

SENATE BILL NO. 65

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/8/23

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to criminal law and procedure; relating to the crime of stalking;
2 relating to consecutive sentencing for violation of conditions of release; relating to the
3 duty to register as a sex offender; amending the definition of 'sex offense'; amending the
4 definition of 'crime involving domestic violence'; relating to multidisciplinary child
5 protection teams; amending Rule 6(r), Alaska Rules of Criminal Procedure; and
6 providing for an effective date."

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

8 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
9 to read:

10 LEGISLATIVE FINDINGS AND INTENT. (a) The legislature finds that it is not
11 now, nor has it ever been, the case that a prosecutor must know conclusively that evidence
12 admitted at grand jury will also be admitted at trial.

13 (b) The legislature further finds that evidence is generally admissible at grand jury as

1 long as the prosecutor believes that the evidence will be admissible at the time of trial.

2 (c) It is the intent of the legislature that Criminal Rule 6(r), as amended by sec. 12 of
3 this Act, overturns the decision of the Alaska Court of Appeals in State v. Powell, 487 P.3d
4 609 (Alaska App. 2021), to the extent the decision held that hearsay evidence admissible
5 under the hearsay exception under Alaska Rule of Evidence 801(d)(3) is inadmissible at grand
6 jury if certain foundational requirements cannot be met at the time of grand jury.

7 * **Sec. 2.** AS 11.41.260(a) is amended to read:

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

10 (1) the actions constituting the offense are in violation of an order
11 issued or filed under AS 18.65.850 - 18.65.870 or AS 18.66.100 - 18.66.180 or issued
12 under former AS 25.35.010(b) or 25.35.020;

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

15 (3) the victim is under 16 years of age;

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

18 (5) the defendant has been previously convicted of a crime under this
19 section, AS 11.41.270, or AS 11.56.740, or a law or ordinance of this or another
20 jurisdiction with elements similar to a crime under this section, AS 11.41.270, or
21 AS 11.56.740; or

22 (6) the defendant has been previously convicted of a crime, or an
23 attempt or solicitation to commit a crime, under (A) AS 11.41.100 - 11.41.250,
24 11.41.300 - 11.41.460, AS 11.56.807, 11.56.810, AS 11.61.118, 11.61.120, or (B) a
25 law or an ordinance of this or another jurisdiction with elements similar to a crime, or
26 an attempt or solicitation to commit a crime, under AS 11.41.100 - 11.41.250,
27 11.41.300 - 11.41.460, AS 11.56.807, 11.56.810, AS 11.61.118, or 11.61.120,
28 involving the same victim as the present offense.

29 * **Sec. 3.** AS 12.55.127(c) is amended to read:

30 (c) If the defendant is being sentenced for

31 (1) escape, the term of imprisonment shall be consecutive to the term

1 for the underlying crime;

2 (2) two or more crimes under AS 11.41, a consecutive term of
3 imprisonment shall be imposed for at least

4 (A) the mandatory minimum term under AS 12.55.125(a) for
5 each additional crime that is murder in the first degree;

6 (B) the mandatory minimum term for each additional crime
7 that is an unclassified felony governed by AS 12.55.125(b);

8 (C) the presumptive term specified in AS 12.55.125(c) or the
9 active term of imprisonment, whichever is less, for each additional crime that
10 is

11 (i) manslaughter; or

12 (ii) kidnapping that is a class A felony;

13 (D) two years or the active term of imprisonment, whichever is
14 less, for each additional crime that is criminally negligent homicide;

15 (E) one-fourth of the presumptive term under AS 12.55.125(c)
16 or (i) for each additional crime that is sexual assault in the first degree under
17 AS 11.41.410 or sexual abuse of a minor in the first degree under
18 AS 11.41.434, or an attempt, solicitation, or conspiracy to commit those
19 offenses; and

20 (F) some additional term of imprisonment for each additional
21 crime, or each additional attempt or solicitation to commit the offense, under
22 AS 11.41.200 - 11.41.250, 11.41.420 - 11.41.432, 11.41.436 - 11.41.458, or
23 11.41.500 - 11.41.520;

24 **(3) two or more crimes of violation of condition of release under**
25 **AS 11.56.757, a consecutive term of imprisonment shall be imposed for some**
26 **additional term of imprisonment for the underlying crime and each additional**
27 **crime under AS 11.56.757.**

28 * Sec. 4. AS 12.63.010(b) is amended to read:

29 (b) A sex offender or child kidnapper required to register under (a) of this
30 section shall register with the Department of Corrections if the sex offender or child
31 kidnapper is incarcerated or in person at the Alaska state trooper post or municipal

1 police department located nearest to where the sex offender or child kidnapper resides
 2 at the time of registration. To fulfill the registration requirement, the sex offender or
 3 child kidnapper shall

4 (1) complete a registration form that includes **the following**
 5 **information, if applicable:** [, AT A MINIMUM,]

6 (A) the sex offender's or child kidnapper's **full** name, **mailing**
 7 **and physical** address, **school address, telephone numbers used by the sex**
 8 **offender or child kidnapper, social security number, passport**
 9 **information, citizenship status, physical address of employment, name of**
 10 **employer** [PLACE OF EMPLOYMENT], **job title**, and date of birth;

11 (B) each conviction for a sex offense or child kidnapping for
 12 which the duty to register has not terminated under AS 12.63.020, the date of
 13 the sex offense or child kidnapping convictions, the place and court of the sex
 14 offense or child kidnapping convictions, and whether the sex offender or child
 15 kidnapper has been unconditionally discharged from the conviction for a sex
 16 offense or child kidnapping and the date of the unconditional discharge; if the
 17 sex offender or child kidnapper asserts that the offender or kidnapper has been
 18 unconditionally discharged, the offender or kidnapper shall supply proof of
 19 that discharge acceptable to the department;

20 (C) all aliases used;

21 (D) the sex offender's or child kidnapper's driver's license
 22 number;

23 (E) the description, license numbers, and vehicle identification
 24 numbers of motor vehicles, **including watercraft, aircraft, motorcycles, and**
 25 **recreational vehicles**, the sex offender or child kidnapper has access to,
 26 regardless of whether that access is regular or not;

27 (F) any identifying features of the sex offender or child
 28 kidnapper;

29 (G) anticipated changes of address **and any temporary**
 30 **lodging used by the sex offender or child kidnapper;**

31 (H) a statement concerning whether the offender or kidnapper

1 has had treatment for a mental abnormality or personality disorder since the
 2 date of conviction for an offense requiring registration under this chapter;
 3 [AND]

4 (I) each electronic mail address, instant messaging address, and
 5 other Internet communication identifier used by the sex offender or child
 6 kidnapper; **and**

7 **(J) professional licensing information;**

8 (2) allow the Alaska state troopers, Department of Corrections, [OR]
 9 municipal police, **or any peace officer** to take a complete set of the sex offender's or
 10 child kidnapper's fingerprints **and palm prints**, and to take the sex offender's or child
 11 kidnapper's photograph.

12 * **Sec. 5.** AS 12.63.010(d) is amended to read:

13 (d) A sex offender or child kidnapper required to register

14 (1) for 15 years under (a) of this section and AS 12.63.020 shall,
 15 annually, during the term of a duty to register under AS 12.63.020, on a date set by the
 16 department at the time of the sex offender's or child kidnapper's initial registration,
 17 provide written verification to the department, in the manner required by the
 18 department, of the **information provided under (b)(1) of this section** [SEX
 19 OFFENDER'S OR CHILD KIDNAPPER'S ADDRESS] and notice of any changes to
 20 the information previously provided under (b)(1) of this section;

21 (2) for life under (a) of this section and AS 12.63.020 shall, not less
 22 than quarterly, on a date set by the department, provide written verification to the
 23 department, in the manner required by the department, of the **information provided**
 24 **under (b)(1) of this section** [SEX OFFENDER'S OR CHILD KIDNAPPER'S
 25 ADDRESS] and **notice of** any changes to the information previously provided under
 26 (b)(1) of this section.

27 * **Sec. 6.** AS 12.63.010 is amended by adding new subsections to read:

28 (g) If a sex offender or child kidnapper plans to leave the state after having
 29 registered under (a) of this section, the sex offender or child kidnapper shall appear in
 30 person and provide written notice to the department or a municipal police department
 31 in the state of the plan to leave the state at least seven calendar days before leaving the

1 state. If a sex offender or child kidnapper plans to leave the state for international
 2 travel after having registered under (a) of this section, the sex offender or child
 3 kidnapper shall appear in person and provide written notice to the department or a
 4 municipal police department in the state of the plan for any intended travel outside the
 5 United States at least 21 days before leaving the state for international travel.

6 (h) If a sex offender or child kidnapper is away from the address provided to
 7 the department under (b)(1)(A) of this section for seven days or more, the sex offender
 8 or child kidnapper shall notify the department in writing of the address being used by
 9 the sex offender or child kidnapper while away from the residence provided under
 10 (b)(1)(A) of this section.

11 * **Sec. 7.** AS 12.63.020(a) is amended to read:

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

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

16 (A) continues for the lifetime of a sex offender or child
 17 kidnapper convicted of

18 (i) one aggravated sex offense; or

19 (ii) two or more sex offenses, two or more child
 20 kidnappings, or one sex offense and one child kidnapping; for purposes
 21 of this section, a person convicted of indecent exposure before a person
 22 under 16 years of age under AS 11.41.460 more than two times has
 23 been convicted of two or more sex offenses;

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

30 (i) is tolled for **the period** [EACH YEAR] that a sex
 31 offender or child kidnapper fails to comply with the requirements of

1 this chapter or is incarcerated for the offense or kidnapping for which
 2 the offender or kidnapper is required to register or for any other
 3 offense;

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

11 (iii) continues for a sex offender or child kidnapper who
 12 has not supplied proof acceptable to the department of the offender's or
 13 kidnapper's unconditional discharge for the sex offense or child
 14 kidnapping requiring registration;

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

18 * **Sec. 8.** AS 12.63.100(7) is amended to read:

19 (7) "sex offense" means

20 (A) a crime under AS 11.41.100(a)(3), or a similar law of
 21 another jurisdiction, in which the person committed or attempted to commit a
 22 sexual offense, or a similar offense under the laws of the other jurisdiction; in
 23 this subparagraph, "sexual offense" has the meaning given in
 24 AS 11.41.100(a)(3);

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

28 (i) sexual assault in the first degree;

29 (ii) sexual assault in the second degree;

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

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

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

3 (i) AS 11.41.410 - 11.41.438;

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

5 (iii) AS 11.41.450 - 11.41.458;

6 (iv) AS 11.41.460 or AS 26.05.900(c) if the indecent
7 exposure is before a person under 16 years of age and the offender has
8 previously been convicted under AS 11.41.460 or AS 26.05.900(c);

9 (v) AS 11.61.125 - 11.61.128;

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

13 (vii) former AS 11.15.120, former 11.15.134, or assault
14 with the intent to commit rape under former AS 11.15.160, former
15 AS 11.40.110, or former 11.40.200;

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

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

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

22 (xi) AS 26.05.890 if, at the time of the offense, the
23 victim is under a duty to obey the lawful orders of the offender,
24 regardless of whether the offender is in the direct chain of command
25 over the victim;

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

28 (xiii) AS 26.05.900(a) [AS 26.05.900(a)(1) - (4)] if the
29 victim is under 18 years of age at the time of the offense;

30 (xiv) AS 26.05.900 if, at the time of the offense, the
31 victim is under a duty to obey the lawful orders of the offender,

1 regardless of whether the offender is in the direct chain of command
2 over the victim; [OR]

3 (xv) AS 11.61.123 if the offender is subject to
4 punishment under AS 11.61.123(g)(1) or (2) [AS 11.61.123(f)(1) OR
5 (2)];

6 (xvi) AS 11.61.130(a)(2); or

7 (xvii) AS 11.66.110 and 11.66.120;

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

13 (i) child pornography; or

14 (ii) pandering and prostitution if the person who is
15 induced, enticed, caused, or procured to engage in a sexual act is under
16 20 years of age at the time of the offense; or

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

19 * **Sec. 9.** AS 18.66.990(3) is amended to read:

20 (3) "domestic violence" and "crime involving domestic violence" mean
21 one or more of the following offenses or an offense under a law or ordinance of
22 another jurisdiction having elements similar to these offenses, or an attempt to commit
23 the offense, by a household member against another household member:

24 (A) a crime against the person under AS 11.41;

25 (B) burglary under AS 11.46.300 - 11.46.310;

26 (C) criminal trespass under AS 11.46.320 - 11.46.330;

27 (D) arson or criminally negligent burning under AS 11.46.400 -
28 11.46.430;

29 (E) criminal mischief under AS 11.46.475 - 11.46.486;

30 (F) terrorist threatening under AS 11.56.807 or 11.56.810;

31 (G) violating a protective order under AS 11.56.740(a)(1);

1 (H) harassment under AS 11.61.120(a)(2) - (4) or (6); [OR]

2 (I) cruelty to animals under AS 11.61.140(a)(5) if the animal is
3 a pet;

4 **(J) interfering with a report of a crime involving domestic**
5 **violence under AS 11.56.745 if the person interfering with the report is the**
6 **person who committed the underlying crime involving domestic violence;**
7 **or**

8 **(K) unlawful contact under AS 11.56.750 or 11.56.755;**

9 * **Sec. 10.** AS 47.14.300(a) is amended to read:

10 (a) The department, a state or municipal agency with expertise in child abuse
11 or neglect, or a tribe recognized by the United States Secretary of the Interior to exist
12 as an Indian tribe under 25 U.S.C. 479a (Federally Recognized Indian Tribe List Act
13 of 1994) with expertise in child abuse or neglect, in partnership with the department,
14 may facilitate the initial establishment of a multidisciplinary child protection team.
15 The purpose of a team is to assist in the evaluation and investigation of reports of child
16 abuse or neglect, as defined in AS 47.17.290, made under AS 47.17 or initiated by the
17 department or a law enforcement agency; **to assist in the evaluation and**
18 **investigation of reports of sexual contact or sexual penetration, as defined in**
19 **AS 11.81.900, occurring between children under 13 years of age;** and to provide
20 consultation and coordination for agencies involved in child-in-need-of-aid cases
21 under AS 47.10. The multidisciplinary child protection teams shall

22 (1) ensure that investigations involving child abuse or neglect are
23 coordinated and conducted by trained investigators;

24 (2) take and recommend steps to avoid duplicative interviews of
25 children;

26 (3) assist in the reduction of trauma to a child and family involved in
27 an investigation of child abuse or neglect; and

28 (4) review records, provide consultation, and make recommendations
29 to the department pertaining to a child-in-need-of-aid case under AS 47.10 referred to
30 the team by a team member.

31 * **Sec. 11.** The uncodified law of the State of Alaska enacted in sec. 142(c), ch. 4, FSSLA

1 2019, is amended to read:

2 (c) The following sections apply to the duty to register as a sex offender for
3 offenses committed **before, on,** or after the effective date of those sections:

4 (1) AS 12.63.010(d), as amended by sec. 82 of this Act;

5 (2) AS 12.63.020, as amended by sec. 83 of this Act;

6 (3) AS 12.63.100(6), as amended by sec. 84 of this Act;

7 (4) AS 12.63.100(7), as amended by sec. 85 of this Act.

8 * **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 DIRECT COURT RULE AMENDMENT. Rule 6(r), Alaska Rules of Criminal
11 Procedure, is amended to read:

12 (r) **Admissibility of Evidence.**

13 (1) Evidence which **the prosecutor believes** would be legally
14 admissible at trial shall be admissible before the grand jury. **Witnesses** [IN
15 APPROPRIATE CASES, HOWEVER, WITNESSES] may be presented to
16 summarize admissible evidence if the admissible evidence will be available at trial.
17 [EXCEPT AS STATED IN SUBPARAGRAPHS (2), (3), AND (6), HEARSAY
18 EVIDENCE SHALL NOT BE PRESENTED TO THE GRAND JURY ABSENT
19 COMPELLING JUSTIFICATION FOR ITS INTRODUCTION. IF HEARSAY
20 EVIDENCE IS PRESENTED TO THE GRAND JURY, THE REASONS FOR ITS
21 USE SHALL BE STATED ON THE RECORD.]

22 (2) [IN A PROSECUTION FOR AN OFFENSE UNDER
23 AS 11.41.410 - 11.41.458, HEARSAY EVIDENCE OF A STATEMENT RELATED
24 TO THE OFFENSE, NOT OTHERWISE ADMISSIBLE, MADE BY A CHILD
25 WHO IS THE VICTIM OF THE OFFENSE MAY BE ADMITTED INTO
26 EVIDENCE BEFORE THE GRAND JURY IF

27 (i) THE CIRCUMSTANCES OF THE STATEMENT
28 INDICATE ITS RELIABILITY;

29 (ii) THE CHILD IS UNDER 10 YEARS OF AGE
30 WHEN THE HEARSAY EVIDENCE IS SOUGHT TO BE
31 ADMITTED;

1 (iii) ADDITIONAL EVIDENCE IS INTRODUCED
2 TO CORROBORATE THE STATEMENT; AND

3 (iv) THE CHILD TESTIFIES AT THE GRAND JURY
4 PROCEEDING OR THE CHILD WILL BE AVAILABLE TO
5 TESTIFY AT TRIAL.

6 (3) HEARSAY EVIDENCE RELATED TO THE OFFENSE, NOT
7 OTHERWISE ADMISSIBLE, MAY BE ADMITTED INTO EVIDENCE BEFORE
8 THE GRAND JURY IF

9 (i) THE INDIVIDUAL PRESENTING THE
10 HEARSAY EVIDENCE IS A PEACE OFFICER INVOLVED IN THE
11 INVESTIGATION; AND

12 (ii) THE HEARSAY EVIDENCE CONSISTS OF THE
13 STATEMENT AND OBSERVATIONS MADE BY ANOTHER
14 PEACE OFFICER IN THE COURSE OF AN INVESTIGATION;
15 AND

16 (iii) ADDITIONAL EVIDENCE IS INTRODUCED
17 TO CORROBORATE THE STATEMENT.

18 (4) If the testimony presented by a peace officer [UNDER
19 PARAGRAPH (3) OF THIS SECTION] is inaccurate because of intentional, grossly
20 negligent, or negligent misstatements or omissions, then the court shall dismiss an
21 indictment resulting from the testimony if the defendant shows that the inaccuracy
22 prejudices substantial rights of the defendant.

23 **(3)** [(5) IN THIS SECTION "STATEMENT" MEANS AN ORAL OR
24 WRITTEN ASSERTION OR NONVERBAL CONDUCT IF THE NONVERBAL
25 CONDUCT IS INTENDED AS AN ASSERTION.

26 (6) When a prior conviction is an element of an offense, hearsay
27 evidence received through the Alaska Public Safety Information Network or from
28 other government agencies of prior convictions may be presented to the grand jury.

29 * **Sec. 13.** AS 12.40.110 is repealed.

30 * **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to
31 read:

1 APPLICABILITY. (a) AS 11.41.260(a), as amended by sec. 2 of this Act,
2 AS 12.55.127(c), as amended by sec. 3 of this Act, and AS 18.66.990(3), as amended by sec.
3 9 of this Act, apply to offenses committed on or after the effective date of this Act.

4 (b) Except as otherwise provided in this Act, the duty imposed by AS 12.63.010(b), as
5 amended by sec. 4 of this Act, AS 12.63.010(d), as amended by sec. 5 of this Act, and
6 AS 12.63.010(g) and (h), enacted by sec. 6 of this Act, applies to the duty to register as a sex
7 offender or child kidnapper for offenses committed before, on, or after the effective date of
8 this Act.

9 (c) AS 12.63.020(a), as amended by sec. 7 of this Act, applies to the tolling of the
10 duty to register as a sex offender or child kidnapper on or after the effective date of this Act
11 for determinations of noncompliance made by the Department of Public Safety on or after the
12 effective date of this Act.

13 (d) Nothing in AS 12.63.020(a), as amended by sec. 7 of this Act, may be construed
14 as invalidating a decision of the Department of Public Safety to toll the period of registration
15 or continue the period of registration under AS 12.63 before the effective date of this Act.

16 (e) AS 12.63.100(7), as amended by sec. 8 of this Act, applies to the duty to register
17 as a sex offender for offenses committed on or after the effective date of this Act.

18 (f) Rule 6(r), Alaska Rules of Criminal Procedure, as amended by sec. 12 of this Act,
19 applies to indictments occurring on or after the effective date of this Act for offenses
20 committed before, on, or after the effective date of this Act.

21 * **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to
22 read:

23 CONDITIONAL EFFECT. Rule 6(r), Alaska Rules of Criminal Procedure, as
24 amended by sec. 12 of this Act, takes effect only if sec. 12 of this Act receives the two-thirds
25 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

26 * **Sec. 16.** This Act takes effect July 1, 2023.