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Source
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Chapter No.
106

AN ACT

Relating to criminal records; relating to notice about and registration of sex offenders and child kidnapers; and amending Rules 11(c) and 32(c), Alaska Rules of Criminal Procedure; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: June 17, 1998
Actual Effective Date: January 1, 1999

AN ACT

1 Relating to criminal records; relating to notice about and registration of sex offenders and
2 child kidnappers; and amending Rules 11(c) and 32(c), Alaska Rules of Criminal Procedure;
3 and providing for an effective date.

4

5 * Section 1. AS 11.56 is amended by adding a new section to read:

6 **Sec. 11.56.835. Failure to register as a sex offender or child kidnapper in**
7 **the first degree.** (a) A person commits the crime of failure to register as a sex
8 offender or child kidnapper in the first degree if the person violates AS 11.56.840

9 (1) and the person has been previously convicted of a crime under this
10 section or AS 11.56.840 or a law or ordinance of this or another jurisdiction with
11 elements similar to a crime under this section or AS 11.56.840; or

12 (2) with intent to escape detection or identification and, by escaping
13 detection or identification, to facilitate the person's commission of a sex offense or
14 child kidnapping.

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(b) In a prosecution under (a)(2) of this section, the fact that the defendant, for a period of at least one year, failed to register as a sex offender or child kidnapper, failed to file the annual or quarterly written verification or changed the sex offender's or child kidnapper's address and did not file the required notice of change of address, is prima facie evidence that the defendant intended to escape detection or identification and, by escaping detection or identification, to facilitate the person's commission of a sex offense or child kidnapping.

(c) In this section, "child kidnapping" and "sex offense" have the meanings given in AS 12.63.100.

(d) Failure to register as a sex offender or child kidnapper in the first degree is a class C felony.

* Sec. 2. AS 11.56.840 is amended to read:

Sec. 11.56.840. Failure to register as a sex offender or child kidnapper in the second degree. (a) A person commits the crime of failure to register as a sex offender or child kidnapper in the second degree if the person [WHO] knowingly fails to (1) register, (2) file the written notice of change of address, [OR] (3) file the annual or quarterly written verification, or (4) supply all of the information required to be submitted under (1) - (3) of this subsection [NOTICE OR STATEMENT], as required in AS 12.63.010.

(b) Failure to register as a sex offender or child kidnapper in the second degree is [, IS GUILTY OF] a class A misdemeanor.

* Sec. 3. AS 12.55.135(e) is amended to read:

- (e) If a defendant is sentenced under (c), [OR] (d), or (g) of this section,
- (1) execution of sentence may not be suspended and probation or parole may not be granted until the minimum term of imprisonment has been served;
 - (2) imposition of a sentence may not be suspended except upon condition that the defendant be imprisoned for no less than the minimum term of imprisonment provided in the section; and
 - (3) the minimum term of imprisonment may not otherwise be reduced.

* Sec. 4. AS 12.55.135 is amended by adding a new subsection to read:

- (g) A defendant convicted of failure to register as a sex offender or child

1 kidnapper in the second degree under AS 11.56.840 shall be sentenced to a minimum
2 term of imprisonment of 35 days.

3 * Sec. 5. AS 12.55.148 is amended to read:

4 **Sec. 12.55.148. Judgment for sex offenses or child kidnappings.** (a) When
5 a defendant is convicted of a sex offense **or child kidnapping** by a court of this state,
6 the written judgment must set out the requirements of AS 12.63.010 **and, if it can be**
7 **determined by the court, whether that conviction will require the offender or**
8 **kidnapper to register for life or a lesser period under AS 12.63.**

9 (b) In this section, "sex offense" **and "child kidnapping"** **have** [HAS] the
10 **meanings** [MEANING] given in AS 12.63.100.

11 * Sec. 6. AS 12.62.900(23) is amended to read:

12 (23) "serious offense" means a conviction **for a violation or for an**
13 **attempt, solicitation, or conspiracy to commit a violation** [FOR A FELONY
14 OFFENSE, A CRIME INVOLVING DOMESTIC VIOLENCE, OR A VIOLATION
15 OR ATTEMPTED VIOLATION] of any of the following laws, or of the laws of
16 another jurisdiction with substantially similar elements:

17 (A) **a felony offense;**

18 (B) **a crime involving domestic violence;**

19 (C) AS 11.41.410 - 11.41.470;

20 (D) **AS 11.51.130** [(B) AS 11.51.130(a)(1) - (3)];

21 (E) [(C)] AS 11.61.110(a)(7) **or 11.61.125;**

22 (F) [(D)] AS 11.66.100 - 11.66.130; or

23 (G) **former AS 11.15.120, former 11.15.134, or assault with**
24 **the intent to commit rape under former AS 11.15.160;**

25 (H) [(E)] former AS 11.40.080, 11.40.110, 11.40.130, or
26 11.40.200 - 11.40.420, if committed before January 1, 1980;

27 * Sec. 7. AS 12.63.010(a) is amended to read:

28 (a) A sex offender **or child kidnapper** who is physically present in the state
29 shall register as provided in this section. The sex offender **or child kidnapper** shall
30 register [WITHIN]

31 (1) **within the 30-day period before** [SEVEN DAYS OF] release from

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1 an in-state correctional facility;

2 (2) by the next working day following [SEVEN DAYS OF]
3 conviction for a sex offense or child kidnapping if the sex offender is not
4 incarcerated at the time of conviction [SENTENCED TO A TERM OF
5 INCARCERATION]; or

6 (3) by the next working day [14 DAYS] of becoming physically
7 present in the state [, EXCEPT THE SEX OFFENDER SHALL REGISTER WITHIN
8 SEVEN DAYS OF BECOMING PHYSICALLY PRESENT IN THE STATE IF THE
9 SEX OFFENDER

10 (A) IS A PROBATIONER OR PAROLEE BEING
11 SUPERVISED BY THE STATE AS THE RECEIVING STATE UNDER
12 AS 33.36.110 - 33.36.120; OR

13 (B) HAS BEEN RELEASED FROM AN OUT-OF-STATE
14 CORRECTIONAL FACILITY WHERE THE SEX OFFENDER WAS
15 SERVING A TERM OF INCARCERATION FOR A SEX OFFENSE
16 CONVICTION IN THIS STATE].

17 * Sec. 8. AS 12.63.010(b) is amended to read:

18 (b) A sex offender or child kidnapper required to register under (a) of this
19 section shall register with the Department of Corrections if the sex offender or
20 child kidnapper is incarcerated or in person at the Alaska state trooper post or
21 municipal police department located nearest to where the sex offender or child
22 kidnapper resides at the time of registration. To fulfill the registration requirement,
23 the sex offender or child kidnapper shall

24 (1) complete a registration form that includes, at a minimum,

25 (A) the sex offender's or child kidnapper's name, address,
26 place of employment, date of birth;

27 (B) [,] each conviction for a sex offense or child kidnapping
28 for which the duty to register has not terminated under AS 12.63.020, date of
29 sex offense or child kidnapping convictions, place and court of sex offense
30 or child kidnapping convictions, whether the sex offender or child
31 kidnapper has been unconditionally discharged from the conviction for a

1 sex offense or child kidnapping and the date of the unconditional
2 discharge; if the sex offender or child kidnapper asserts that the offender
3 or kidnapper has been unconditionally discharged, the offender or
4 kidnapper shall supply proof of that discharge acceptable to the
5 department;

6 (C) all aliases used;

7 (D) [, AND] driver's license number;

8 (E) description, license numbers, and vehicle identification
9 numbers of motor vehicles the sex offender or child kidnapper has access
10 to regardless of whether that access is regular or not;

11 (F) any identifying features of the sex offender or child
12 kidnapper;

13 (G) anticipated changes of address; and

14 (H) a statement concerning whether the offender or
15 kidnapper has had treatment for a mental abnormality or personality
16 disorder since the date of conviction for an offense requiring registration
17 under this chapter;

18 (2) allow the Alaska state troopers, Department of Corrections, or
19 municipal police to take a complete set of the sex offender's or child kidnapper's
20 fingerprints and to take the sex offender's or child kidnapper's photograph.

21 * **Sec. 9.** AS 12.63.010(c) is amended to read:

22 (c) If a sex offender or child kidnapper changes residence [WITHIN THE
23 STATE] after having registered under (a) of this section, the sex offender or child
24 kidnapper shall provide written notice of the change by the next working day
25 following the change to the Alaska state trooper post or municipal police department
26 located nearest to the new residence or, if the residence change is out of state, to the
27 central registry [WITHIN 10 DAYS OF THE CHANGE].

28 * **Sec. 10.** AS 12.63.010(d) is amended to read:

29 (d) A sex offender or child kidnapper required to register
30 (1) for 15 years under (a) of this section and AS 12.63.020(a)(2) shall,
31 annually, during the term of a duty to register under AS 12.63.020, on a date set by

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1 the department at the time of the sex offender's or child kidnapper's initial
2 registration, provide written verification [NOTICE] to the department, in the manner
3 required by the department, of the sex offender's or child kidnapper's address
4 and notice of any changes to the information previously [INITIALLY] provided under
5 (b)(1) of this section;

6 (2) for life under (a) of this section and AS 12.63.020(a)(1) shall, not
7 less than quarterly, on a date set by the department, provide written verification
8 to the department, in the manner required by the department, of the sex
9 offender's or child kidnapper's address and any changes to the information
10 previously provided under (b)(1) of this section [, OR IF THERE ARE NO
11 CHANGES, A STATEMENT TO THAT EFFECT].

12 * Sec. 11. AS 12.63.010 is amended by adding a new subsection to read:

13 (f) The registration form required to be submitted under (b) of this section and
14 the annual or quarterly verifications must be sworn to by the offender or kidnapper and
15 contain an admonition that a false statement shall subject the offender or kidnapper to
16 prosecution for perjury.

17 * Sec. 12. AS 12.63.020 is amended to read:

18 **Sec. 12.63.020. Duration of sex offender or child kidnapper duty to**
19 **register.** (a) The duty of a sex offender or child kidnapper to comply with the
20 requirements of AS 12.63.010 for each sex offense or child kidnapping

21 (1) continues for the lifetime of a sex offender or child kidnapper
22 convicted of

23 (A) one aggravated sex offense; or

24 (B) two or more sex offenses, two or more child kidnappings,
25 or one sex offense and one child kidnapping;

26 (2) ends 15 years following the sex offender's or child kidnapper's
27 unconditional discharge from a conviction for a single sex offense that is not an
28 aggravated sex offense or for a single child kidnapping if the sex offender or child
29 kidnapper has supplied proof that is acceptable to the department of the
30 unconditional discharge; the registration period under this paragraph

31 (A) is tolled for each year that a sex offender or child

1 kidnapper

2 (i) fails to comply with the requirements of this
3 chapter;

4 (ii) is incarcerated for the offense or kidnapping for
5 which the offender or kidnapper is required to register or for any
6 other offense;

7 (B) may include the time a sex offender or child kidnapper
8 was absent from this state if the sex offender or child kidnapper has
9 complied with any sex offender or child kidnapper registration
10 requirements of the jurisdiction in which the offender or kidnapper was
11 located and if the sex offender or child kidnapper provides the department
12 with proof of the compliance while the sex offender or child kidnapper was
13 absent from this state; and

14 (C) continues for a sex offender or child kidnapper who has
15 not supplied proof acceptable to the department of the offender's or
16 kidnapper's unconditional discharge for the sex offense or child
17 kidnapping requiring registration.

18 (b) The department shall adopt, by regulation, procedures to notify a sex
19 offender or child kidnapper who, on the registration form under AS 12.63.010, lists
20 a conviction for a sex offense or child kidnapping that is a violation of a former law
21 of this state or a law of another jurisdiction, of the duration of the offender's or
22 kidnapper's duty under (a) of this section for that sex offense or child kidnapping.
23 As a part of the regulations, the department shall require the offender or
24 kidnapper to supply proof acceptable to the department of unconditional
25 discharge and the date it occurred.

26 * Sec. 13. AS 12.63 is amended by adding a new section to read:

27 **Sec. 12.63.030. Notification of other jurisdictions.** (a) If a sex offender or
28 child kidnapper notifies the department that the sex offender or child kidnapper is
29 moving from the state, the department shall notify the Federal Bureau of Investigation
30 and the state where the sex offender or child kidnapper is moving of the sex offender's
31 or child kidnapper's intended address.

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1 (b) If a sex offender or child kidnapper fails to register or to verify the sex
2 offender's or child kidnapper's address and registration under this chapter, or the
3 department does not know the location of a sex offender or child kidnapper required
4 to register under this chapter, the department shall immediately notify the Federal
5 Bureau of Investigation.

6 * Sec. 14. AS 12.63.100(2) is amended to read:

7 (2) "sex offender or child kidnapper" means a person convicted of a
8 sex offense or child kidnapping in this state or another jurisdiction regardless of
9 whether the conviction occurred before, after, or on the effective date of this Act
10 [AUGUST 10, 1994];

11 * Sec. 15. AS 12.63.100(3) is amended to read:

12 (3) "sex offense" means a crime, or an attempt, solicitation, or
13 conspiracy to commit a crime, under the following statutes or a similar law of
14 another jurisdiction:

15 (A) AS 11.41.410 - 11.41.438, 11.41.440(a)(2), 11.41.450, or
16 11.41.455;

17 (B) [,] AS 11.61.125;

18 (C) [,] AS 11.66.110 or 11.66.130(a)(2) if the person who was
19 induced or caused to engage in prostitution was 16 or 17 years of age at
20 the time of the offense; or

21 (D) [,] former AS 11.15.120, former [OR] 11.15.134, or
22 assault with the intent to commit rape under former AS 11.15.160, [OR]
23 former AS 11.40.110, or 11.40.200 [, OR A SIMILAR LAW IN ANOTHER
24 JURISDICTION];

25 * Sec. 16. AS 12.63.100 is amended by adding new paragraphs to read:

26 (5) "aggravated sex offense" means a crime, or an attempt, solicitation,
27 or conspiracy to commit a crime, under AS 11.41.410, 11.41.434, or a similar law of
28 another jurisdiction;

29 (6) "child kidnapping" means a crime or an attempt, solicitation, or
30 conspiracy to commit a crime, under AS 11.41.300, or a similar law of another
31 jurisdiction, if the victim was under 18 years of age at the time of the offense.

1 * Sec. 17. AS 18.65.087(a) is amended to read:

2 (a) The Department of Public Safety shall maintain a central registry of sex
3 offenders and child kidnappers [REQUIRED TO REGISTER UNDER AS 12.63.010]
4 and shall adopt regulations necessary to carry out the purposes of this section and
5 AS 12.63. A post of the Alaska state troopers or a municipal police department that
6 receives registration or change of address information under AS 12.63.010 shall
7 forward the information within five working days of receipt to the central registry of
8 sex offenders and child kidnappers. Unless the sex offender or child kidnapper
9 provides proof satisfactory to the department that the sex offender or child
10 kidnapper is not physically present in the state or that the time limits described
11 in AS 12.63.010 have passed, the Department of Public Safety may enter and
12 maintain in the registry information described in AS 12.63.010 about a sex
13 offender or child kidnapper that the department obtains from

14 (1) the sex offender or child kidnapper under AS 12.63;

15 (2) a post of the Alaska state troopers or a municipal police
16 department under (a) of this section;

17 (3) a court judgment under AS 12.55.148;

18 (4) the Department of Corrections under AS 33.30.012 or 33.30.035;

19 (5) the Federal Bureau of Investigation or another sex offender
20 registration agency outside this state if the information indicates that a sex
21 offender or child kidnapper is believed to be residing or planning to reside in the
22 state or cannot be located;

23 (6) a criminal justice agency in the state or another jurisdiction;

24 (7) the department's central repository under AS 12.62; information
25 entered in the registry from the repository is not subject to the requirements of
26 AS 12.62.160(c)(3) or (4); or

27 (8) another reliable source as defined in regulations adopted by the
28 department.

29 * Sec. 18. AS 18.65.087(b) is amended to read:

30 (b) Information about a sex offender or child kidnapper that is contained in
31 the central registry, including sets of fingerprints, is confidential and not subject to

1 public disclosure except as to the sex offender's or child kidnapper's name, aliases,
2 address, photograph, physical description, description of motor vehicles, license
3 numbers of motor vehicles, and vehicle identification numbers of motor vehicles,
4 place of employment, date of birth, crime for which convicted, date of conviction,
5 place and court of conviction, [AND] length and conditions of sentence, and a
6 statement as to whether the offender or kidnapper is in compliance with
7 requirements of AS 12.63 or cannot be located.

8 * Sec. 19. AS 18.65.087(d) is amended to read:

9 (d) The Department of Public Safety

10 (1) shall adopt regulations to

11 (A) allow a sex offender or child kidnapper to review sex
12 offender or child kidnapper registration information that refers to that sex
13 offender or child kidnapper, and if the sex offender or child kidnapper
14 believes the information is inaccurate or incomplete, to request the department
15 to correct the information; if the department finds the information is inaccurate
16 or incomplete, the department shall correct or supplement the information;

17 (B) ensure the appropriate circulation to law enforcement
18 agencies of information contained in the central registry;

19 (C) ensure the anonymity of members of the public who
20 request information under this section;

21 (2) shall provide to the Department of Corrections and municipal
22 police departments the forms and directions necessary to allow sex offenders and child
23 kidnappers to comply with AS 12.63.010;

24 (3) may adopt regulations to establish fees to be charged for registration
25 under AS 12.63.010 and for information requests; the fee for registration shall be based
26 upon the actual costs of performing the registration and maintaining the central registry
27 but may not be set at a level whereby registration is discouraged; the fee for an
28 information request may not be greater than \$10;

29 (4) shall remove from the central registry of sex offenders and child
30 kidnappers under this section information about a sex offender or child kidnapper
31 required to register under AS 12.63.020(a)(2) at the end of the sex offender's or child

1 kidnapper's duty to register if the offender or kidnapper has not been convicted of
2 another sex offense or child kidnapping and the offender or kidnapper has
3 supplied proof of unconditional discharge acceptable to the department; in this
4 paragraph, "sex offense" and "child kidnapping" have [HAS] the meanings
5 [MEANING] given in AS 12.63.100.

6 * **Sec. 20.** AS 18.65.087 is amended by adding new subsections to read:

7 (e) The name, address, and other identifying information of a member of the
8 public who makes an information request under this section is not a public record
9 under AS 09.25.100 - 09.25.220.

10 (f) When a sex offender or child kidnapper registers under AS 12.63, the
11 Department of Public Safety shall make reasonable attempts to verify that the sex
12 offender or child kidnapper is residing at the registered address. Reasonable attempts
13 at verifying an address include sending certified mail, return receipt requested, to the
14 offender or kidnapper at the registered address. The department shall make reasonable
15 efforts to locate an offender or kidnapper who cannot be located at the registered
16 address.

17 (g) The department, at least quarterly, shall compile a list of those persons
18 with a duty to register under AS 12.63.010 who have failed to register, whose
19 addresses cannot be verified under (f) of this section, or who otherwise cannot be
20 located. The department shall post this list on the Internet and request the public's
21 assistance in locating these persons.

22 * **Sec. 21.** AS 33.30.012 is amended to read:

23 **Sec. 33.30.012. Notice of release, parole, community placement, work**
24 **release placement, furlough, or escape of sex offender or child kidnapper.** (a)
25 **Within 30 [AT THE EARLIEST POSSIBLE DATE, AND IN NO EVENT LATER**
26 **of a sex offender or child kidnapper with a duty to**
27 **register under AS 12.63, the commissioner shall complete the registration of the sex**
28 **or child kidnapper if the offender or kidnapper has not previously**
29 **registered. The commissioner shall take the sex offender's or child kidnapper's**
30 **photograph, and determine if legible fingerprints of the sex offender or child**
31 **kidnapper have been previously provided to the Department of Public Safety; if**

1 legible fingerprints for the sex offense or child kidnapping have not previously
2 been provided to the Department of Public Safety, the commissioner shall obtain
3 the sex offender's or child kidnapper's fingerprints in the manner required by the
4 Department of Public Safety and shall immediately forward the fingerprints to the
5 department. When completing the registration or taking the photograph under
6 this subsection, the commissioner shall also send written notice of release, parole,
7 community placement, work release placement, or furlough of a sex offender or child
8 kidnapper [SPECIFIC INMATE CONVICTED OF A SEX OFFENSE] to:

9 (1) the chief of police of the community, if any, in which the inmate
10 will reside;

11 (2) the Alaska state trooper post located nearest to where the inmate
12 will reside; [AND]

13 (3) the village public safety officer of the rural community without a
14 municipal police department or Alaska state trooper post in which the inmate will
15 reside; and

16 (4) the central registry of sex offenders and child kidnappers.

17 (b) If an inmate convicted of a sex offense or child kidnapping escapes from
18 a correctional facility, the commissioner shall immediately notify the Department of
19 Public Safety and the chief of police of the community and the Alaska state trooper
20 post located closest to where the inmate resided immediately before the inmate's arrest
21 and conviction.

22 * Sec. 22. AS 33.30.035 is amended to read:

23 Sec. 33.30.035. Notice to sex offenders or child kidnappers of registration
24 and other requirements [REQUIREMENT]. The department shall provide written
25 notice to a sex offender or child kidnapper of the registration, verification, and
26 change of address requirements of AS 12.63.010 [,] and shall obtain a written
27 [SIGNED ACKNOWLEDGMENT OF] receipt of notice from the sex offender or
28 child kidnapper (1) at the time of the sex offender's or child kidnapper's release
29 from a state correctional facility; (2) immediately after taking supervision of a sex
30 offender or child kidnapper under the Interstate Corrections Compact or
31 AS 33.36.110. The department shall forward the written receipt to the

1 Department of Public Safety, along with a description of any identifying features
2 of the offender or kidnapper, the anticipated address of the offender or
3 kidnapper, and a statement concerning whether the offender or kidnapper has
4 received treatment for the offender's or kidnapper's mental abnormality or
5 personality disorder related to the sex offense or child kidnapping. In this
6 section, "sex offense" and "child kidnapping" have the meanings given in
7 AS 12.63.100.

8 * Sec. 23. AS 33.30.901(13) is amended to read:

9 (13) "sex offender or child kidnapper," "sex offense," and "child
10 kidnapping" have [" HAS] the meanings [MEANING] given in AS 12.63.100; [.]

11 * Sec. 24. COURT RULES. (a) The provisions of AS 12.55.148, as amended by sec. 5
12 of this Act, have the effect of changing Rules 11(c) and 32(c), Alaska Rules of Criminal
13 Procedure, relating to judgment and sentences for defendants convicted of sex offenses or
14 child kidnappings.

15 (b) In this section, "sex offense" and "child kidnapping" have the meanings given in
16 AS 12.63.100, as amended by secs. 15 and 16 of this Act.

17 * Sec. 25. APPLICABILITY. (a) A sex offender or child kidnapper with, before the
18 effective date of this Act, (1) one conviction for an aggravated sex offense, (2) two or more
19 convictions for a sex offense or child kidnapping, or (3) one conviction for a child kidnapping
20 and one conviction for a sex offense, regardless of whether the offender or kidnapper has been
21 unconditionally discharged from that conviction or convictions, shall register under
22 AS 12.63.010, as amended by secs. 7 - 11 of this Act, by the 60th day after the effective date
23 of this Act. A sex offender or child kidnapper with only one conviction for a sex offense that
24 is not an aggravated sex offense or only one conviction for a child kidnapping, and who was
25 unconditionally discharged from that offense before July 1, 1984, does not have to register
26 under this Act. A sex offender or child kidnapper with only one conviction for a sex offense
27 that is not an aggravated sex offense or only one conviction for a child kidnapping who was
28 required to register under sec. 12, ch. 41, SLA 1994, shall continue to register as provided by
29 AS 12.63.010, as amended by secs. 7 - 11 of this Act.

30 (b) A conviction for a sex offense or child kidnapping before the effective date of this
31 Act is a sex offense or child kidnapping for purposes of the duration of registration

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1 requirement of AS 12.63.020(a), as amended by sec. 12 of this Act.

2 (c) In this section, "aggravated sex offense," "sex offender or child kidnapper," "sex
3 offense," and "child kidnapping" have the meanings given in AS 12.63.100, as amended by
4 secs. 14 - 16 of this Act.

5 * **Sec. 26.** This Act takes effect January 1, 1999.