



LAWS OF ALASKA

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Source
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Chapter No.
81

AN ACT

Relating to sexual offenses, to those who commit sexual offenses, and to registration of sex offenders; amending Rule 6(r)(2), 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 10, 1998
Actual Effective Date: June 11, 1998

AN ACT

1 Relating to sexual offenses, to those who commit sexual offenses, and to registration of sex
2 offenders; amending Rule 6(r)(2), Alaska Rules of Criminal Procedure; and providing for an
3 effective date.

4

5 * **Section 1.** AS 09.10.060(c) is amended to read:

6 (c) A person who was the victim of sexual abuse may not maintain an action
7 for recovery of damages against the perpetrator of the act or acts of sexual abuse based
8 on the perpetrator's intentional conduct for an injury or condition suffered as a result
9 of the sexual abuse unless the action is commenced within three years. In this
10 subsection, "sexual abuse" means an act committed by the defendant against the
11 plaintiff maintaining the cause of action if the defendant's conduct would have violated
12 a provision of AS 11.41.410 - 11.41.440 or 11.41.450 - 11.41.458 [11.41.450 -
13 11.41.455] at the time it was committed.

14 * **Sec. 2.** AS 09.55.650(c) is amended to read:

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1 (c) In this section, "sexual abuse" means an act committed by the defendant
2 against the plaintiff maintaining the cause of action if the defendant's conduct would
3 have violated a provision of AS 11.41.410 - 11.41.440 or 11.41.450 - 11.41.458
4 [11.41.450 - 11.41.455], former AS 11.15.120, 11.15.134, or 11.15.160, or former
5 AS 11.40.110 at the time it was committed.

6 * Sec. 3. AS 11.41 is amended by adding a new section to read:

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

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

14 (b) Indecent exposure in the first degree is a class C felony.

15 * Sec. 4. AS 11.41.460 is amended to read:

16 **Sec. 11.41.460. Indecent exposure in the second degree.** (a) An offender
17 commits the crime of indecent exposure in the second degree if the offender
18 knowingly [INTENTIONALLY] exposes the offender's genitals in the presence of
19 [TO] another person with reckless disregard for the offensive, insulting, or frightening
20 effect the act may have [ON THAT PERSON].

21 (b) Indecent exposure in the second degree before a person under 16 years
22 of age is a class A misdemeanor. Indecent exposure in the second degree before a
23 person 16 years of age or older is a class B misdemeanor.

24 * Sec. 5. AS 11.61.125(c) is amended to read:

25 (c) Distribution of child pornography is a class B [CLASS C] felony.

26 * Sec. 6. AS 11.61.125 is amended by adding a new subsection to read:

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

1 * Sec. 7. AS 11.61.127(a) is amended to read:

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

6 * Sec. 8. AS 11.61.127(c) is amended to read:

7 (c) Possession of child pornography is a **class C felony** [CLASS A
8 MISDEMEANOR].

9 * Sec. 9. AS 11.61.127 is amended by adding a new subsection to read:

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

15 * Sec. 10. AS 12.10.020(c) is amended to read:

16 (c) Even if the general time limitation has expired, a prosecution under
17 **AS 11.41.410 - 11.41.458** [AS 11.41.410 - 11.41.455], AS 11.66.110 - 11.66.130, or
18 former AS 11.41.430, for an offense committed against a person under the age of 18,
19 may be commenced at any time.

20 * Sec. 11. AS 12.25.030(b) is amended to read:

21 (b) In addition to the authority granted by (a) of this section, a peace officer

22 (1) shall make an arrest under the circumstances described in
23 AS 18.65.530;

24 (2) without a warrant may arrest a person if the officer has probable
25 cause to believe the person has, either in or outside the presence of the officer,

26 (A) committed a crime involving domestic violence, whether the
27 crime is a felony or a misdemeanor; in this subparagraph, "crime involving
28 domestic violence" has the meaning given in AS 18.66.990;

29 (B) committed the crime of violating a protective order in
30 violation of AS 11.56.740; or

31 (C) violated a condition of release imposed under AS 12.30.025

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1 or 12.30.027;

2 (3) without a warrant may arrest a person when the peace officer has
3 reasonable cause for believing that the person has

4 (A) committed a crime under or violated conditions imposed as
5 part of the person's release before trial on misdemeanor charges brought under
6 AS 11.41.270;

7 (B) violated AS 04.16.050 or an ordinance with similar
8 elements; however, unless there is a lawful reason for further detention, a
9 person who is under the age of 18 and who has been arrested for violating
10 AS 04.16.050 or an ordinance with similar elements shall be cited for the
11 offense and released to the person's parent, guardian, or legal custodian; or

12 (C) violated conditions imposed as part of the person's release
13 before trial on felony charges brought under AS 11.41.410 - 11.41.458
14 [AS 11.41.410 - 11.41.455].

15 * Sec. 12. AS 12.40.110(a) is amended to read:

16 (a) In a prosecution for an offense under AS 11.41.410 - 11.41.458
17 [AS 11.41.410 - 11.41.440 OR 11.41.455], hearsay evidence of a statement related to
18 the offense, not otherwise admissible, made by a child who is the victim of the offense
19 may be admitted into evidence before the grand jury if

20 (1) the circumstances of the statement indicate its reliability;

21 (2) the child is under 10 years of age when the hearsay evidence is
22 sought to be admitted;

23 (3) additional evidence is introduced to corroborate the statement; and

24 (4) the child testifies at the grand jury proceeding or the child will be
25 available to testify at trial.

26 * Sec. 13. AS 12.55.025(h) is amended to read:

27 (h) If the defendant has been convicted of two or more crimes under
28 AS 11.41.200 - 11.41.250 or 11.41.410 - 11.41.458 [11.41.410 - 11.41.455] in which
29 the victim or victims of the crimes were minors and the judgment on any of the
30 convictions has not been entered, the court shall impose some consecutive period of
31 imprisonment for each conviction.

1 * Sec. 14. AS 12.55.155(c)(18) is amended to read:

2 (18) the offense was a felony

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

6 (B) specified in AS 11.41.410 - 11.41.458 [AS 11.41.410 -
7 11.41.455] and the defendant has engaged in the same or other conduct
8 prohibited by a provision of AS 11.41.410 - 11.41.460 involving the same or
9 another victim;

10 * Sec. 15. AS 12.63.020(a) is amended to read:

11 (a) The duty of a sex offender to comply with the requirements of
12 AS 12.63.010 for each sex offense

13 (1) continues for the lifetime of a sex offender convicted of two or
14 more sex offenses; for purposes of this section, a person convicted of indecent
15 exposure before a person under 16 years of age under AS 11.41.460 more than
16 two times has been convicted of two or more sex offenses;

17 (2) ends 15 years following the sex offender's unconditional discharge
18 from a conviction for a single sex offense.

19 * Sec. 16. AS 12.63.100(3) is amended to read:

20 (3) "sex offense" means a crime, or an attempt to commit a crime,
21 under AS 11.41.410 - 11.41.438, 11.41.450 - 11.41.458, 11.41.460 if the indecent
22 exposure is before a person under 16 years of age and the offender has a previous
23 conviction for that offense [11.41.450, 11.41.455], AS 11.61.125, 11.61.127,
24 AS 11.66.110, former AS 11.15.120 or 11.15.134, or former AS 11.40.110 or
25 11.40.200, or a similar law in another jurisdiction;

26 * Sec. 17. AS 14.20.020(f) is amended to read:

27 (f) The [EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION,
28 THE] department may not issue a teacher certificate to a person who has been
29 convicted of a crime, or an attempt, solicitation, or conspiracy to commit a crime,
30 involving a minor under AS 11.41.410 - 11.41.460 [AS 11.41.434 - 11.41.440,
31 11.41.455, OR 11.41.460,] or [UNDER] a law or ordinance in another jurisdiction

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1 with elements [SUBSTANTIALLY] similar to an offense described in this subsection
2 [AS 11.41.434 - 11.41.440, 11.41.455, OR 11.41.460. WHEN FIVE YEARS HAVE
3 ELAPSED AFTER A PERSON HAS RECEIVED AN UNCONDITIONAL
4 DISCHARGE FOR A CONVICTION OF A CRIME LISTED IN THIS
5 SUBSECTION, THE PERSON MAY PETITION THE DEPARTMENT TO ISSUE
6 THE CERTIFICATE IN SPITE OF THE CONVICTION IF THE PERSON
7 OTHERWISE SATISFIES THE REQUIREMENTS FOR THE CERTIFICATE.
8 WHEN DECIDING WHETHER TO GRANT OR DENY THE PETITION, THE
9 DEPARTMENT SHALL CONSIDER THE NATURE OF THE PARTICULAR
10 CRIME, WHETHER AND TO WHAT EXTENT THE PERSON HAS BEEN
11 REHABILITATED, AND THE OTHER FACTORS THAT THE DEPARTMENT
12 DETERMINES ARE SIGNIFICANT].

13 * Sec. 18. AS 14.20.030(b) is amended to read:

14 (b) The commissioner or the Professional Teaching Practices Commission shall
15 revoke for life the certificate of a person who has been convicted of a crime, or an
16 attempt, solicitation, or conspiracy to commit a crime, involving a minor under
17 AS 11.41.410 - 11.41.460 [AS 11.41.434 - 11.41.440, 11.41.455, OR 11.41.460,] or
18 [UNDER] a law or ordinance in another jurisdiction with elements
19 [SUBSTANTIALLY] similar to an offense described in this subsection [AS 11.41.434
20 - 11.41.440, 11.41.455, OR 11.41.460. WHEN FIVE YEARS HAVE ELAPSED
21 AFTER THE PERSON HAS RECEIVED AN UNCONDITIONAL DISCHARGE FOR
22 THE CONVICTION, THE PERSON MAY PETITION THE COMMISSION FOR
23 RECERTIFICATION. WHEN DECIDING WHETHER TO GRANT OR DENY THE
24 PETITION, THE COMMISSION SHALL CONSIDER THE NATURE OF THE
25 PARTICULAR CRIME, WHETHER AND TO WHAT EXTENT THE PERSON HAS
26 BEEN REHABILITATED, AND THE OTHER FACTORS THAT THE
27 COMMISSION DETERMINES ARE SIGNIFICANT].

28 * Sec. 19. AS 28.15.046(c) is amended to read:

29 (c) The department may not issue a license under this section to an applicant
30 who has been convicted of any of the following offenses within 20 years of the time
31 of application:

- 1 (1) sexual abuse of a minor in any degree under AS 11.41.434 -
2 11.41.440;
- 3 (2) sexual assault in any degree under AS 11.41.410 - 11.41.425
4 [AS 11.41.410 OR 11.41.420];
- 5 (3) incest under AS 11.41.450;
- 6 (4) unlawful exploitation of a minor under AS 11.41.455;
- 7 (5) contributing to the delinquency of a minor under AS 11.51.130;
- 8 (6) a felony involving possession of a controlled or imitation controlled
9 substance under AS 11.71 or AS 11.73;
- 10 (7) a felony or misdemeanor involving distribution of a controlled or
11 imitation controlled substance under AS 11.71 or AS 11.73;
- 12 (8) promoting prostitution in the first or second degree under
13 AS 11.66.110 or 11.66.120;
- 14 (9) indecent exposure in the first or second degree under
15 AS 11.41.458 or 11.41.460.

16 * Sec. 20. AS 47.17.020(e) is amended to read:

- 17 (e) The department shall immediately notify the nearest law enforcement
18 agency if the department
- 19 (1) concludes that the harm was caused by a person who is not
20 responsible for the child's welfare;
- 21 (2) is unable to determine
- 22 (A) who caused the harm to the child; or
23 (B) whether the person who is believed to have caused the harm
24 has responsibility for the child's welfare; or
- 25 (3) concludes that the report involves
- 26 (A) possible criminal conduct under AS 11.41.410 - 11.41.458
27 [AS 11.41.410 - 11.41.455]; or
- 28 (B) abuse or neglect that results in the need for medical
29 treatment of the child

30 * Sec. 21. Rule 6(r)(2), Alaska Rules of Criminal Procedure, is amended to read:

- 31 (2) In a prosecution for an offense under AS 11.41.410 - 11.41.458

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1 [AS 11.41.410 - 11.41.440 OR 11.41.455], hearsay evidence of a statement related to
2 the offense, not otherwise admissible, made by a child who is the victim of the offense
3 may be admitted into evidence before the grand jury if

4 (i) the circumstances of the statement indicate its reliability;

5 (ii) the child is under 10 years of age when the hearsay
6 evidence is sought to be admitted;

7 (iii) additional evidence is introduced to corroborate the
8 statement; and

9 (iv) the child testifies at the grand jury proceeding or the child
10 will be available to testify at trial.

11 * Sec. 22. APPLICABILITY OF SECTIONS 15 AND 16. (a) Except as otherwise
12 provided in this subsection, a sex offender with only one conviction for a sex offense that is
13 a violation of AS 11.41.460 or AS 11.61.127 who has been unconditionally discharged from
14 that sex offense before July 1, 1984, is not required to register under or otherwise comply with
15 AS 12.63. A sex offender who has been unconditionally discharged from a sex offense that
16 is a violation of AS 11.41.460 or AS 11.61.127 on or after July 1, 1984, but before the
17 effective date of this Act, shall register under and otherwise comply with AS 12.63 by July 1,
18 1998. A sex offender with two or more convictions for a sex offense or more than two
19 convictions of AS 11.41.460 before a person under 16 years of age before the effective date
20 of this Act, regardless of whether the sex offender was unconditionally released from the sex
21 offenses before, on, or after July 1, 1984, who was not required to register under sec. 12, ch.
22 41, SLA 1994, shall register under and otherwise comply with AS 12.63 by July 1, 1998.

23 (b) A conviction for a sex offense before the effective date of this Act is a sex offense
24 for purpose of the duration of registration requirement of AS 12.63.020(a).

25 (c) In this section, "sex offender" and "sex offense" have the meanings given by
26 AS 12.63.100, as amended by sec. 16 of this Act.

27 * Sec. 23. APPLICABILITY OF SECTIONS 3 - 9. Sections 3 - 9 of this Act apply to
28 offenses committed on or after the effective date of this Act.

29 * Sec. 24. This Act takes effect immediately under AS 01.10.070(c).