

**HOUSE BILL NO. 364**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

**BY REPRESENTATIVE GRAY**

**Introduced: 2/20/24**

**Referred: Judiciary**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to civil claims by victims of sexual abuse to a minor; relating to**  
2 **homicide; relating to assault in the third degree; relating to stalking; relating to sexual**  
3 **abuse of a minor; relating to enticement of a minor; relating to endangering the welfare**  
4 **of a child; relating to indecent exposure; relating to sending an explicit image of a**  
5 **minor; relating to solicitation or production of an indecent picture of a minor; relating**  
6 **to distribution of indecent material to minors; relating to the testimony of children in**  
7 **criminal proceedings; and relating to sentencing."**

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

9 **\* Section 1.** AS 09.55.650(a) is amended to read:

10 (a) A person who, as a minor under **18** [16] years of age, was the victim of  
11 sexual abuse may maintain an action for recovery of damages against the perpetrator  
12 of the act or acts of sexual abuse based on the perpetrator's intentional conduct for an  
13 injury or condition suffered as a result of the sexual abuse.

1 \* **Sec. 2.** AS 11.41.100(a) is amended to read:

2 (a) A person commits the crime of murder in the first degree if

3 (1) with intent to cause the death of another person, the person

4 (A) causes the death of any person; or

5 (B) compels or induces any person to commit suicide through  
6 duress or deception;

7 (2) the person knowingly engages in conduct directed toward a child  
8 under the age of 18 [16] and the person with criminal negligence inflicts serious  
9 physical injury on the child by at least two separate acts, and one of the acts results in  
10 the death of the child;

11 (3) acting alone or with one or more persons, the person commits or  
12 attempts to commit a sexual offense against or kidnapping of a child under 18 [16]  
13 years of age and, in the course of or in furtherance of the offense or in immediate  
14 flight from that offense, any person causes the death of the child; in this paragraph,  
15 "sexual offense" means an offense defined in AS 11.41.410 - 11.41.470;

16 (4) acting alone or with one or more persons, the person commits or  
17 attempts to commit criminal mischief in the first degree under AS 11.46.475 and, in  
18 the course of or in furtherance of the offense or in immediate flight from that offense,  
19 any person causes the death of a person other than one of the participants; or

20 (5) acting alone or with one or more persons, the person commits  
21 terroristic threatening in the first degree under AS 11.56.807 and, in the course of or in  
22 furtherance of the offense or in immediate flight from that offense, any person causes  
23 the death of a person other than one of the participants.

24 \* **Sec. 3.** AS 11.41.110(a) is amended to read:

25 (a) A person commits the crime of murder in the second degree if

26 (1) with intent to cause serious physical injury to another person or  
27 knowing that the conduct is substantially certain to cause death or serious physical  
28 injury to another person, the person causes the death of any person;

29 (2) the person knowingly engages in conduct that results in the death  
30 of another person under circumstances manifesting an extreme indifference to the  
31 value of human life;

1 (3) under circumstances not amounting to murder in the first degree  
 2 under AS 11.41.100(a)(3), while acting either alone or with one or more persons, the  
 3 person commits or attempts to commit arson in the first degree, kidnapping, sexual  
 4 assault in the first degree, sexual assault in the second degree, sexual abuse of a minor  
 5 in the first degree, sexual abuse of a minor in the second degree, burglary in the first  
 6 degree, escape in the first or second degree, robbery in any degree, or misconduct  
 7 involving a controlled substance under AS 11.71.010(a), 11.71.021(a), 11.71.030(a)(2)  
 8 or (9), or 11.71.040(a)(1) or (2) and, in the course of or in furtherance of that crime or  
 9 in immediate flight from that crime, any person causes the death of a person other than  
 10 one of the participants;

11 (4) acting with a criminal street gang, the person commits or attempts  
 12 to commit a crime that is a felony and, in the course of or in furtherance of that crime  
 13 or in immediate flight from that crime, any person causes the death of a person other  
 14 than one of the participants; or

15 (5) the person with criminal negligence causes the death of a child  
 16 under the age of 18 [16], and the person has been previously convicted of a crime  
 17 involving a child under the age of 18 [16] that was

18 (A) a felony violation of AS 11.41;

19 (B) in violation of a law or ordinance in another jurisdiction  
 20 with elements similar to a felony under AS 11.41; or

21 (C) an attempt, a solicitation, or a conspiracy to commit a  
 22 crime listed in (A) or (B) of this paragraph.

23 \* **Sec. 4.** AS 11.41.220(a) is amended to read:

24 (a) A person commits the crime of assault in the third degree if that person

25 (1) recklessly

26 (A) places another person in fear of imminent serious physical  
 27 injury by means of a dangerous instrument;

28 (B) causes physical injury to another person by means of a  
 29 dangerous instrument; or

30 (C) while being 18 years of age or older,

31 (i) causes physical injury to a child under 12 years of

1 age and the injury would cause a reasonable caregiver to seek medical  
 2 attention from a health care professional in the form of diagnosis or  
 3 treatment;

4 (ii) causes physical injury to a child under 12 years of  
 5 age on more than one occasion;

6 (2) with intent to place another person in fear of death or serious  
 7 physical injury to the person or the person's family member, makes repeated threats to  
 8 cause death or serious physical injury to another person;

9 (3) while being 18 years of age or older, knowingly causes physical  
 10 injury to a child under 18 [16] years of age but at least 12 years of age and the injury  
 11 reasonably requires medical treatment;

12 (4) with criminal negligence, causes serious physical injury under  
 13 AS 11.81.900(b)(59)(B) to another person by means of a dangerous instrument; or

14 (5) commits a crime that is a violation of AS 11.41.230(a)(1) or (2)  
 15 and, within the preceding 10 years, the person was convicted on two or more separate  
 16 occasions of crimes under

17 (A) AS 11.41.100 - 11.41.170;

18 (B) AS 11.41.200 - 11.41.220, 11.41.230(a)(1) or (2),  
 19 11.41.280, or 11.41.282;

20 (C) AS 11.41.260 or 11.41.270;

21 (D) AS 11.41.410, 11.41.420, or 11.41.425(a)(1); or

22 (E) a law or ordinance of this or another jurisdiction with  
 23 elements similar to those of an offense described in (A) - (D) of this paragraph.

24 \* **Sec. 5.** AS 11.41.220(b) is amended to read:

25 (b) In a prosecution under (a)(3) of this section, it is an affirmative defense  
 26 that, at the time of the alleged offense, the defendant reasonably believed the victim to  
 27 be 18 [16] years of age or older, unless the victim was under 13 years of age at the  
 28 time of the alleged offense.

29 \* **Sec. 6.** AS 11.41.260(a) is amended to read:

30 (a) A person commits the crime of stalking in the first degree if the person  
 31 violates AS 11.41.270 and

1 (1) the actions constituting the offense are in violation of an order  
2 issued or filed under AS 18.66.100 - 18.66.180 or issued under former  
3 AS 25.35.010(b) or 25.35.020;

4 (2) the actions constituting the offense are in violation of a condition of  
5 probation, release before trial, release after conviction, or parole;

6 (3) the victim is under 18 [16] years of age;

7 (4) at any time during the course of conduct constituting the offense,  
8 the defendant possessed a deadly weapon;

9 (5) the defendant has been previously convicted of a crime under this  
10 section, AS 11.41.270, or AS 11.56.740, or a law or ordinance of this or another  
11 jurisdiction with elements similar to a crime under this section, AS 11.41.270, or  
12 AS 11.56.740; or

13 (6) the defendant has been previously convicted of a crime, or an  
14 attempt or solicitation to commit a crime, under (A) AS 11.41.100 - 11.41.250,  
15 11.41.300 - 11.41.460, AS 11.56.807, 11.56.810, AS 11.61.118, 11.61.120, or (B) a  
16 law or an ordinance of this or another jurisdiction with elements similar to a crime, or  
17 an attempt or solicitation to commit a crime, under AS 11.41.100 - 11.41.250,  
18 11.41.300 - 11.41.460, AS 11.56.807, 11.56.810, AS 11.61.118, or 11.61.120,  
19 involving the same victim as the present offense.

20 \* **Sec. 7.** AS 11.41.434(a) is amended to read:

21 (a) An offender commits the crime of sexual abuse of a minor in the first  
22 degree if

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

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

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

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

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

5 \* **Sec. 8.** AS 11.41.436(a) is amended to read:

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

8 (1) being 17 years of age or older, the offender engages in sexual  
9 penetration with a person who is 13, 14, [OR] 15, 16, or 17 years of age and at least  
10 four years younger than the offender, or aids, induces, causes, or encourages a person  
11 who is 13, 14, [OR] 15, 16, or 17 years of age and at least four years younger than the  
12 offender to engage in sexual penetration with another person;

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

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

20 (4) being 16 years of age or older, the offender aids, induces, causes,  
21 or encourages a person who is under 16 years of age to engage in conduct described in  
22 AS 11.41.455(a)(2) - (6);

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

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

27 (B) the offender occupies a position of authority in relation to  
28 the victim;

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

1 victim; or

2 (7) being under 16 years of age, the offender engages in sexual  
3 penetration with a person who is under 13 years of age and at least three years younger  
4 than the offender.

5 \* **Sec. 9.** AS 11.41.438(a) is amended to read:

6 (a) An offender commits the crime of sexual abuse of a minor in the third  
7 degree if being 17 years of age or older, the offender engages in sexual contact with a  
8 person who is 13, 14, [OR] 15, 16, or 17 years of age and at least four years younger  
9 than the offender.

10 \* **Sec. 10.** AS 11.41.452(a) is amended to read:

11 (a) A person commits the crime of enticement of a minor if the person, being  
12 18 years of age or older, knowingly communicates with another person to entice,  
13 solicit, or encourage the person to engage in an act described in AS 11.41.455(a)(1) -  
14 (7) and

15 (1) the other person is a child under 18 [16] years of age; or

16 (2) the person believes that the other person is a child under 18 [16]  
17 years of age.

18 \* **Sec. 11.** AS 11.41.452(b) is amended to read:

19 (b) In a prosecution under (a)(2) of this section, it is not a defense that the  
20 person enticed, solicited, or encouraged was not actually a child under 18 [16] years of  
21 age.

22 \* **Sec. 12.** AS 11.41.458(b) is amended to read:

23 (b) Indecent exposure in the first degree

24 (1) is a class C felony; or

25 (2) is a class B felony if the offense occurs within the observation of a  
26 person under 18 [16] years of age.

27 \* **Sec. 13.** AS 11.41.460(b) is amended to read:

28 (b) Indecent exposure in the second degree before a person under 18 [16]  
29 years of age is a class A misdemeanor. Indecent exposure in the second degree before  
30 a person 18 [16] years of age or older is a class B misdemeanor.

31 \* **Sec. 14.** AS 11.51.100(a) is amended to read:

1 (a) A person commits the crime of endangering the welfare of a child in the  
 2 first degree if, being a parent, guardian, or other person legally charged with the care  
 3 of a child under 18 [16] years of age, the person

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

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

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

11 (B) charged by complaint, information, or indictment with a  
 12 violation of AS 11.41.410 - 11.41.455 or a law or ordinance in another  
 13 jurisdiction with similar elements; or

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

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

20 (4) recklessly fails to provide an adequate quantity of food or liquids to  
 21 a child, causing protracted impairment of the child's health.

22 \* **Sec. 15.** AS 11.61.116(a) is amended to read:

23 (a) A person commits the offense of sending an explicit image of a minor if  
 24 the person, with intent to annoy or humiliate another person, distributes an electronic  
 25 photograph or video that depicts the genitals, anus, or female breast of that other  
 26 person taken when that person was a minor under 18 [16] years of age.

27 \* **Sec. 16.** AS 11.61.124(a) is amended to read:

28 (a) An offender commits the crime of solicitation or production of an indecent  
 29 picture of a minor if, under circumstances not proscribed under AS 11.41.455 or  
 30 AS 11.61.123, the offender being 18 years of age or older

31 (1) solicits a picture of the genitals, anus, or female breast of another



1 person and the

2 (A) person solicited is under **18** [16] years of age and at least  
3 four years younger than the offender; or

4 (B) offender believes that the other person is under **18** [16]  
5 years of age and at least four years younger than the offender; or

6 (2) produces a picture of the genitals, anus, or female breast of another  
7 person and the

8 (A) person shown in the picture is under **18** [16] years of age  
9 and at least four years younger than the offender; or

10 (B) offender believes that the other person is under **18** [16]  
11 years of age and at least four years younger than the offender.

12 \* **Sec. 17.** AS 11.61.124(b) is amended to read:

13 (b) In a prosecution under (a) of this section, it is not a defense that the person  
14 solicited or shown in the picture was not actually a person under **18** [16] years of age  
15 and at least four years younger than the offender.

16 \* **Sec. 18.** AS 11.61.128(a) is amended to read:

17 (a) A person commits the crime of distribution of indecent material to minors  
18 if

19 (1) the person, being 18 years of age or older, intentionally distributes  
20 or possesses with intent to distribute any material described in (2) and (3) of this  
21 subsection to either

22 (A) a child that the person knows is under **18** [16] years of age;

23 or

24 (B) another person that the person believes is a child under **18**  
25 [16] years of age;

26 (2) the person knows that the material depicts the following actual or  
27 simulated conduct:

28 (A) sexual penetration;

29 (B) the lewd touching of a person's genitals, anus, or female  
30 breast;

31 (C) masturbation;

1 (D) bestiality;

2 (E) the lewd exhibition of a person's genitals, anus, or female  
3 breast; or

4 (F) sexual masochism or sadism; and

5 (3) the material is harmful to minors.

6 \* **Sec. 19.** AS 11.61.128(b) is amended to read:

7 (b) In this section, it is not a defense that the victim was not actually under **18**  
8 [16] years of age.

9 \* **Sec. 20.** AS 11.61.128(c) is amended to read:

10 (c) In this section, "harmful to minors" means

11 (1) the average individual, applying contemporary community  
12 standards, would find that the material, taken as a whole, appeals to the prurient  
13 interest in sex for persons under **18** [16] years of age;

14 (2) a reasonable person would find that the material, taken as a whole,  
15 lacks serious literary, artistic, educational, political, or scientific value for persons  
16 under **18** [16] years of age; and

17 (3) the material depicts actual or simulated conduct in a way that is  
18 patently offensive to the prevailing standards in the adult community as a whole with  
19 respect to what is suitable for persons under **18** [16] years of age.

20 \* **Sec. 21.** AS 12.45.046(a) is amended to read:

21 (a) In a criminal proceeding under AS 11.41 involving the prosecution of an  
22 offense committed against a child under the age of **18** [16], or witnessed by a child  
23 under the age of **18** [16], the court

24 (1) may appoint a guardian ad litem for the child;

25 (2) on its own motion or on the motion of the party presenting the  
26 witness or the guardian ad litem of the child, may order that the testimony of the child  
27 be taken by closed circuit television or through one-way mirrors if the court  
28 determines that the testimony by the child victim or witness under normal court  
29 procedures would result in the child's inability to effectively communicate.

30 \* **Sec. 22.** AS 12.55.125(b) is amended to read:

31 (b) A defendant convicted of attempted murder in the first degree, solicitation

1 to commit murder in the first degree, conspiracy to commit murder in the first degree,  
 2 kidnapping, or misconduct involving a controlled substance in the first degree shall be  
 3 sentenced to a definite term of imprisonment of at least five years but not more than  
 4 99 years. A defendant convicted of murder in the second degree or murder of an  
 5 unborn child under AS 11.41.150(a)(2) - (4) shall be sentenced to a definite term of  
 6 imprisonment of at least 15 years but not more than 99 years. A defendant convicted  
 7 of murder in the second degree shall be sentenced to a definite term of imprisonment  
 8 of at least 20 years but not more than 99 years when the defendant is convicted of the  
 9 murder of a child under 18 [16] years of age and the court finds by clear and  
 10 convincing evidence that the defendant (1) was a natural parent, a stepparent, an  
 11 adoptive parent, a legal guardian, or a person occupying a position of authority in  
 12 relation to the child; or (2) caused the death of the child by committing a crime against  
 13 a person under AS 11.41.200 - 11.41.530. In this subsection, "legal guardian" and  
 14 "position of authority" have the meanings given in AS 11.41.470.

15 \* **Sec. 23.** AS 12.55.125(d) is amended to read:

16 (d) Except as provided in (i) of this section, a defendant convicted of a class B  
 17 felony may be sentenced to a definite term of imprisonment of not more than 10 years,  
 18 and shall be sentenced to a definite term within the following presumptive ranges,  
 19 subject to adjustment as provided in AS 12.55.155 - 12.55.175:

20 (1) if the offense is a first felony conviction and does not involve  
 21 circumstances described in (2) of this subsection, one to three years; a defendant  
 22 sentenced under this paragraph may, if the court finds it appropriate, be granted a  
 23 suspended imposition of sentence under AS 12.55.085 if, as a condition of probation  
 24 under AS 12.55.086, the defendant is required to serve an active term of imprisonment  
 25 within the range specified in this paragraph, unless the court finds that a mitigation  
 26 factor under AS 12.55.155 applies;

27 (2) if the offense is a first felony conviction,

28 (A) the defendant violated AS 11.41.130, and the victim was a  
 29 child under 18 [16] years of age, two to four years;

30 (B) two to four years if the conviction is for attempt,  
 31 solicitation, or conspiracy to manufacture related to methamphetamine under

1 AS 11.31 and AS 11.71.021(a)(2)(A) or (B), and

2 (i) the attempted manufacturing occurred, or the  
3 solicited or conspired offense was to have occurred, in a building with  
4 reckless disregard that the building was used as a permanent or  
5 temporary home or place of lodging for one or more children under 18  
6 years of age or the building was a place frequented by children; or

7 (ii) in the course of an attempt to manufacture, the  
8 defendant obtained the assistance of one or more children under 18  
9 years of age or one or more children were present;

10 (3) if the offense is a second felony conviction, three to seven years;

11 (4) if the offense is a third felony conviction, six to 10 years.

12 \* **Sec. 24.** AS 12.55.145(a) is amended to read:

13 (a) For purposes of considering prior convictions in imposing sentence under

14 (1) AS 12.55.125(c), (d), or (e),

15 (A) a prior conviction may not be considered if a period of 10  
16 or more years has elapsed between the date of the defendant's unconditional  
17 discharge on the immediately preceding offense and commission of the present  
18 offense unless the prior conviction was for an unclassified or class A felony;

19 (B) a conviction in this or another jurisdiction of an offense  
20 having elements similar to those of a felony defined as such under Alaska law  
21 at the time the offense was committed is considered a prior felony conviction;

22 (C) two or more convictions arising out of a single, continuous  
23 criminal episode during which there was no substantial change in the nature of  
24 the criminal objective are considered a single conviction unless the defendant  
25 was sentenced to consecutive sentences for the crimes; offenses committed  
26 while attempting to escape or avoid detection or apprehension after the  
27 commission of another offense are not part of the same criminal episode or  
28 objective;

29 (2) AS 12.55.125(l),

30 (A) a conviction in this or another jurisdiction of an offense  
31 having elements similar to those of a most serious felony is considered a prior

1 most serious felony conviction;

2 (B) commission of and conviction for offenses relied on as  
3 prior most serious felony offenses must occur in the following order:  
4 conviction for the first offense must occur before commission of the second  
5 offense, and conviction for the second offense must occur before commission  
6 of the offense for which the defendant is being sentenced;

7 (3) AS 12.55.135(g),

8 (A) a prior conviction may not be considered if a period of five  
9 or more years has elapsed between the date of the defendant's unconditional  
10 discharge on the immediately preceding offense and commission of the present  
11 offense unless the prior conviction was for an unclassified or class A felony;

12 (B) a conviction in this or another jurisdiction of an offense  
13 having elements similar to those of a crime against a person or a crime  
14 involving domestic violence is considered a prior conviction;

15 (C) two or more convictions arising out of a single, continuous  
16 criminal episode during which there was no substantial change in the nature of  
17 the criminal objective are considered a single conviction unless the defendant  
18 was sentenced to consecutive sentences for the crimes; offenses committed  
19 while attempting to escape or avoid detection or apprehension after the  
20 commission of another offense are not part of the same criminal episode or  
21 objective;

22 (4) AS 12.55.125(i),

23 (A) a conviction in this or another jurisdiction of an offense  
24 having elements similar to those of a sexual felony is a prior conviction for a  
25 sexual felony;

26 (B) a felony conviction in another jurisdiction making it a  
27 crime to commit any lewd and lascivious act on a child under the age of **18**  
28 [16] years, with the intent of arousing, appealing to, or gratifying the sexual  
29 desires of the defendant or the victim is a prior conviction for a sexual felony;

30 (C) two or more convictions arising out of a single, continuous  
31 criminal episode during which there was no substantial change in the nature of

1 the criminal objective are considered a single conviction unless the defendant  
2 was sentenced to consecutive sentences for the crimes; offenses committed  
3 while attempting to escape or avoid detection or apprehension after the  
4 commission of another offense are not part of the same criminal episode or  
5 objective;

6 (D) a conviction in this or another jurisdiction of an offense  
7 having elements similar to those of a felony defined as such under Alaska law  
8 at the time the offense was committed is considered a prior felony conviction.

9 \* **Sec. 25.** AS 12.55.155(c) is amended to read:

10 (c) The following factors shall be considered by the sentencing court if proven  
11 in accordance with this section, and may allow imposition of a sentence above the  
12 presumptive range set out in AS 12.55.125:

13 (1) a person, other than an accomplice, sustained physical injury as a  
14 direct result of the defendant's conduct;

15 (2) the defendant's conduct during the commission of the offense  
16 manifested deliberate cruelty to another person;

17 (3) the defendant was the leader of a group of three or more persons  
18 who participated in the offense;

19 (4) the defendant employed a dangerous instrument in furtherance of  
20 the offense;

21 (5) the defendant knew or reasonably should have known that the  
22 victim of the offense was particularly vulnerable or incapable of resistance due to  
23 advanced age, disability, ill health, homelessness, consumption of alcohol or drugs, or  
24 extreme youth or was for any other reason substantially incapable of exercising  
25 normal physical or mental powers of resistance;

26 (6) the defendant's conduct created a risk of imminent physical injury  
27 to three or more persons, other than accomplices;

28 (7) a prior felony conviction considered for the purpose of invoking a  
29 presumptive range under this chapter was of a more serious class of offense than the  
30 present offense;

31 (8) the defendant's prior criminal history includes conduct involving

1 aggravated assaultive behavior, repeated instances of assaultive behavior, repeated  
2 instances of cruelty to animals proscribed under AS 11.61.140(a)(1) and (3) - (5), or a  
3 combination of assaultive behavior and cruelty to animals proscribed under  
4 AS 11.61.140(a)(1) and (3) - (5); in this paragraph, "aggravated assaultive behavior"  
5 means assault that is a felony under AS 11.41, or a similar provision in another  
6 jurisdiction;

7 (9) the defendant knew that the offense involved more than one victim;

8 (10) the conduct constituting the offense was among the most serious  
9 conduct included in the definition of the offense;

10 (11) the defendant committed the offense under an agreement that the  
11 defendant either pay or be paid for the commission of the offense, and the pecuniary  
12 incentive was beyond that inherent in the offense itself;

13 (12) the defendant was on release under AS 12.30 for another felony  
14 charge or conviction or for a misdemeanor charge or conviction having assault as a  
15 necessary element;

16 (13) the defendant knowingly directed the conduct constituting the  
17 offense at an active officer of the court or at an active or former judicial officer,  
18 prosecuting attorney, law enforcement officer, correctional employee, firefighter,  
19 emergency medical technician, paramedic, ambulance attendant, or other emergency  
20 responder during or because of the exercise of official duties;

21 (14) the defendant was a member of an organized group of five or  
22 more persons, and the offense was committed to further the criminal objectives of the  
23 group;

24 (15) the defendant has three or more prior felony convictions;

25 (16) the defendant's criminal conduct was designed to obtain  
26 substantial pecuniary gain and the risk of prosecution and punishment for the conduct  
27 is slight;

28 (17) the offense was one of a continuing series of criminal offenses  
29 committed in furtherance of illegal business activities from which the defendant  
30 derives a major portion of the defendant's income;

31 (18) the offense was a felony

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

4 (B) specified in AS 11.41.410 - 11.41.458 and the defendant  
5 has engaged in the same or other conduct prohibited by a provision of  
6 AS 11.41.410 - 11.41.460 involving the same or another victim;

7 (C) specified in AS 11.41 that is a crime involving domestic  
8 violence and was committed in the physical presence or hearing of a child  
9 under 18 [16] years of age who was, at the time of the offense, living within  
10 the residence of the victim, the residence of the perpetrator, or the residence  
11 where the crime involving domestic violence occurred;

12 (D) specified in AS 11.41 and was committed against a person  
13 with whom the defendant has a dating relationship or with whom the defendant  
14 has engaged in a sexual relationship; or

15 (E) specified in AS 11.41.434 - 11.41.458 or AS 11.61.128 and  
16 the defendant was 10 or more years older than the victim;

17 (19) the defendant's prior criminal history includes an adjudication as a  
18 delinquent for conduct that would have been a felony if committed by an adult;

19 (20) the defendant was on furlough under AS 33.30 or on parole or  
20 probation for another felony charge or conviction that would be considered a prior  
21 felony conviction under AS 12.55.145(a)(1)(B);

22 (21) the defendant has a criminal history of repeated instances of  
23 conduct violative of criminal laws, whether punishable as felonies or misdemeanors,  
24 similar in nature to the offense for which the defendant is being sentenced under this  
25 section;

26 (22) the defendant knowingly directed the conduct constituting the  
27 offense at a victim because of that person's race, sex, color, creed, physical or mental  
28 disability, ancestry, or national origin;

29 (23) the defendant is convicted of an offense specified in AS 11.71 and

30 (A) the offense involved the delivery of a controlled substance  
31 under circumstances manifesting an intent to distribute the substance as part of



1 a commercial enterprise; or

2 (B) at the time of the conduct resulting in the conviction, the  
3 defendant was caring for or assisting in the care of a child under 10 years of  
4 age;

5 (24) the defendant is convicted of an offense specified in AS 11.71 and  
6 the offense involved the transportation of controlled substances into the state;

7 (25) the defendant is convicted of an offense specified in AS 11.71 and  
8 the offense involved large quantities of a controlled substance;

9 (26) the defendant is convicted of an offense specified in AS 11.71 and  
10 the offense involved the distribution of a controlled substance that had been  
11 adulterated with a toxic substance;

12 (27) the defendant, being 18 years of age or older,

13 (A) is legally accountable under AS 11.16.110(2) for the  
14 conduct of a person who, at the time the offense was committed, was under 18  
15 years of age and at least three years younger than the defendant; or

16 (B) is aided or abetted in planning or committing the offense by  
17 a person who, at the time the offense was committed, was under 18 years of  
18 age and at least three years younger than the defendant;

19 (28) the victim of the offense is a person who provided testimony or  
20 evidence related to a prior offense committed by the defendant;

21 (29) the defendant committed the offense for the benefit of, at the  
22 direction of, or in association with a criminal street gang;

23 (30) the defendant is convicted of an offense specified in AS 11.41.410  
24 - 11.41.455, and the defendant knowingly supplied alcohol or a controlled substance to  
25 the victim in furtherance of the offense with the intent to make the victim  
26 incapacitated; in this paragraph, "incapacitated" has the meaning given in  
27 AS 11.41.470;

28 (31) the defendant's prior criminal history includes convictions for five  
29 or more crimes in this or another jurisdiction that are class A misdemeanors under the  
30 law of this state, or having elements similar to a class A misdemeanor; two or more  
31 convictions arising out of a single continuous episode are considered a single

1 conviction; however, an offense is not a part of a continuous episode if committed  
2 while attempting to escape or resist arrest or if it is an assault on a uniformed or  
3 otherwise clearly identified peace officer or correctional employee; notice and denial  
4 of convictions are governed by AS 12.55.145(b) - (d);

5 (32) the offense is a violation of AS 11.41 or AS 11.46.400 and the  
6 offense occurred on school grounds, on a school bus, at a school-sponsored event, or  
7 in the administrative offices of a school district if students are educated at that office;  
8 in this paragraph,

9 (A) "school bus" has the meaning given in AS 11.71.900;

10 (B) "school district" has the meaning given in AS 47.07.063;

11 (C) "school grounds" has the meaning given in AS 11.71.900;

12 (33) the offense was a felony specified in AS 11.41.410 - 11.41.455,  
13 the defendant had been previously diagnosed as having or having tested positive for  
14 HIV or AIDS, and the offense either (A) involved penetration, or (B) exposed the  
15 victim to a risk or a fear that the offense could result in the transmission of HIV or  
16 AIDS; in this paragraph, "HIV" and "AIDS" have the meanings given in  
17 AS 18.15.310;

18 (34) the defendant committed the offense on, or to affect persons or  
19 property on, the premises of a recognized shelter or facility providing services to  
20 victims of domestic violence or sexual assault;

21 (35) the defendant knowingly directed the conduct constituting the  
22 offense at a victim because that person was 65 years of age or older;

23 (36) the defendant committed the offense at a health care facility and  
24 knowingly directed the conduct constituting the offense at a medical professional  
25 during or because of the medical professional's exercise of professional duties; in this  
26 paragraph,

27 (A) "health care facility" has the meaning given in  
28 AS 18.07.111;

29 (B) "medical professional" has the meaning given in  
30 AS 12.55.135(k);

31 (37) the defendant knowingly caused the victim to become

1 unconscious by means of a dangerous instrument; in this paragraph, "dangerous  
2 instrument" has the meaning given in AS 11.81.900(b)(15)(B).

3 \* **Sec. 26.** AS 12.63.020(a) is amended to read:

4 (a) The duty of a sex offender or child kidnapper to comply with the  
5 requirements of AS 12.63.010 is as follows:

6 (1) for a sex offender or child kidnapper, as that term is defined in  
7 AS 12.63.100(6)(A), for each sex offense or child kidnapping, the duty

8 (A) continues for the lifetime of a sex offender or child  
9 kidnapper convicted of

10 (i) one aggravated sex offense; or

11 (ii) two or more sex offenses, two or more child  
12 kidnappings, or one sex offense and one child kidnapping; for purposes  
13 of this section, a person convicted of indecent exposure before a person  
14 under 18 [16] years of age under AS 11.41.460 more than two times  
15 has been convicted of two or more sex offenses;

16 (B) ends 15 years following the sex offender's or child  
17 kidnapper's unconditional discharge from a conviction for a single sex offense  
18 that is not an aggravated sex offense or for a single child kidnapping if the sex  
19 offender or child kidnapper has supplied proof that is acceptable to the  
20 department of the unconditional discharge; the registration period under this  
21 subparagraph

22 (i) is tolled for each year that a sex offender or child  
23 kidnapper fails to comply with the requirements of this chapter or is  
24 incarcerated for the offense or kidnapping for which the offender or  
25 kidnapper is required to register or for any other offense;

26 (ii) may include the time a sex offender or child  
27 kidnapper was absent from this state if the sex offender or child  
28 kidnapper has complied with any sex offender or child kidnapper  
29 registration requirements of the jurisdiction in which the offender or  
30 kidnapper was located and if the sex offender or child kidnapper  
31 provides the department with proof of the compliance while the sex

1 offender or child kidnapper was absent from this state; and

2 (iii) continues for a sex offender or child kidnapper who  
3 has not supplied proof acceptable to the department of the offender's or  
4 kidnapper's unconditional discharge for the sex offense or child  
5 kidnapping requiring registration;

6 (2) for a sex offender or child kidnapper, as that term is defined in  
7 AS 12.63.100(6)(B), the duty continues for the period determined by the department  
8 under (b) of this section.

9 \* **Sec. 27.** AS 12.63.100(7) is amended to read:

10 (7) "sex offense" means

11 (A) a crime under AS 11.41.100(a)(3), or a similar law of  
12 another jurisdiction, in which the person committed or attempted to commit a  
13 sexual offense, or a similar offense under the laws of the other jurisdiction; in  
14 this subparagraph, "sexual offense" has the meaning given in  
15 AS 11.41.100(a)(3);

16 (B) a crime under AS 11.41.110(a)(3), or a similar law of  
17 another jurisdiction, in which the person committed or attempted to commit  
18 one of the following crimes, or a similar law of another jurisdiction:

19 (i) sexual assault in the first degree;

20 (ii) sexual assault in the second degree;

21 (iii) sexual abuse of a minor in the first degree; or

22 (iv) sexual abuse of a minor in the second degree;

23 (C) a crime, or an attempt, solicitation, or conspiracy to commit  
24 a crime, under the following statutes or a similar law of another jurisdiction:

25 (i) AS 11.41.410 - 11.41.438;

26 (ii) AS 11.41.440(a)(2);

27 (iii) AS 11.41.450 - 11.41.458;

28 (iv) AS 11.41.460 or AS 26.05.900(c) if the indecent  
29 exposure is before a person under **18** [16] years of age and the offender  
30 has previously been convicted under AS 11.41.460 or AS 26.05.900(c);

31 (v) AS 11.61.125 - 11.61.128;

1 (vi) AS 11.66.110, 11.66.130(a)(2)(B), or  
2 AS 26.05.900(b) if the person who was induced or caused to engage in  
3 prostitution was under 20 years of age at the time of the offense;

4 (vii) former AS 11.15.120, former 11.15.134, or assault  
5 with the intent to commit rape under former AS 11.15.160, former  
6 AS 11.40.110, or former 11.40.200;

7 (viii) AS 11.61.118(a)(2) if the offender has a previous  
8 conviction for that offense;

9 (ix) AS 11.66.100(a)(2) if the offender is subject to  
10 punishment under AS 11.66.100(e);

11 (x) AS 26.05.890 if the person engaged in sexual  
12 penetration or sexual contact with the victim;

13 (xi) AS 26.05.890 if, at the time of the offense, the  
14 victim is under a duty to obey the lawful orders of the offender,  
15 regardless of whether the offender is in the direct chain of command  
16 over the victim;

17 (xii) AS 26.05.893 if the person engaged in sexual  
18 penetration or sexual contact with the victim;

19 (xiii) AS 26.05.900(a)(1) - (4) if the victim is under 18  
20 years of age at the time of the offense;

21 (xiv) AS 26.05.900 if, at the time of the offense, the  
22 victim is under a duty to obey the lawful orders of the offender,  
23 regardless of whether the offender is in the direct chain of command  
24 over the victim; or

25 (xv) AS 11.61.123 if the offender is subject to  
26 punishment under AS 11.61.123(f)(1) or (2);

27 (D) an offense, or an attempt, solicitation, or conspiracy to  
28 commit an offense, under AS 26.05.935(b), or a similar law of another  
29 jurisdiction, if the member of the militia commits one of the following  
30 enumerated offenses punishable under Article 134, 10 U.S.C. 934 (Uniform  
31 Code of Military Justice):

1 (i) child pornography; or

2 (ii) pandering and prostitution if the person who is  
3 induced, enticed, caused, or procured to engage in a sexual act is under  
4 20 years of age at the time of the offense; or

5 (E) an offense in which the person is required to register as a  
6 sex offender under the laws of another jurisdiction;

7 \* **Sec. 28.** AS 11.41.436(a)(6), 11.41.440(a)(2); and AS 12.63.100(7)(C)(ii) are repealed.

8 \* **Sec. 29.** The uncodified law of the State of Alaska is amended by adding a new section to  
9 read:

10 APPLICABILITY. The following apply to offenses committed on or after the  
11 effective date of this Act:

- 12 (1) AS 09.55.650(a), as amended by sec. 1 of this Act;
- 13 (2) AS 11.41.100(a), as amended by sec. 2 of this Act;
- 14 (3) AS 11.41.110(a), as amended by sec. 3 of this Act;
- 15 (4) AS 11.41.220(a), as amended by sec. 4 of this Act;
- 16 (5) AS 11.41.220(b), as amended by sec. 5 of this Act;
- 17 (6) AS 11.41.260(a), as amended by sec. 6 of this Act;
- 18 (7) AS 11.41.434(a), as amended by sec. 7 of this Act;
- 19 (8) AS 11.41.436(a), as amended by sec. 8 of this Act;
- 20 (9) AS 11.41.438(a), as amended by sec. 9 of this Act;
- 21 (10) AS 11.41.452(a), as amended by sec. 10 of this Act;
- 22 (11) AS 11.41.452(b), as amended by sec. 11 of this Act;
- 23 (12) AS 11.41.458(b), as amended by sec. 12 of this Act;
- 24 (13) AS 11.41.460(b), as amended by sec. 13 of this Act;
- 25 (14) AS 11.51.100(a), as amended by sec. 14 of this Act;
- 26 (15) AS 11.61.116(a), as amended by sec. 15 of this Act;
- 27 (16) AS 11.61.124(a), as amended by sec. 16 of this Act;
- 28 (17) AS 11.61.124(b), as amended by sec. 17 of this Act;
- 29 (18) AS 11.61.128(a), as amended by sec. 18 of this Act;
- 30 (19) AS 11.61.128(b), as amended by sec. 19 of this Act;
- 31 (20) AS 11.61.128(c), as amended by sec. 20 of this Act;

- 1 (21) AS 12.45.046(a), as amended by sec. 21 of this Act;
- 2 (22) AS 12.55.125(b), as amended by sec. 22 of this Act;
- 3 (23) AS 12.55.125(d), as amended by sec. 23 of this Act;
- 4 (24) AS 12.55.145(a), as amended by sec. 24 of this Act;
- 5 (25) AS 12.55.155(c), as amended by sec. 25 of this Act;
- 6 (26) AS 12.63.020(a), as amended by sec. 26 of this Act; and
- 7 (27) AS 12.63.100(7) as amended by sec. 27 of this Act.