipment designed or intended primarily for use by children under 16 years of
16 age is present on the property.

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Changes between version A and version B

March 14, 2012

In AS 12.55.100(e), removed section (2)(D) which stated “residing at a residence where outdoor recreational equipment suitable for use by children under 16 years of age is located on the property;”

And added a section (3) which states “if the probation condition in (e)(2)(B) or (D) of this section is imposed on the defendant, the defendant shall, as a condition of probation, provide notice to the defendant’s probation officer before or not later than 24 hours after moving into a residence where recreational equipment designed or intended primarily for use by children under 16 years of age is present on the property.”

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Representative Pete Petersen Serving Northeast Anchorage and Muldoon

March 14, 2012

To: Members of the House Judiciary Committee

From: Rep. Pete Petersen

RE: HB 278 Sex Offender Probation Conditions

During the last hearing, there was concern about the applicability of the law. We have narrowed the language so it is much more specific to individuals who are already required to refrain from living within 500 feet of a school and/or from communicating with an individual under the age of 16. In addition, when looking at AS 12.55.100(e)(2), this law applies to defendants convicted of a violation of AS 11.41.434-11.41.455, AS 11.61.125-11.61.128, or a similar offense in another jurisdiction. AS 11.41.434 defines sexual abuse of a minor in the first degree, second degree, third degree, fourth degree, online enticement of a minor, and unlawful exploitation of a minor. These laws solely deal with individuals who have sexually abused minors. If an individual sexually offends another adult, this bill would not be applicable.

Other questions are addressed below.

What about sex offenders with children? The new language of the bill will simply require the defendant to report. If the defendant has children, and is living in a location where there is installed recreational equipment, they will have to report the equipment's presence to the probation officer. In addition, the committee substitute states that if a defendant has been required to refrain from communicating with children under 16 years of age or residing within 500 feet of school grounds, then they will be required to disclose the fact that there is equipment on the property that would be suitable for children.

Will the defendant have to uninstall equipment? The committee substitute removes this problem. The defendant will not be required to remove the equipment. The defendant will be required to disclose the existence of the equipment on the property of his or her residence to the probation officer. The probation officer will decide the appropriate course of action.

Would the state have to compensate the defendant for the equipment? No. The defendant will not be required to remove the equipment.

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What if the defendant moves into a low-income housing unit and there is already a playground installed on the property? Given the new language of the bill, the defendant would be required to report this. Should the probation officer or treatment provider see this as a threat of recidivism, they would follow with the appropriate action.

What about a snowmobile/ATV? The language of the bill talks specifically about equipment that would be suitable for use of children under the age of 16. Snowmobiles are not designed or intended primarily for use by children under the age of 16.

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Representative Pete Petersen
Serving Northeast Anchorage and Muldoon

An Act allowing as a condition of probation for a defendant convicted of certain sex offenses a prohibition against the defendant's residing at a residence where outdoor recreational equipment suitable for use by children under 16 years of age is located on the property.

This act will amend the current statute AS 12.55.100(e) to include a provision that will prevent individuals registered as a sex offender to live in a residence where outdoor equipment is located on the property. This act will give judges the opportunity to restrict specific sex offenders from having any item a child would want to play on like a trampoline or a jungle gym. These items can be used to lure children into a situation where a past offender could create a relationship with the child, leading to a repeat offense. Under current law, registered sex offenders may be required to refrain from using or creating a web site, communicating with children less than 16 years of age, possessing or using a computer, and residing within 500 feet of a school.

The state of Alaska does not apply austere residence restrictions to sexual offenders. This act will add a minor residence restriction to prevent sexual recidivism by offenders. This act affects only individuals who have previously committed sexual offenses.

This is an important addition that would increase the safety of children and would reduce initial contact between children and sex offenders. By reducing the chance of an interaction, we reduce the chance of a sexual offender repeating his or her crime. This act will provide the courts with a tool they do not currently have when dealing with sex offenders.

Thank you for your consideration on this issue.

HOUSE BILL NO. 278

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE PETERSEN

Introduced: 1/13/12

Referred: Prefiled

A BILL

FOR AN ACT ENTITLED

1 "An Act allowing as a condition of probation for a defendant convicted of certain sex
2 offenses a prohibition against the defendant's residing at a residence where outdoor
3 recreational equipment suitable for use by children under 16 years of age is located on
4 the property."

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

6 * **Section 1.** AS 12.55.100(e) is amended to read:

7 (e) In addition to other conditions imposed on the defendant, while on
8 probation and as a condition of probation

9 (1) for a sex offense, as described in AS 12.63.100, the defendant

10 (A) shall be required to submit to regular periodic polygraph
11 examinations;

12 (B) may be required to provide each electronic mail address,
13 instant messaging address, and other Internet communication identifier that the
14 defendant uses to the defendant's probation officer; the probation officer shall

1 forward those addresses and identifiers to the Alaska state troopers and to the
2 local law enforcement agency;

3 (2) if the defendant was convicted of a violation of AS 11.41.434 -
4 11.41.455, AS 11.61.125 - 11.61.128, or a similar offense in another jurisdiction, the
5 defendant may be required to refrain from

6 (A) using or creating an Internet site;

7 (B) communicating with children under 16 years of age;

8 (C) possessing or using a computer;

9 **(D) residing at a residence where outdoor recreational**
10 **equipment suitable for use by children under 16 years of age is located on**
11 **the property;** or

12 **(E)** [(D)] residing within 500 feet of school grounds; in this
13 subparagraph, "school grounds" has the meaning given in AS 11.71.900.

FISCAL NOTE

STATE OF ALASKA cost # codes
 2012 LEGISLATIVE SESSION

Bill Version HB 278
 Fiscal Note Number _____
 Publish Date _____

Identifier (file name) CSHB278-DOC-OC-02-25-12 Dept. Affected DOC
 Title "An Act allowing as a condition of probation for a defendant convicted of certain sex offenses a prohibition..." Appropriation Admin & Support
 Allocation Commissioner's Office
 Sponsor Representative Petersen
 Requester (H)JUD OMB Component Number 694

Expenditures/Revenues (Thousands of Dollars)

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

| | FY13 Appropriation Requested | Included in Governor's FY13 Request | Out-Year Cost Estimates | | | | |
|-------------------------------|------------------------------------|--|-------------------------|-------------|-------------|-------------|-------------|
| | | | FY14 | FY15 | FY16 | FY17 | FY18 |
| OPERATING EXPENDITURES | FY13 | FY13 | FY14 | FY15 | FY16 | FY17 | FY18 |
| Personal Services | | | | | | | |
| Travel | | | | | | | |
| Services | | | | | | | |
| Commodities | | | | | | | |
| Capital Outlay | | | | | | | |
| Grants, Benefits | | | | | | | |
| Miscellaneous | | | | | | | |
| TOTAL OPERATING | ** | ** | ** | ** | ** | ** | ** |

| FUND SOURCE | | (Thousands of Dollars) | | | | | |
|--------------|------------------|------------------------|-----------|-----------|-----------|-----------|-----------|
| 1002 | Federal Receipts | | | | | | |
| 1003 | GF Match | | | | | | |
| 1004 | GF | | | | | | |
| 1005 | GF/Prgm (DGF) | | | | | | |
| 1037 | GF/MH (UGF) | | | | | | |
| 1178 | temp code (UGF) | | | | | | |
| TOTAL | | ** | ** | ** | ** | ** | ** |

| POSITIONS | | | | | | | |
|-----------|--|--|--|--|--|--|--|
| Full-time | | | | | | | |
| Part-time | | | | | | | |
| Temporary | | | | | | | |

| CHANGE IN REVENUES | | | | | | | |
|--------------------|--|--|--|--|--|--|--|
|--------------------|--|--|--|--|--|--|--|

Estimated SUPPLEMENTAL (FY12) operating costs 0.0 (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs 0.0 (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

This is the original version of the bill.

Prepared by Leslie Houston, Director
 Division Department of Corrections - Administrative Services
 Approved by Joseph D. Schmidt, Commissioner
Department of Corrections

Phone 907-465-3339
 Date/Time 2/25/12 3:30 PM
 Date 2/25/2012

FISCAL NOTE

**STATE OF ALASKA
2012 LEGISLATIVE SESSION**

BILL NO. HB 278

Analysis

Area restrictions are a new condition of probation for sex offenders, therefore the department currently has no data on previous violation/offenses and is unable to estimate the number of future area restriction violations that will occur.

If passed, the Department of Corrections will closely monitor the future fiscal impacts of this legislation.

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version HB 278
Fiscal Note Number _____
() Publish Date _____

Identifier (file name) HB278-LAW-CRIM-02-23-12 Dept. Affected Law
Title An Act allowing as a condition of probation for a Appropriation Criminal
defendant convicted of certain sex offenses... Allocation Criminal Justice Litigation
Sponsor REPRESENTATIVE PETERSEN
Requester (H) Judiciary OMB Component Number 2202

Expenditures/Revenues (Thousands of Dollars)

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

| | FY13 Appropriation Requested | Included in Governor's FY13 Request | Out-Year Cost Estimates | | | | |
|-------------------------------|------------------------------------|--|-------------------------|-------------|-------------|-------------|-------------|
| | | | FY14 | FY15 | FY16 | FY17 | FY18 |
| OPERATING EXPENDITURES | FY13 | FY13 | FY14 | FY15 | FY16 | FY17 | FY18 |
| Personal Services | | | | | | | |
| Travel | | | | | | | |
| Services | | | | | | | |
| Commodities | | | | | | | |
| Capital Outlay | | | | | | | |
| Grants, Benefits | | | | | | | |
| Miscellaneous | | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

FUND SOURCE (Thousands of Dollars)

| | | | | | | | |
|--------------|------------------|------------|------------|------------|------------|------------|------------|
| 1002 | Federal Receipts | | | | | | |
| 1003 | GF Match | | | | | | |
| 1004 | GF | | | | | | |
| 1005 | GF/Prgm (DGF) | | | | | | |
| 1037 | GF/MH (UGF) | | | | | | |
| 1178 | temp code (UGF) | | | | | | |
| TOTAL | | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

POSITIONS

| | | | | | | | |
|-----------|--|--|--|--|--|--|--|
| Full-time | | | | | | | |
| Part-time | | | | | | | |
| Temporary | | | | | | | |

CHANGE IN REVENUES

| | | | | | | | |
|--|--|--|--|--|--|--|--|
| | | | | | | | |
|--|--|--|--|--|--|--|--|

Estimated SUPPLEMENTAL (FY12) operating costs _____ (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs _____ (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Not applicable, initial version.

Prepared by Eileen Donahue, Division Operations Manager
Division Administrative Services
Approved by Michael C. Geraghty, Attorney General
Department of Law

Phone 465-5427
Date/Time 2/23/12 5:00 PM
Date 2/23/2012

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. HB 278

Analysis

The bill gives the sentencing court discretion, when sentencing a defendant convicted of sex offenses against children, to order the defendant, as a condition of probation, not to reside where outdoor recreation equipment for children under 16 is located on the property.

The fiscal impact to Department of Law is zero.



January 27, 2012

The Honorable Pete Petersen
House of Representatives
Alaska State Legislature, State Capitol
Juneau, Alaska 99801

RE: House Bill 278, Sex Offenders

Dear Representative Petersen:

The Board of Directors of Victims for Justice supports House Bill 278.

Victims for Justice is a victim advocacy agency. We advocate for victims of all violent crimes, and we share your concern for the victims and potential victims of pedophile sex offenders.

We believe the addition of paragraph (2) (D), to AS 12.55.100 (e), allowing the court to require that certain felons refrain from residing at a residence where outdoor recreational equipment suitable for use by children under 16 years of age is located on the property, is a reasonable provision. The permissive nature of this language will allow the court to make such requirements when the nature of the offender, and previous offenses, suggests it, but will not overburden law enforcement, probation and parole officers in cases where it doesn't apply.

Regards,

A handwritten signature in cursive script that reads "Susan Sullivan".

Susan Sullivan

Executive Director



Business Manager

Joseph Young
Anchorage

**Board of Directors
Officers**

John Lucking, Jr., President
Soldotna

Kris Sell, Vice President
Juneau

Angella Long, Past President
Wasilla

Marilyn Bailey, Secretary-Treasurer
Anchorage

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First City Chapter
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Mark Pearson, President
Kenai Peninsula Chapter
Kenai

Bob Griffiths, President
Mat-Su Chapter
Wasilla

Thecla LaLonde, President
Wrangell Chapter
Wrangell

February 10, 2012

Representative Pete Petersen
House of Representatives
State Capitol
Juneau AK 99801-1182

Dear Representative Petersen:

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for introducing HB 278 an act allowing as a condition of probation for a defendant convicted of certain sex offenses a prohibition against the defendant's residing at a residence where outdoor recreational equipment suitable for use by children under 16 years of age is located on the property.

The APOA Executive Board's Legislative Committee recently reviewed this proposed legislation and decided to unanimously support this bill.

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,

John Lucking, Jr.
State President

PO Box 240106
Anchorage AK 99524

t 277 0515
f 907 272 5355

Making A Difference In The Last Frontier



Sex Offenders

Notes:

Includes information about all offenders in the OTIS database who have listed as their most serious charge an offense that would unambiguously identify them as a registerable sex offender.

**Distribution of Sex Offenders
December 31, 2009**

| In-State Institutions | Female | Male | Total |
|----------------------------------|---------------|-------------|--------------|
| Anchorage CCE | - | 26 | 26 |
| Anchorage CCW | - | 55 | 55 |
| Anvil Mountain CC | 1 | 9 | 10 |
| Fairbanks CC | - | 9 | 9 |
| Hiland Mountain CC | 5 | - | 5 |
| Ketchikan CC | - | 6 | 6 |
| Lemon Creek CC | - | 28 | 28 |
| Mat-Su Pretrial | - | 10 | 10 |
| Palmer Minimum CC | - | 37 | 37 |
| Palmer Medium CC | - | 46 | 46 |
| Spring Creek CC | - | 82 | 82 |
| Wildwood CC | - | 27 | 27 |
| Wildwood Pretrial | - | 4 | 4 |
| Yukon-Kuskokwim CC | - | 16 | 16 |
| <i>Total</i> | <i>6</i> | <i>355</i> | <i>361</i> |
| | | | |
| Out-of-State Institutions | | | |
| Hudson CC - Colorado | - | 239 | 239 |
| <i>Total</i> | <i>-</i> | <i>239</i> | <i>239</i> |
| | | | |
| CRC's | | | |
| Glenwood Center | 1 | - | 1 |
| <i>Total</i> | <i>1</i> | <i>-</i> | <i>1</i> |
| | | | |
| Total All | 7 | 594 | 601 |

**Demographic Information for Sex Offenders
December 31, 2009**

| Ethnicity | Female | Male | Total |
|----------------------|---------------|-------------|--------------|
| Asian/Pacific Island | - | 11 | 11 |
| Black | - | 23 | 23 |
| Caucasian | 4 | 225 | 229 |
| Hispanic | - | 10 | 10 |
| Alaska Native | 3 | 316 | 319 |
| Unknown | - | 9 | 9 |
| Total | 7 | 594 | 601 |

| Age Group (Years) | Female | Male | Total |
|--------------------------|---------------|-------------|--------------|
| 19 and Under | - | 12 | 12 |
| 20 - 24 | - | 81 | 81 |
| 25 - 29 | 1 | 74 | 75 |
| 30 - 34 | 1 | 57 | 58 |
| 35 - 39 | 2 | 72 | 74 |
| 40 - 44 | 1 | 94 | 95 |
| 45 - 49 | 1 | 70 | 71 |
| 50 - 54 | - | 58 | 58 |
| 55 - 59 | 1 | 29 | 30 |
| 60 - 64 | - | 25 | 25 |
| 65 and over | - | 22 | 22 |
| Total | 7 | 594 | 601 |

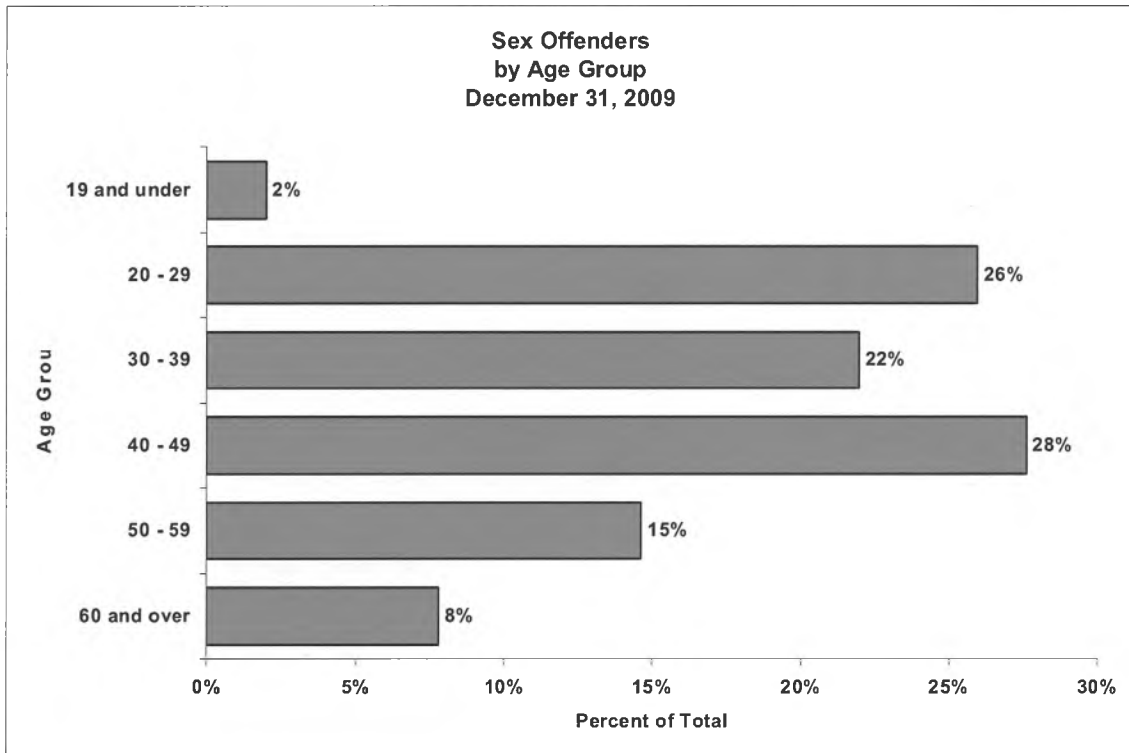
| | | | |
|-------------------|--------------|--------------|--------------|
| <i>Mean Age</i> | <i>41.03</i> | <i>40.10</i> | <i>40.11</i> |
| <i>Median Age</i> | <i>39.46</i> | <i>40.07</i> | <i>40.07</i> |

| Length of time from admission | Female | Male | Total |
|--------------------------------------|---------------|-------------|--------------|
| 6 months or less | 4 | 138 | 142 |
| 7 months - 12 months | 1 | 75 | 76 |
| 13 months - 24 months | - | 108 | 108 |
| 25 months 36 months | 1 | 73 | 74 |
| 37 months or more | 1 | 200 | 201 |
| Total | 7 | 594 | 601 |

| | | | |
|-------------------------------|--------------|--------------|--------------|
| <i>Mean Length (months)</i> | <i>23.14</i> | <i>35.76</i> | <i>35.61</i> |
| <i>Median Length (months)</i> | <i>6.00</i> | <i>21.00</i> | <i>21.00</i> |

**Offense Classifications for Sex Offenders
December 31, 2009**

| Offense Level | Female | Male | Total | Pct |
|----------------------|---------------|-------------|--------------|---------------|
| Felony | 6 | 592 | 598 | 99.5% |
| Misdemeanor | 1 | 2 | 3 | 0.5% |
| Total | 7 | 594 | 601 | 100.0% |



| Registerable Sex Offenses | Female | Male | Total |
|------------------------------|----------|------------|------------|
| Attempted Sex Abuse 1 | - | 13 | 13 |
| Attempted Sex Abuse Minor 2 | - | 15 | 15 |
| Attempted Sex Assault 1 | - | 6 | 6 |
| Attempted Sex Assault 2 | - | 7 | 7 |
| Distribute Child Pornography | - | 4 | 4 |
| Incest | - | 2 | 2 |
| Indecent Exposure 1 | - | 1 | 1 |
| Indecent Exposure 2 | - | 1 | 1 |
| Online Enticement of a Minor | - | 2 | 2 |
| Possess Child Pornography | - | 17 | 17 |
| Sex Abuse Minor 1 | 4 | 143 | 147 |
| Sex Abuse Minor 2 | 2 | 136 | 138 |
| Sex Abuse Minor 3 | - | 7 | 7 |
| Sex Assault 1 | - | 152 | 152 |
| Sex Assault 2 | - | 68 | 68 |
| Sex Assault 3 | - | 19 | 19 |
| Solicitation Sex Abuse 2 | - | 1 | 1 |
| Soliciting Prostitution | 1 | - | 1 |
| Total | 7 | 594 | 601 |

Sex Offenders

Notes:

Includes information about all offenders in the ACOMS database who have listed as their most serious charge an offense that would unambiguously identify them as a registerable sex offender as specified under AS 12.63.100.

**Counts and Percents of Sex Offenders by Location and Offender Sex:
December 31, 2010**

| In-State Institutions | Female | Female Percent | Male | Male Percent | Total | Total Percent |
|-----------------------|----------|----------------|------------|----------------|------------|----------------|
| ANCHORAGE CCE | 0 | 0.00% | 20 | 6.90% | 20 | 6.73% |
| ANCHORAGE CCW | 0 | 0.00% | 37 | 12.76% | 37 | 12.46% |
| ANVIL MTN CC | 0 | 0.00% | 11 | 3.79% | 11 | 3.70% |
| FAIRBANKS CC | 0 | 0.00% | 8 | 2.76% | 8 | 2.69% |
| HILAND MTN CC | 5 | 71.43% | 0 | 0.00% | 5 | 1.68% |
| KETCHIKAN CC | 0 | 0.00% | 4 | 1.38% | 4 | 1.35% |
| LEMON CREEK CC | 1 | 14.29% | 35 | 12.07% | 36 | 12.12% |
| MATSU PRETRIAL | 0 | 0.00% | 5 | 1.72% | 5 | 1.68% |
| PALMER-MED CC | 0 | 0.00% | 36 | 12.41% | 36 | 12.12% |
| PALMER-MIN CC | 0 | 0.00% | 15 | 5.17% | 15 | 5.05% |
| SPRING CREEK CC | 0 | 0.00% | 82 | 28.28% | 82 | 27.61% |
| WILDWOOD CC | 0 | 0.00% | 24 | 8.28% | 24 | 8.08% |
| WILDWOOD PRETRIAL | 1 | 14.29% | 4 | 1.38% | 5 | 1.68% |
| YUKON-KUSKOKWIM CC | 0 | 0.00% | 9 | 3.10% | 9 | 3.03% |
| TOTAL | 7 | 100.00% | 290 | 100.00% | 297 | 100.00% |

| Out-of-State | Female | Female Percent | Male | Male Percent | Total | Total Percent |
|--------------|----------|----------------|------------|----------------|------------|----------------|
| HUDSON CF | 0 | 0.00% | 247 | 100.00% | 247 | 100.00% |
| TOTAL | 0 | 0.00% | 247 | 100.00% | 247 | 100.00% |

| CRC's | Female | Female Percent | Male | Male Percent | Total | Total Percent |
|----------------|----------|----------------|----------|----------------|----------|----------------|
| NORTH STAR CTR | 0 | 0.00% | 1 | 100.00% | 1 | 100.00% |
| TOTAL | 0 | 0.00% | 1 | 100.00% | 1 | 100.00% |

| | Female | Female Percent | Male | Male Percent | Total | Total Percent |
|------------------|----------|----------------|------------|---------------|------------|----------------|
| TOTAL ALL | 7 | 1.28% | 538 | 98.72% | 545 | 100.00% |

**Counts and Percents of Sex Offenders by Race/Ethnicity and Offender Sex:
December 31, 2010**

| Race/Ethnicity | Female | Female Percent | Male | Male Percent | Total | Total Percent |
|------------------|----------|----------------|------------|----------------|------------|----------------|
| ALASKA NATIVE | 0 | 0.00% | 257 | 47.68% | 257 | 47.16% |
| ASIAN/PACIFIC IS | 0 | 0.00% | 11 | 2.04% | 11 | 2.02% |
| BLACK | 2 | 33.33% | 30 | 5.57% | 32 | 5.87% |
| HISPANIC/LATINO | 0 | 0.00% | 11 | 2.04% | 11 | 2.02% |
| WHITE | 4 | 66.67% | 221 | 41.00% | 225 | 41.28% |
| OTHER | 0 | 0.00% | 4 | 0.74% | 4 | 0.73% |
| UNKNOWN | 1 | 0.00% | 4 | 0.93% | 5 | 0.92% |
| TOTAL | 7 | 100.00% | 538 | 100.00% | 545 | 100.00% |

**Counts and Percentages of Sex Offenders by Age Group and Offender Sex:
December 31, 2010**

| Age Group | Female | Female Percent | Male | Male Percent | Total | Total Percent |
|--------------|----------|----------------|------------|----------------|------------|----------------|
| 19 and under | 0 | 0.00% | 19 | 3.53% | 19 | 3.49% |
| 20-24 | 1 | 14.29% | 75 | 13.94% | 76 | 13.94% |
| 25-29 | 2 | 28.57% | 73 | 13.57% | 75 | 13.76% |
| 30-34 | 0 | 0.00% | 49 | 9.11% | 49 | 8.99% |
| 35-39 | 2 | 28.57% | 53 | 9.85% | 55 | 10.09% |
| 40-44 | 1 | 14.29% | 71 | 13.20% | 72 | 13.21% |
| 45-49 | 1 | 14.29% | 79 | 14.68% | 80 | 14.68% |
| 50-54 | 0 | 0.00% | 44 | 8.18% | 44 | 8.07% |
| 55-59 | 0 | 0.00% | 35 | 6.51% | 35 | 6.42% |
| 60-64 | 0 | 0.00% | 21 | 3.90% | 21 | 3.85% |
| 65 and over | 0 | 0.00% | 19 | 3.53% | 19 | 3.49% |
| TOTAL | 7 | 100.00% | 538 | 100.00% | 545 | 100.00% |

**Counts and Percentages of Sex Offenders by Length of Time from Admission and Offender Sex:
December 31, 2010**

| Months In | Female | Female Percent | Male | Male Percent | Total | Total Percent |
|-----------------------|----------|----------------|------------|----------------|------------|----------------|
| 6 months or less | 1 | 14.29% | 97 | 18.03% | 98 | 17.98% |
| 7 months - 12 months | 1 | 14.29% | 67 | 12.45% | 68 | 12.48% |
| 13 months - 24 months | 1 | 14.29% | 88 | 16.36% | 89 | 16.33% |
| 25 months - 36 months | 0 | 0.00% | 72 | 13.38% | 72 | 13.21% |
| 37 months or more | 4 | 57.14% | 214 | 39.78% | 218 | 40.00% |
| TOTAL | 7 | 100.00% | 538 | 100.00% | 545 | 100.00% |

**Counts and Percentages of Sex Offenders by Offense Level and Offender Sex:
December 31, 2010**

| Offense Level | Female | Female Percent | Male | Male Percent | Total | Total Percent |
|---------------|----------|----------------|------------|----------------|------------|----------------|
| Felony | 7 | 100.00% | 534 | 99.26% | 541 | 99.27% |
| Misdemeanor | 0 | 0.00% | 4 | 0.74% | 4 | 0.73% |
| Total | 7 | 100.00% | 538 | 100.00% | 545 | 100.00% |

**Counts of Offenses for Sex Offenders by Offense Description, and Offender Sex:
December 31, 2010**

| Offense Description | Female | Female Percent | Male | Male Percent | Total | Total Percent |
|------------------------------|----------|----------------|------------|----------------|------------|----------------|
| ATTEMPTED SEX ABUSE 1 | 0 | 0.00% | 17 | 3.16% | 17 | 3.12% |
| ATTEMPTED SEX ABUSE MINOR 2 | 0 | 0.00% | 26 | 4.83% | 26 | 4.77% |
| ATTEMPTED SEX ASSAULT 1 | 0 | 0.00% | 6 | 1.12% | 6 | 1.10% |
| ATTEMPTED SEX ASSAULT 2 | 0 | 0.00% | 21 | 3.90% | 21 | 3.85% |
| ATTEMPTED SEX ASSAULT 3 | 0 | 0.00% | 1 | 0.19% | 1 | 0.18% |
| DISTRIBUTE CHILD PORNOGRAPHY | 0 | 0.00% | 2 | 0.37% | 2 | 0.37% |
| EXPLOITATION OF A MINOR | 1 | 14.29% | 1 | 0.19% | 2 | 0.37% |
| INCEST | 0 | 0.00% | 4 | 0.74% | 4 | 0.73% |
| INDECENT EXPOSURE 1 | 0 | 0.00% | 1 | 0.19% | 1 | 0.18% |
| INDECENT EXPOSURE 2 | 0 | 0.00% | 2 | 0.37% | 2 | 0.37% |
| ONLINE ENTICEMENT OF A MINOR | 0 | 0.00% | 1 | 0.19% | 1 | 0.18% |
| POSSESS CHILD PORNOGRAPHY | 0 | 0.00% | 19 | 3.53% | 19 | 3.49% |
| SEX ABUSE MINOR 1 | 2 | 28.57% | 115 | 21.38% | 117 | 21.47% |
| SEX ABUSE MINOR 2 | 1 | 14.29% | 126 | 23.42% | 127 | 23.30% |
| SEX ABUSE MINOR 3 | 1 | 14.29% | 12 | 2.23% | 13 | 2.39% |
| SEX ASSAULT 1 | 2 | 28.57% | 105 | 19.52% | 107 | 19.63% |
| SEX ASSAULT 2 | 0 | 0.00% | 62 | 11.52% | 62 | 11.38% |
| SEX ASSAULT 3 | 0 | 0.00% | 16 | 2.97% | 16 | 2.94% |
| SOLICITATION SEX ABUSE 2 | 0 | 0.00% | 1 | 0.19% | 1 | 0.18% |
| TOTAL | 7 | 100.00% | 538 | 100.00% | 545 | 100.00% |



Understanding Sex Offenders: An Introductory Curriculum

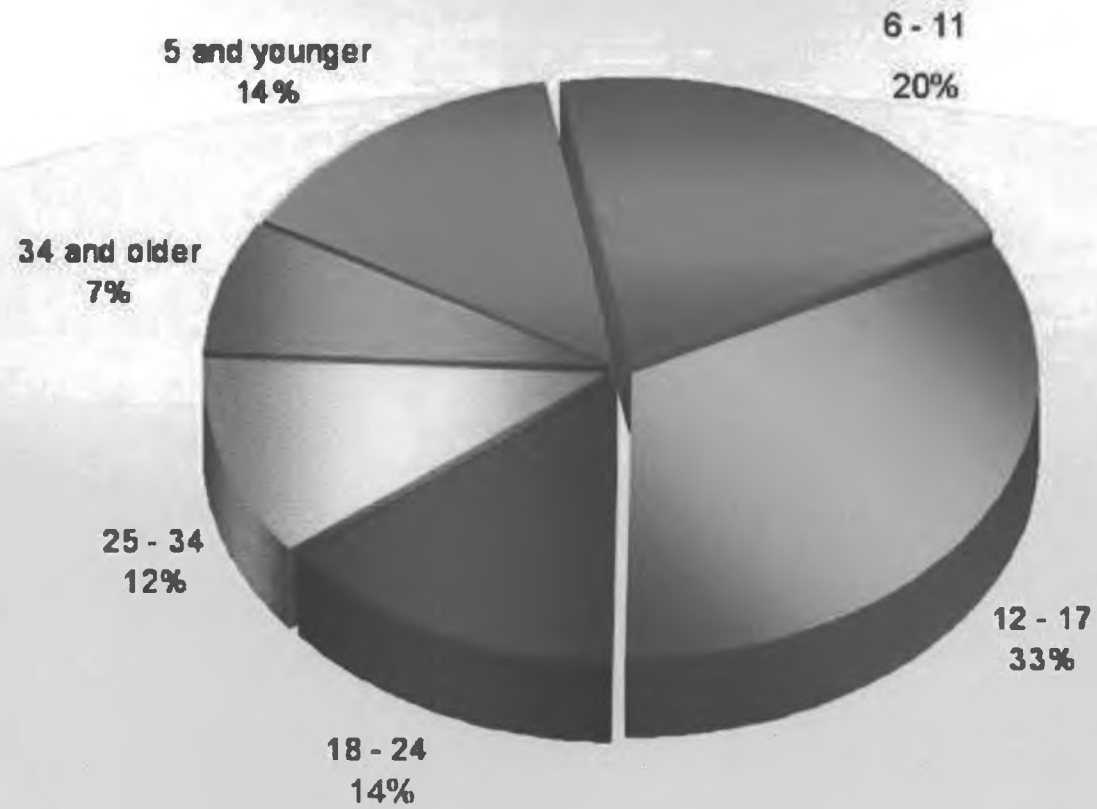
**Section 2: The Nature and Scope of
Sex Offending**

Incidence and Prevalence

- **302,100 women and 92,700 men are forcibly raped in the U.S. each year.**
- **1 in 6 women and 1 in 33 men in the U.S. have experienced rape.**
- **1 in 4 girls and 1 in 7 boys have been sexually assaulted.**

(Finkelhor, 1994; Tjaden & Thoennes, 1998)

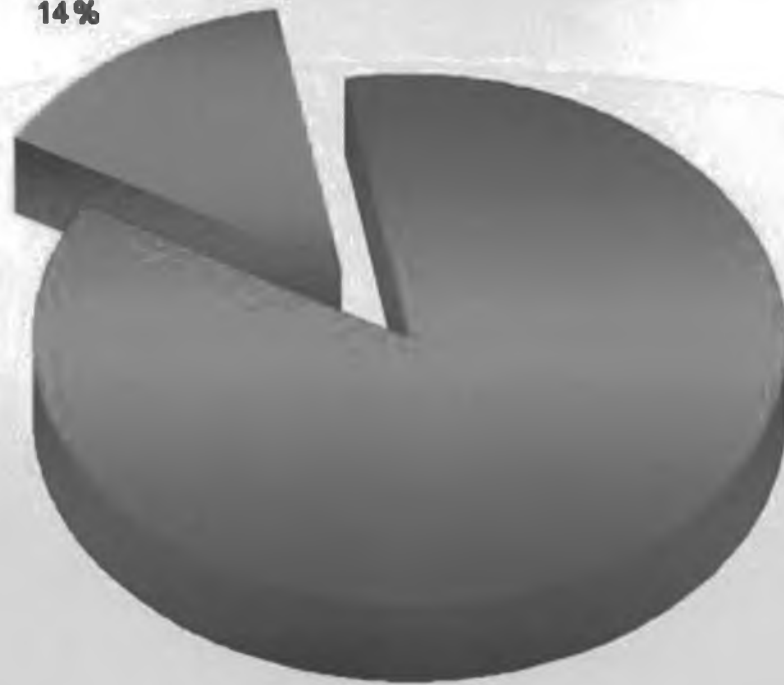
Age of Victims



(Snyder, 2000)

Gender of Victims

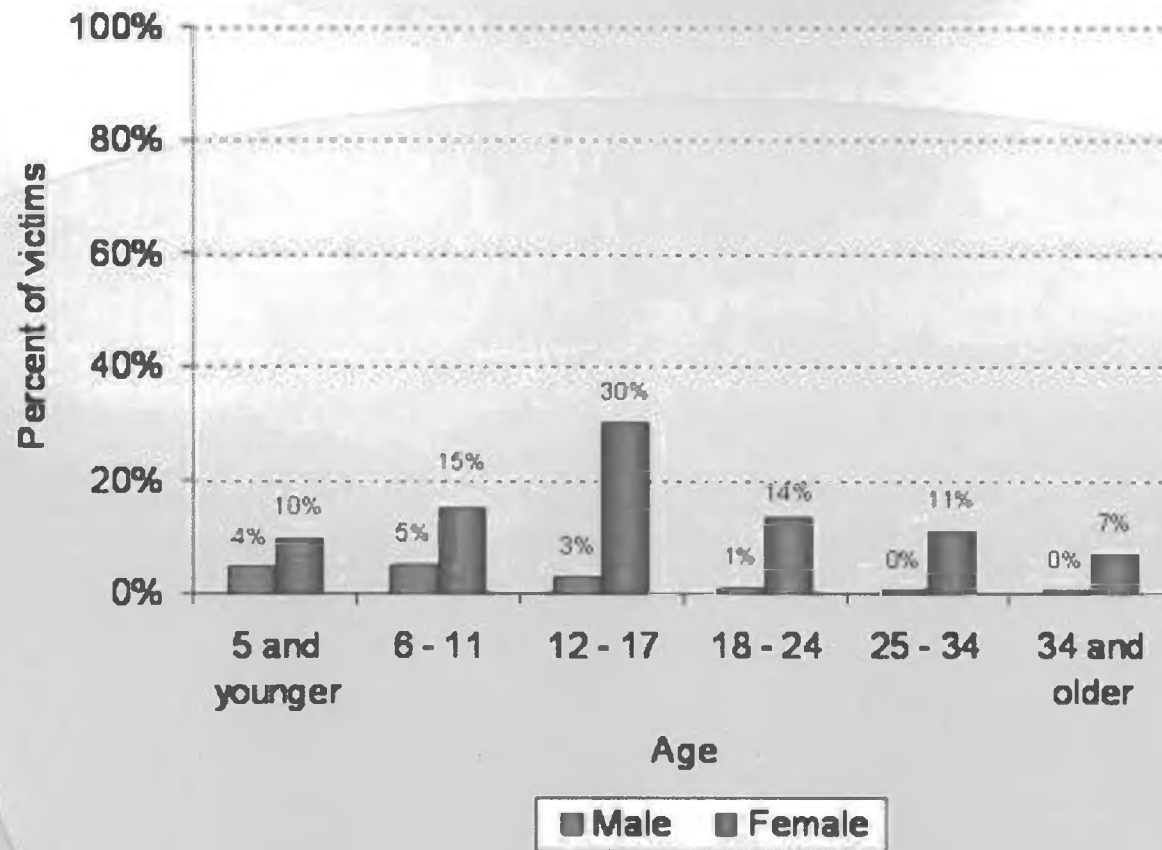
Males
14%



Females
86%

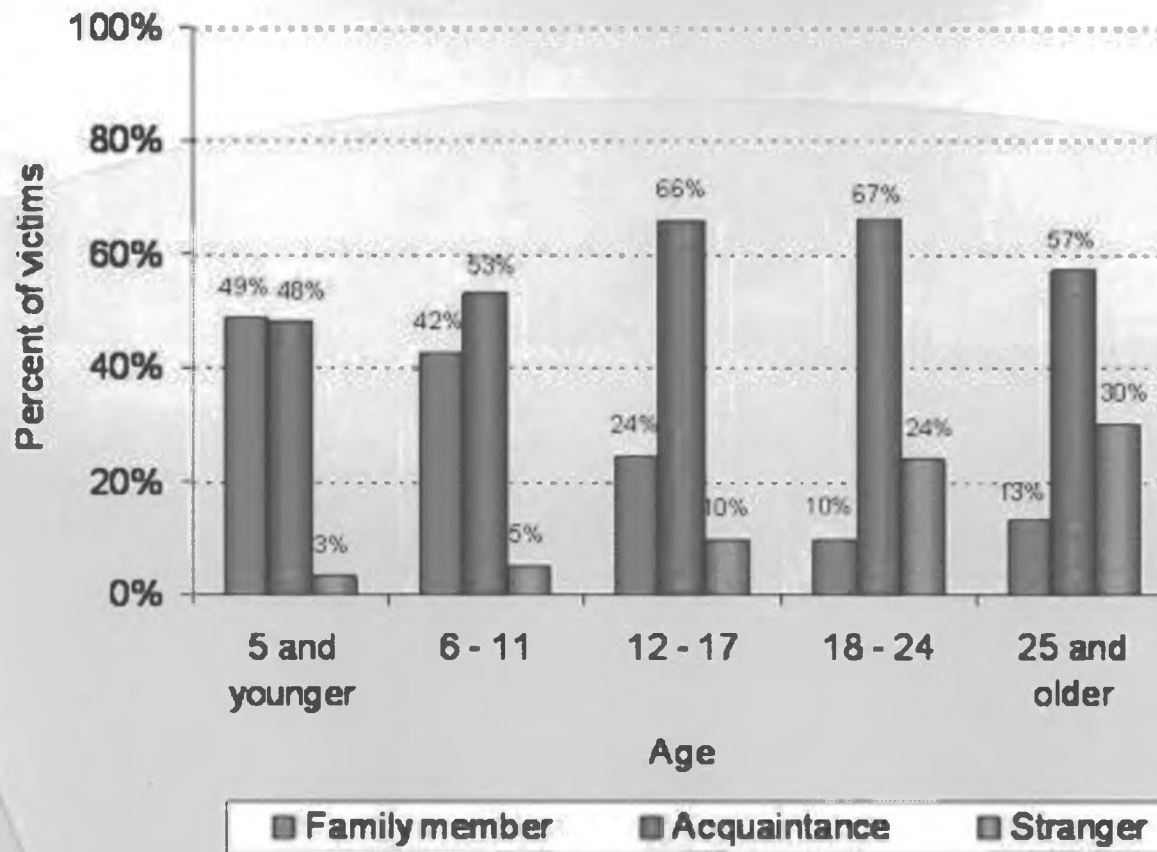
(Snyder, 2000)

Age of Victims by Gender



(Snyder, 2000)

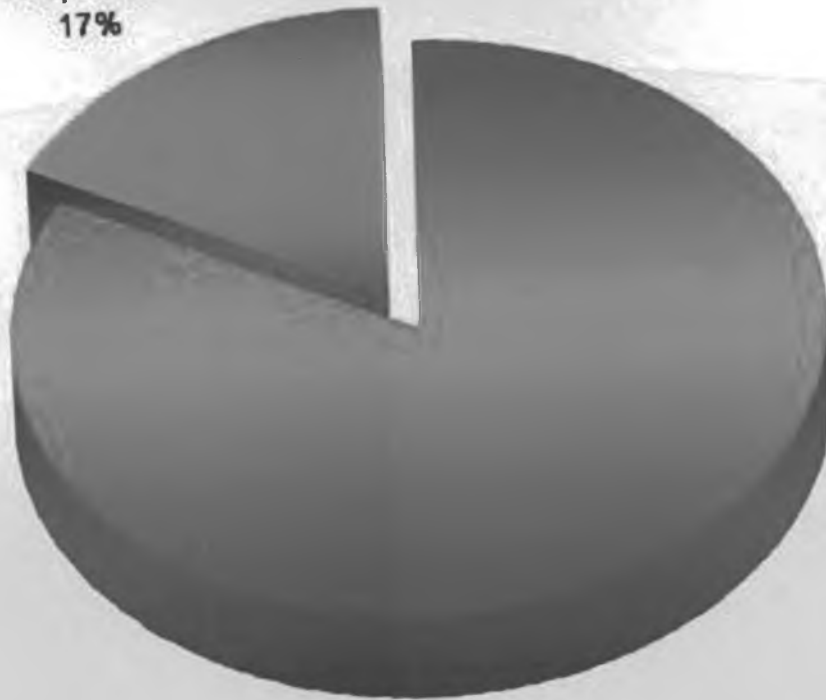
Victim/Offender Relationship by Age



(Snyder, 2000)

Reporting Rates

Reported
17%



Not reported
83%

(Tjaden & Thoennes, 1998)

Reasons for Not Reporting

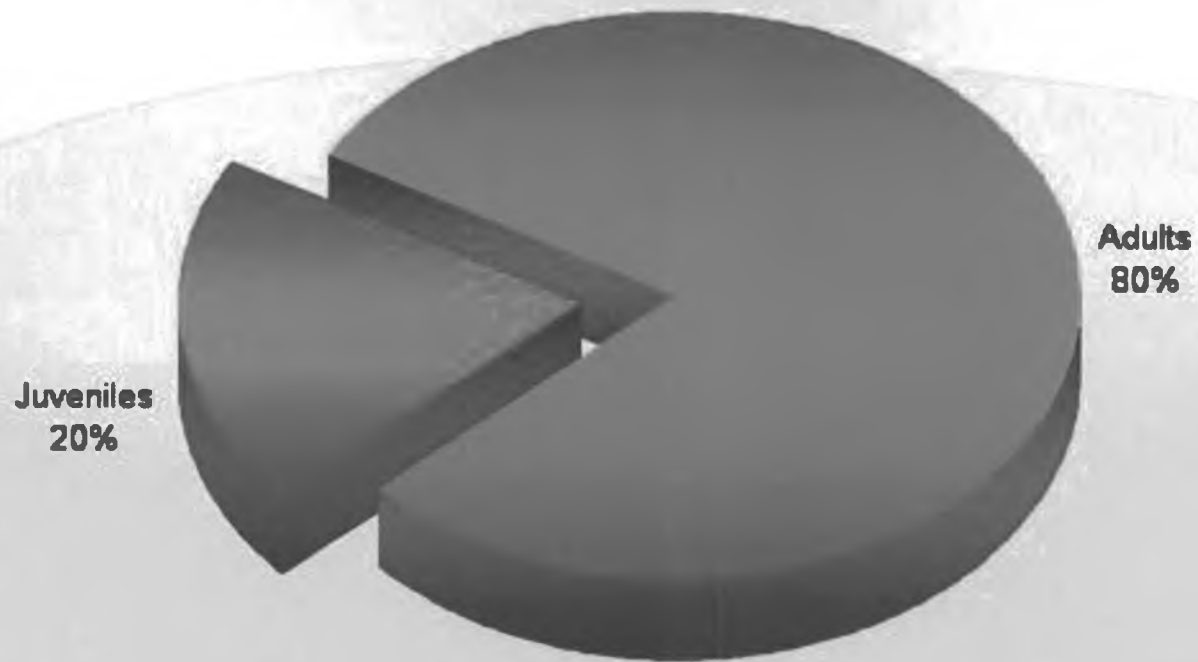
- **Belief that nothing can be done**
- **Fear of or care for the offender**
- **Consider the assault a private matter**
- **Self-blame, or worry that others will blame them**
- **Fear that others will not believe them**
- **Unsure about what happened**

Arrests of Sex Offenders

- **26,066 arrests for forcible rape**
- **90,913 for other sex offenses**

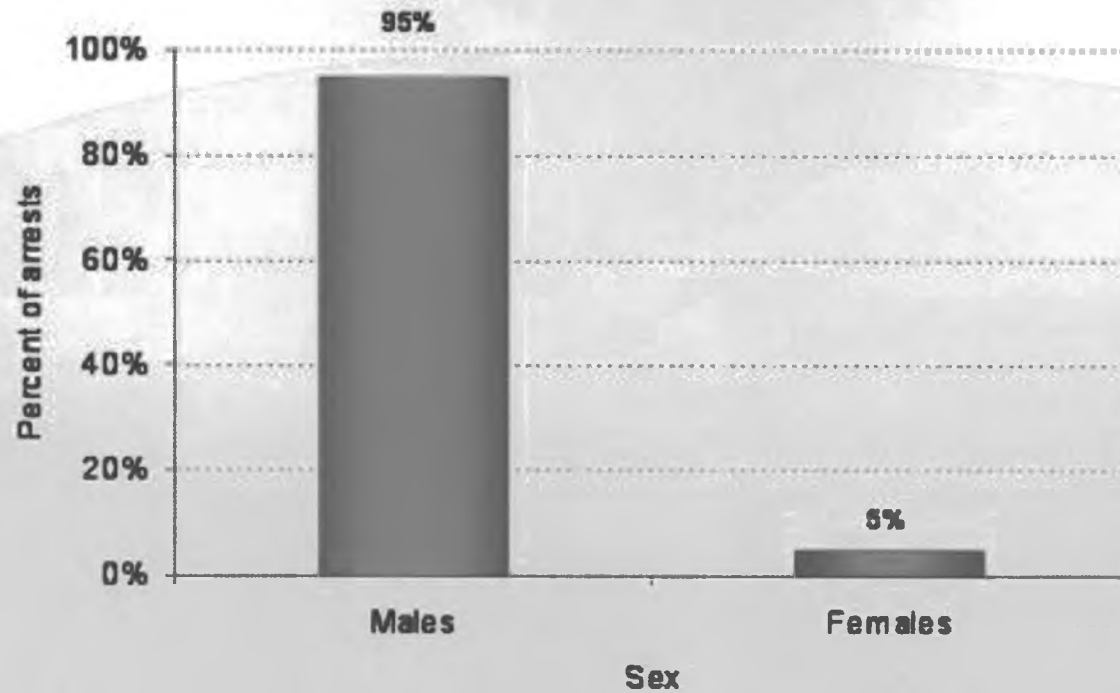
(Federal Bureau of Investigation, 2005)

Arrests by Age



(Federal Bureau of Investigation, 2005)

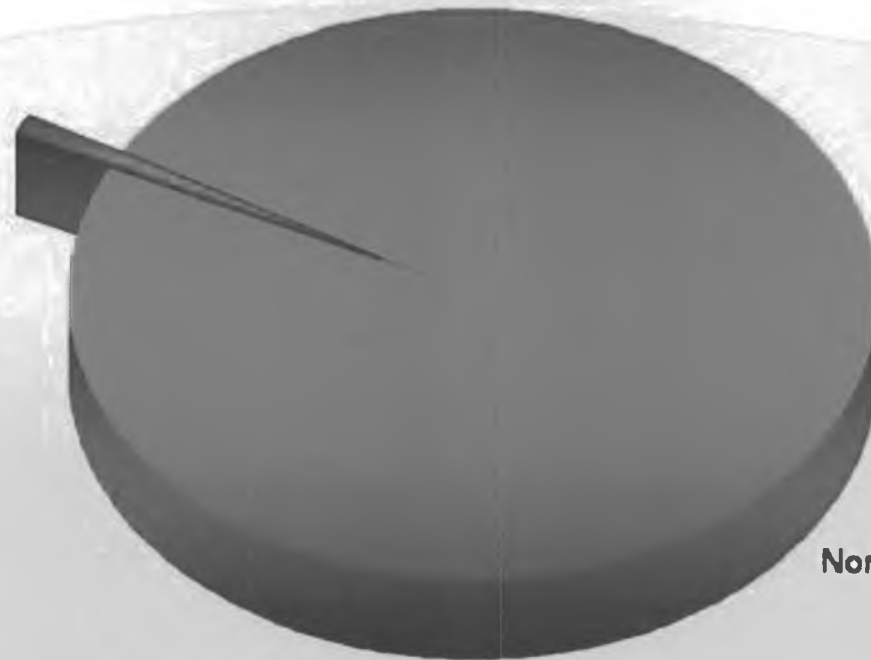
Arrests by Sex



(Federal Bureau of Investigation, 2005)

Arrests by Offense Type

Sex offenses
< 1%



Non-sex offenses
> 99%

(Federal Bureau of Investigation, 2005)

Convicted Sex Offenders

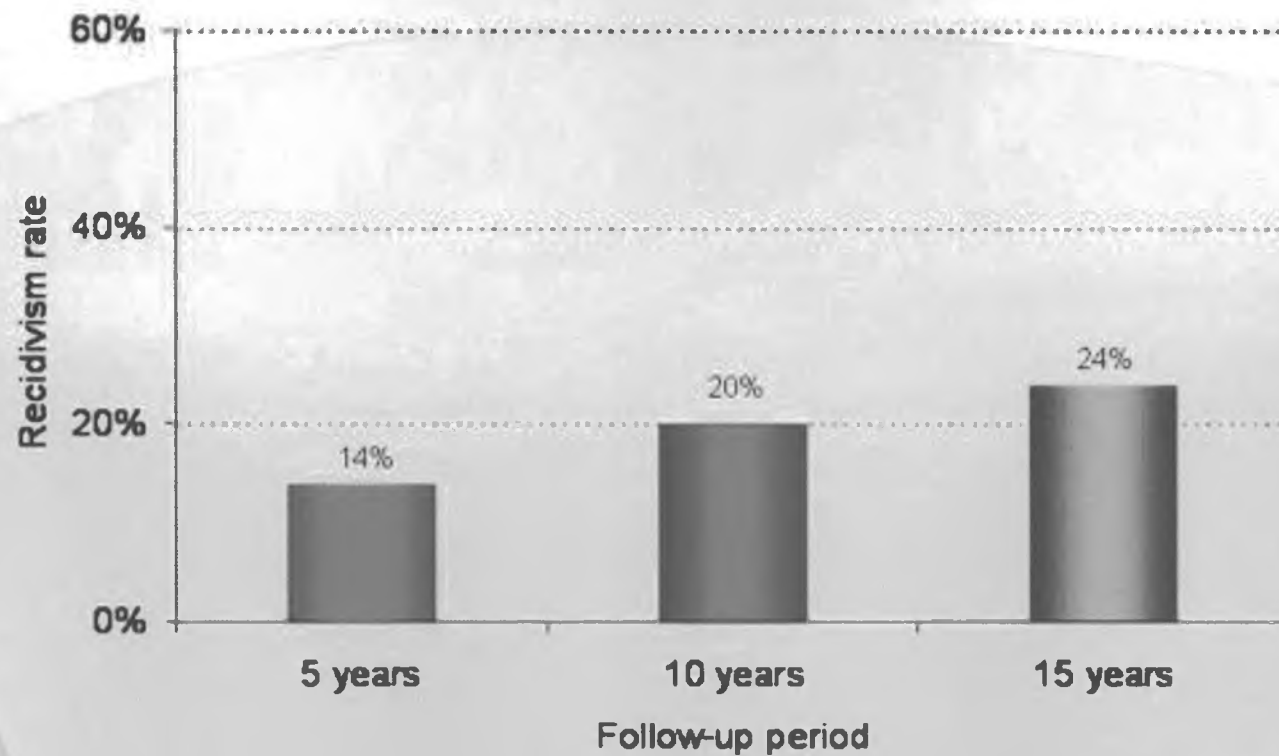
- **Comprise 10 to 30% of our prison populations**
- **150,000 incarcerated throughout the country**
- **170,000 are under the authority of correctional agencies**

(Bynum, Huebner, & Burgess-Proctor, 2002; Glaze & Palla, 2005; Greenfeld, 1997; Harrison & Beck, 2003, 2006)

Undetected Offenses

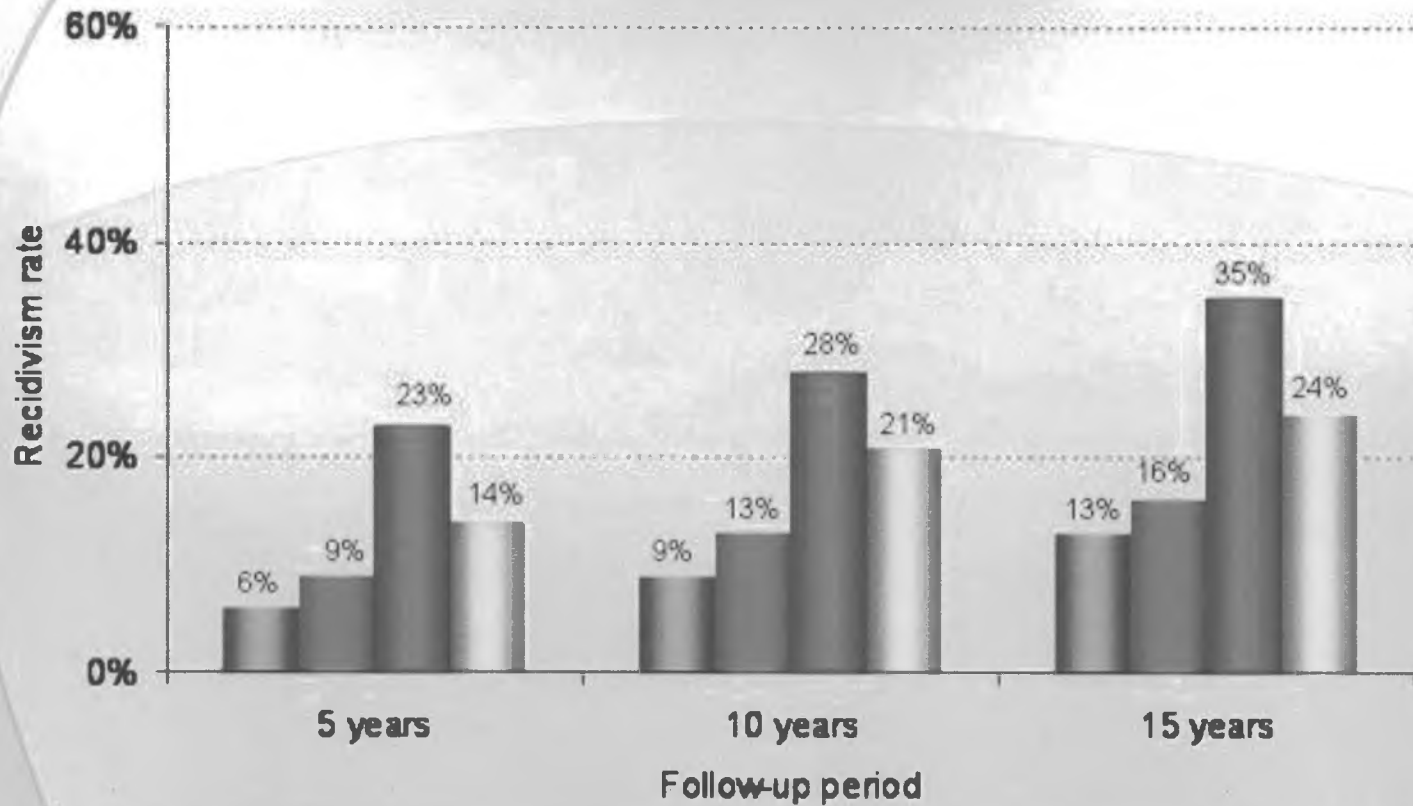
- **Sex crimes for which offenders are arrested may not be their first or only crime.**
- **Crossover potential exists also:**
 - **Some incest offenders may offend outside the family.**
 - **Some non-incest offenders may offend within the family.**
 - **Some child molesters may rape adults.**
 - **Some rapists may molest children.**

Observed Recidivism Rates Over Time



(Harris & Hanson, 2004)

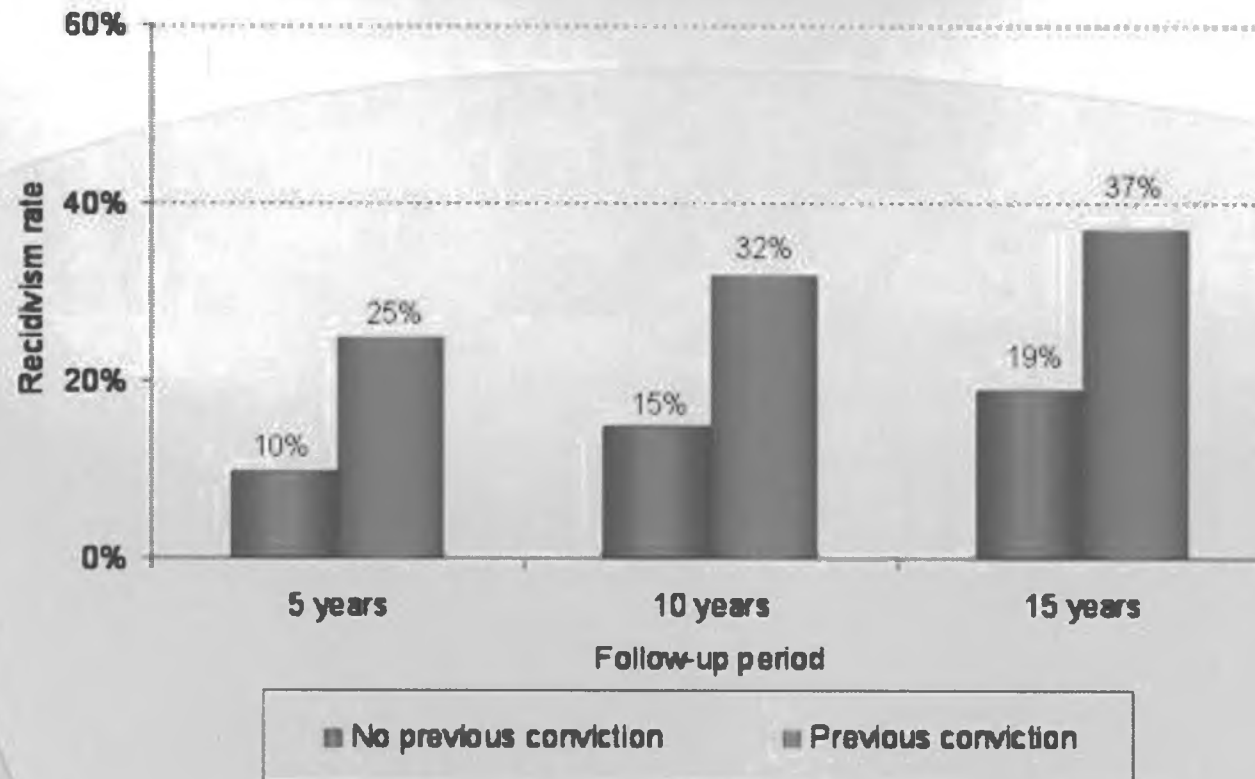
Recidivism Rates by Type of Sex Offender



■ Incest offenders ■ Extrafamilial molesters of girls
■ Extrafamilial molesters of boys ■ Rapists of adults

(Harris & Hanson, 2004)

Recidivism Rates: Previous Conviction vs. No Previous Conviction



(Harris & Hanson, 2004)

27-LS1197M
Gardner
2/23/12

CS FOR HOUSE BILL NO. 278()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE PETERSEN

tabled

A BILL

FOR AN ACT ENTITLED

1 **"An Act allowing as a condition of probation for a defendant convicted of certain sex**
2 **offenses a prohibition against the defendant's residing at a residence where outdoor**
3 **recreational equipment suitable for use by children under 16 years of age is located on**
4 **the property."**

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

6 *** Section 1.** AS 12.55.100(e) is amended to read:

7 (e) In addition to other conditions imposed on the defendant, while on
8 probation and as a condition of probation

9 (1) for a sex offense, as described in AS 12.63.100, the defendant

10 (A) shall be required to submit to regular periodic polygraph
11 examinations;

12 (B) may be required to provide each electronic mail address,
13 instant messaging address, and other Internet communication identifier that the
14 defendant uses to the defendant's probation officer; the probation officer shall

1 forward those addresses and identifiers to the Alaska state troopers and to the
2 local law enforcement agency;

3 (2) if the defendant was convicted of a violation of AS 11.41.434 -
4 11.41.455, AS 11.61.125 - 11.61.128, or a similar offense in another jurisdiction, the
5 defendant may be required to refrain from

6 (A) using or creating an Internet site;

7 (B) communicating with children under 16 years of age;

8 (C) possessing or using a computer;

9 **(D) installing outdoor recreational equipment suitable for**
10 **use by children under 16 years of age on the defendant's property or at**
11 **the defendant's residence;** or

12 **(E)** [(D)] residing within 500 feet of school grounds; in this
13 subparagraph, "school grounds" has the meaning given in AS 11.71.900.

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

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REP. WES KELLER
REP. LANCE PRUITT
REP. LINDSEY HOLMES
REP. MAX GRUENBERG



STATE CAPITOL BUILDING, RM 120
JUNEAU, AK 99801-1182
PHONE: 907-465-4990
FAX: 907-465-2381
HOUSE_JUDICIARY@LEGIS.STATE.AK.US

JUDICIARY COMMITTEE
REPRESENTATIVE CARL GATTO, CHAIR

DATE: February 24, 2012
TO: Suzie Lowell, Chief Clerk
Alaska House of Representatives
FROM: Representative Carl Gatto, Chair
House Judiciary Committee
RE: House Judiciary Committee Agenda

Monday, February 27, 2012 at 1:00 p.m. in Room 120

*+HB 278 SEX OFFENDER PROBATION CONDITIONS

Heard + Held

Bills Previously Heard:

+HB 221 PUBLIC DEFENDER APPOINTMENT PROCEDURES

R.O



February 27, 2012

The Honorable Carl Gatto, Chair
The Honorable Steve Thompson, Vice-Chair
House Judiciary Committee
Alaska House of Representatives
Juneau, AK 99801

via email: [Representative Carl Gatto@legis.state.ak.us](mailto:Representative_Carl_Gatto@legis.state.ak.us)
[Representative Steve Thompson@legis.state.ak.us](mailto:Representative_Steve_Thompson@legis.state.ak.us)

AMERICAN CIVIL
LIBERTIES UNION OF
ALASKA
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Anchorage, AK 99503
(907) 258-0044
(907) 258-0288 (fax)
WWW.AKCLU.ORG

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STEPHANIE PAWLOWSKI, Anchorage
JUNE PINNELL-STEPHENS, Fairbanks
NADINE WINTERS, Fairbanks

ZACH FICK, Anchorage
STUDENT ADVISOR

Re: **House Bill 278**
ACLU Review of Legal Issues

Chair Gatto, Vice-Chair Thompson:

Thank you for the opportunity to submit written testimony regarding House Bill 278, relating to the conditions of probation.

The American Civil Liberties Union of Alaska represents thousands of members and activists throughout the State of Alaska who seek to preserve and expand individual freedoms and civil liberties guaranteed under the United States and Alaska Constitutions.

HB 278, as proposed, would allow and encourage the imposition of parole and probation conditions prohibiting certain sex offenders from "residing at a residence where outdoor recreational equipment suitable for use by children under 16 years of age is located on the property." We have several concerns with the proposed legislation, outlined in greater detail below, and urge a Do Not Pass vote by Members of the Committee.

Issues Relating to Housing of Sex Offenders

Fundamentally, HB 278 may be counterproductive in achieving the presumed public safety goals intended. In practice, it is extremely difficult for most sex offenders to obtain housing, whether as a result of being listed on the sex offender registry itself, or owing to a variety of regulations

prohibiting them from accessing public housing or public subsidies for housing that would act as a safety net for others.¹

However, when sex offenders cannot find a fixed residence, the whole purpose of the registry is defeated. Public safety is actually decreased by having a transient population of sex offenders living in shelters and parks. In fact, many sex offenders (and far too many recent criminal offenders generally) are released to homeless shelters, or even to living in the woods and parks in and around large cities like Anchorage, Juneau, and Fairbanks.

The preferred solution would support rehabilitation, which includes getting a job, getting a stable home, and avoiding the misconduct and related factors that led to the offense, which may include drugs or alcohol. Without having a stable home, it is difficult to keep a job or stay sober.

Unfortunately, the current bill would force many sex offenders from their homes and disrupt the rehabilitation process.

**The Proposed Bill Would Leave Many Renters With
No Option But to Move Out of Difficult-to-Obtain Housing**

HB 278 would allow parole and probation conditions prohibiting sex offenders from residing at locations with children’s recreational equipment on the property. However, a sex offender renting a property may have no control over whether there is recreational equipment on the property. If a sex offender is currently renting a home with a swing set in the backyard, his only option will be to move out, with no guarantee that he will find new housing. Most landlords would not permit a tenant to demolish a fixed part of the property that increases the property’s value. This bill will simply be another factor in the continuing cycle of homelessness for sex offenders, a cycle which inhibits rehabilitation and thwarts public safety.

The Bill also would allow prohibitions on sex offenders from living where recreational equipment is “on the property,” which on its face could prohibit a sex offender from living in an apartment building or complex where any playground equipment lies, even if the equipment is distant from the offenders actual apartment. In such a circumstance, the offender will again have little choice but to move out of the premises; a large apartment complex is not going to demolish its playground equipment simply for the benefit of one resident.

///

///

1. This occurs, despite the fact that sex offenders, relative to other criminal offenders, actually have a lower recidivism rate than other offenders. Alaska Judicial Council, *Criminal Recidivism in Alaska*, at 4 (2007) (showing that property offenders were rearrested at a 67% rate; violent crime offenders at a 60% rate; drug offenders at a 52% rate; and sex offenders at a 39% rate).

**A Balance of Public Safety Interests Would Limit the Scope of the
Bill to Recreational Equipment Within the Control of the Sex Offender**

The problems outlined above all reflect situations under the proposed bill in which the sex offender's only option would be to move out. A narrower bill that limited its reach only to circumstances where the sex offender has control over the recreational equipment would be more reasonable, and avoid leaving sex offenders with no choice but moving from a home. A bill which allowed probation and parole conditions prohibiting sex offenders from *installing* recreational equipment on their property would focus, appropriately, on the conduct of the sex offender, rather than punishing those who happen to live at a location where recreational equipment is present.

**The Discretionary Nature of the Conditions Will Not Lead to
Individualized Enforcement in an Already Overloaded Justice System**

The probation and parole conditions are theoretically discretionary and not mandatory. And if case loads allowed, a responsive probation/parole officer could take the time to carefully review each case, and craft specific conditions to the individual probationer or parolee's circumstances to avoid these problems. Unfortunately, parole and probation officers supervise large numbers of parolees and probationers.² And some parole and probation officers do not see their function as helping parolees or probationers rehabilitate themselves; some see their function as waiting to "catch" the parolee or probationer to return them to prison. In such an environment, expecting officers to enforce conditions of release in ways narrowly tailored to each instance is unreasonable.

Most likely, this condition will be imposed on most or all of the probationers and parolees falling within its scope and enforced with little consideration of individual circumstances. Such enforcement will lead to increased homelessness, increased instability for probationers and parolees, an increased risk of reoffending, and diminish public safety. No evidence has been put forward as to the frequency by which sex offenders use such equipment to lure children, or how many offenders would be displaced by such a policy.

Conclusion

For the reasons above, the ACLU urges the committee to reject HB 278.

2. Roughly 100 probation and parole agents supervise almost 6,000 probationers and parolees. Alaska Department of Corrections, *Offender Profile 2010*, at 62 (showing 5797 probationers or parolees in 2010); State of Alaska, *FY2013 Governor's Operating Budget, Department of Corrections Statewide Probation and Parole Component Budget Summary* at 6 (showing 107 probation/parole agent positions).

House Judiciary Committee
H.B. 278 – Legal Issues
February 27, 2012
Page 4

Please feel free to contact the undersigned should you require any additional information. We are happy to reply to any questions which Members of the Committee may have.

Thank you again for the opportunity to share our concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "J. A. Mittman", with a long horizontal flourish extending to the right.

Jeffrey Mittman
Executive Director
ACLU of Alaska

cc: Representative Wes Keller, [Representative Wes Keller@legis.state.ak.us](mailto:Representative_Wes_Keller@legis.state.ak.us)
Representative Bob Lynn, [Representative Bob Lynn@legis.state.ak.us](mailto:Representative_Bob_Lynn@legis.state.ak.us)
Representative Lance Pruitt, [Representative Lance Pruitt@legis.state.ak.us](mailto:Representative_Lance_Pruitt@legis.state.ak.us)
Representative Max Gruenberg, [Representative Max Gruenberg@legis.state.ak.us](mailto:Representative_Max_Gruenberg@legis.state.ak.us)
Representative Lindsey Holmes, [Representative Lindsey Holmes@legis.state.ak.us](mailto:Representative_Lindsey_Holmes@legis.state.ak.us)
Representative Mike Hawker, [Representative Mike Hawker@legis.state.ak.us](mailto:Representative_Mike_Hawker@legis.state.ak.us)

27-LS1197\M
Gardner
2/23/12

CS FOR HOUSE BILL NO. 278()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE PETERSEN

*"fabled"
2-27-12*

A BILL

FOR AN ACT ENTITLED

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14 defendant uses to the defendant's probation officer; the probation officer shall

1 forward those addresses and identifiers to the Alaska state troopers and to the
2 local law enforcement agency;

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4 11.41.455, AS 11.61.125 - 11.61.128, or a similar offense in another jurisdiction, the
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12 **(E)** [(D)] residing within 500 feet of school grounds; in this
13 subparagraph, "school grounds" has the meaning given in AS 11.71.900.

Alaska State Legislature

State Capitol, Suite 422
Juneau, AK 99801-1182
Phone: 465-4939
Fax: 465-2418
Toll Free: (800) 465-4939
Representative_Pete_Petersen@legis.state.ak.us



716 W. 4th Ave, Suite 380
Anchorage, AK 99501-2133
Phone: 269-0265
Fax: 269-0264

Representative Pete Petersen
Serving Northeast Anchorage and Muldoon

List of Invited Testimony

February 24, 2012

To: Rep. Carl Gatto
Chair, House Judiciary Committee

From: Rep. Pete Petersen

Re: List of Invited Testimony

Please see the following list of individuals that we have invited to testify on HB 278.

Nancy Meade, Alaska Court System
Carmen Gutierrez, Department of Corrections
Susan Sullivan, Victims for Justice

Please feel free to contact me, or my aide Monica Southworth, at 465-4939 with any questions, thoughts, or ideas.

Alaska State Legislature

State Capitol, Suite 422
Juneau, AK 99801-1182
Phone: 465-4939
Fax: 465-2418
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Representative_Pete_Petersen@legis.state.ak.us



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Anchorage, AK 99501-2133
Phone: 269-0265
Fax: 269-0264

Representative Pete Petersen
Serving Northeast Anchorage and Muldoon

Memorandum

January 17, 2012

To: Rep. Carl Gatto
Chair, House Judiciary Committee

From: Rep. Pete Petersen

Handwritten initials "PP" in black ink.

Re: Hearing Request for House Bill 278

I respectfully request that House Bill 278 be scheduled for a hearing in the House Judiciary Committee. Please feel free to contact me or my aide, Monica Southworth, at 465-4939 with any thoughts, questions, or ideas.

Attached you will find a background packet for House Bill 278 including the current version of the bill, a sponsor statement, support information, and support letters.

Thank you for your consideration.