



LAWS OF ALASKA

1975

Source

FCCS HCSSB 261

Chapter No.

165

AN ACT

Relating to the admissibility of evidence in prosecutions for rape and related offenses; changing Rule 43(g)(11), Rules of Civil Procedure; and providing for an effective date.

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

* Section 1. AS 12.45 is amended by adding a new section to read:

Sec. 12.45.045. EVIDENCE OF PAST SEXUAL CONDUCT IN TRIALS OF RAPE AND ASSAULT WITH INTENT TO COMMIT RAPE. (a) In prosecutions for the crime of rape and assault with intent to commit rape, evidence of the complaining witness' previous sexual conduct shall not be admitted nor reference made to it in the presence of the jury except as provided in this section. When the defendant seeks to admit the evidence for any purpose, he may apply for an order of the court at any time before or during the trial or preliminary hearing. After the application is made, the court shall conduct a hearing in camera to determine the admissibility of the evidence. If the court finds that evidence offered by the defendant regarding the sexual conduct of the complaining witness is relevant, and that the probative value of the evidence offered is not outweighed by the probability that its admission will create undue prejudice, confusion of the issues, or unwarranted invasion of the privacy of the complaining witness, the court shall make an order stating what evidence may be introduced and the nature of the questions which shall be permitted. The defendant may then offer evidence under the order of the court.

(b) In the absence of a persuasive showing to the contrary, evidence of the complaining witness' sexual conduct occurring more than one year before the date of the offense charged is presumed to be inadmissible under this section.

(c) In this section "complaining witness" means the alleged victim of the crime charged, the prosecution of which is subject to this section.

* Sec. 2. Section 1 of this Act has the effect of changing Rule 43(g)(11), Rules of Civil Procedure, by requiring certain procedures to be followed in order for the defendant to offer evidence of sexual conduct of the complaining witness under AS 11.15.120.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.070(c).