

CS FOR HOUSE BILL NO. 307(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 2/23/18

Referred: Rules

Sponsor(s): REPRESENTATIVES TUCK, LeDoux, Spohnholz

A BILL

FOR AN ACT ENTITLED

1 **"An Act requiring a person who commits certain offenses under the code of military**
2 **justice to register as a sex offender or child kidnapper; relating to the Servicemembers**
3 **Civil Relief Act; relating to contracts made by servicemembers; relating to nonjudicial**
4 **punishment of members of the organized militia; relating to offenses subject to court-**
5 **martial proceedings; and providing for an effective date."**

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

7 *** Section 1.** AS 12.63.100(1) is amended to read:

8 (1) "aggravated sex offense" means

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

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

4 (i) sexual assault in the first degree;

5 (ii) sexual assault in the second degree;

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

7 (iv) sexual abuse of a minor in the second degree; [OR]

8 (C) a crime, or an attempt, solicitation, or conspiracy to commit
 9 a crime, under AS 11.41.410, 11.41.434, or a similar law of another
 10 jurisdiction or a similar provision under a former law of this state;

11 **(D) an offense, or an attempt, solicitation, or conspiracy to**
 12 **commit an offense, under**

13 **(i) AS 26.05.890 if the person engaged in or**
 14 **attempted to engage in sexual penetration; or**

15 **(ii) AS 26.05.893 if the prohibited sexual activity in**
 16 **which the member of the militia engaged or attempted to engage is**
 17 **sexual penetration;**

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

19 (2) "child kidnapping" 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
 22 kidnapping;

23 (B) a crime under AS 11.41.110(a)(3), or a similar law of
 24 another jurisdiction, in which the person committed or attempted to commit
 25 kidnapping if the victim was under 18 years of age at the time of the offense;
 26 [OR]

27 (C) a crime, or an attempt, solicitation, or conspiracy to commit
 28 a crime, under AS 11.41.300, or a similar law of another jurisdiction or a
 29 similar provision under a former law of this state, if the victim was under 18
 30 years of age at the time of the offense; **or**

31 **(D) an offense, or an attempt, solicitation, or conspiracy to**

1 **commit an offense, under AS 26.05.935(b) if**

2 **(i) the member of the militia commits the**
 3 **enumerated offense of kidnapping, punishable under Article 134,**
 4 **10 U.S.C. 934 (Uniform Code of Military Justice); and**

5 **(ii) the victim was under 18 years of age at the time**
 6 **of the offense;**

7 * **Sec. 3.** AS 12.63.100(6) is amended to read:

8 (6) "sex offense" means

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

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

17 (i) sexual assault in the first degree;

18 (ii) sexual assault in the second degree;

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

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

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

23 (i) AS 11.41.410 - 11.41.438;

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

25 (iii) AS 11.41.450 - 11.41.458;

26 (iv) AS 11.41.460 if the indecent exposure is before a
 27 person under 16 years of age and the offender has a previous conviction
 28 for that offense **or for an offense under AS 26.05.900(c);**

29 (v) AS 11.61.125 - 11.61.128;

30 (vi) AS 11.66.110 or 11.66.130(a)(2)(B) if the person
 31 who was induced or caused to engage in prostitution was under 20

1 years of age at the time of the offense;

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

5 (viii) AS 11.61.118(a)(2) if the offender has a previous
6 conviction for that offense; [OR]

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

9 **(x) AS 26.05.890 if the person engaged in sexual**
10 **penetration or sexual contact with the victim;**

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

15 **(xii) AS 26.05.893;**

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

18 **(xiv) AS 26.05.900(b) if the person who is compelled**
19 **to engage in an act of prostitution is under 20 years of age at the**
20 **time of the offense;**

21 **(xv) AS 26.05.900(c) if the exposure is before a**
22 **person under 16 years of age and the offender has a previous**
23 **conviction for that offense or for an offense under AS 11.41.460;**

24 **(xvi) AS 26.05.900 if, at the time of the offense, the**
25 **victim is under a duty to obey the lawful orders of the offender,**
26 **regardless of whether the offender is in the direct chain of**
27 **command over the victim; or**

28 **(D) an offense, or an attempt, solicitation, or conspiracy to**
29 **commit an offense, under AS 26.05.935(b) if the member of the militia**
30 **commits one of the following enumerated offenses punishable under**
31 **Article 134, 10 U.S.C. 934 (Uniform 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**
 4 **under 20 years of age at the time of the offense;**

5 * **Sec. 4.** AS 12.63.100 is amended by adding new paragraphs to read:

6 (8) "sexual contact" has the meaning given in AS 11.81.900;

7 (9) "sexual penetration" has the meaning given in AS 11.81.900.

8 * **Sec. 5.** AS 18.65.087(a) is amended to read:

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

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

21 (2) a post of the Alaska state troopers or a municipal police department
 22 under this subsection;

23 (3) a court judgment under AS 12.55.148, **AS 26.05.890(h),**
 24 **26.05.893(d), 26.05.900(e), or 26.05.935(d);**

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

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

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

31 (7) the department's central repository under AS 12.62; information

1 entered in the registry from the repository is not subject to the requirements of
2 AS 12.62.160(c)(3) or (4);

3 **(8) the Department of Military and Veterans' Affairs; or**

4 **(9)** [OR (8)] another reliable source as defined in regulations adopted
5 by the department.

6 * **Sec. 6.** AS 26.05.135 is amended to read:

7 **Sec. 26.05.135. Applicability of Servicemembers Civil Relief Act to**
8 **members of the organized militia; contracts** [SUSPENSION OF
9 **ENFORCEMENT OF CIVIL LIABILITIES].** The provisions of **50 U.S.C. 3901 -**
10 **4043 (Servicemembers Civil Relief Act)** [50 U.S.C. APP. 501 - 590,] pertaining to
11 **consumer transactions and** the temporary suspension of enforcement of civil
12 liabilities of persons in the military service of the United States [,] apply to members
13 of the **organized militia** [ALASKA NATIONAL GUARD AND ALASKA NAVAL
14 MILITIA] while on active duty for the state by order of the governor.

15 * **Sec. 7.** AS 26.05.135 is amended by adding new subsections to read:

16 (b) In addition to the rights and protections provided under 50 U.S.C. 3901 -
17 4043 (Servicemembers Civil Relief Act) and (a) of this section, a servicemember may
18 terminate a contract for any of the following services provided in this state if the
19 servicemember receives official orders to relocate for a period of military service of at
20 least 90 days to a location that does not support the contract and the servicemember
21 provides written notice to the service provider as required under (c) of this section:

- 22 (1) Internet services;
23 (2) athletic club or gym memberships;
24 (3) satellite radio services; or
25 (4) television services.

26 (c) To terminate a contract under (b) of this section, the servicemember shall
27 provide the service provider with (1) written notice that the servicemember is
28 terminating the contract and the date the contract terminates, and (2) proof of the
29 official orders calling the servicemember into active military service. If possible, the
30 servicemember shall provide the proof of the official orders at the same time the
31 servicemember provides written notice terminating the contract. If, because of military

1 necessity or other circumstances, the servicemember is unable to provide proof of
 2 official orders at the time the servicemember provides written notice terminating the
 3 contract, the servicemember shall provide proof of the official orders not more than 90
 4 days after providing written notice terminating the contract. A termination of contract
 5 under this section is effective on the later of the following: the termination date the
 6 servicemember indicates in the written notice terminating the contract or the date the
 7 servicemember provides the written notice terminating the contract.

8 (d) A servicemember who terminates a contract under this section may
 9 reinstate the contract when the servicemember is no longer in active military service if
 10 the servicemember provides written notice not later than 90 days after the active
 11 military service ends. Not later than 30 days after receiving a written notice of
 12 reinstatement of a contract under this subsection, a service provider shall resume
 13 providing services under the contract to the servicemember or, if the services
 14 previously provided are no longer available, shall provide substantially similar
 15 services to the servicemember.

16 (e) A service provider may not charge to a servicemember a penalty, fee, or
 17 other cost, or retain the deposit of a servicemember, who terminates a contract under
 18 this section. A servicemember who terminates a contract under this section is not
 19 liable for payment for any services after the effective date of the termination of a
 20 contract under this section.

21 (f) In this section,

22 (1) "organized militia" includes the units of the militia described in
 23 AS 26.05.010(b)(1);

24 (2) "servicemember" means a member of the armed forces of the
 25 United States or a member of the organized militia of the state.

26 * **Sec. 8.** AS 26.05.360(b) is amended to read:

27 (b) The regulations adopted under this section must

28 (1) provide for nonjudicial punishment; the regulations for nonjudicial
 29 punishment may not provide for confinement or separation from military service [OR
 30 PROHIBIT A MEMBER OF THE MILITIA FROM DECLINING THE
 31 IMPOSITION OF NONJUDICIAL PUNISHMENT IN FAVOR OF A COURT-

1 MARTIAL];

2 (2) as the adjutant general and the governor consider practicable, apply
3 the principles of law and the rules of evidence and procedure governing military
4 criminal cases in the courts of the armed forces of the United States, but may not be
5 contrary to or inconsistent with this chapter or the applicable Alaska Rules of
6 Evidence;

7 (3) include rules of pretrial, trial, and post-trial procedure, including
8 methods of proof, for cases before courts-martial and courts of inquiry.

9 * **Sec. 9.** AS 26.05.555(a) is amended to read:

10 (a) A military judge or summary court-martial officer may punish for
11 contempt a person who

12 **(1) uses a menacing word, sign, or gesture in its presence;**

13 **(2) [, OR WHO] disturbs its proceedings by any riot or disorder; or**

14 **(3) wilfully disobeys a lawful writ, process, order, rule, decree, or**
15 **command of the military judge or summary court-martial officer.**

16 * **Sec. 10.** AS 26.05 is amended by adding a new section to read:

17 **Sec. 26.05.697. Misprision of serious offense.** A member of the militia who

18 (1) knows that another person has committed a serious offense, (2) wrongfully
19 conceals the commission of the offense, and (3) fails to make the commission of the
20 offense known to a civilian or military authority as soon as possible shall be punished
21 as a court-martial may direct.

22 * **Sec. 11.** AS 26.05.700 is amended to read:

23 **Sec. 26.05.700. Conviction of lesser included offense.** An accused may be
24 found guilty of an offense necessarily included in the offense charged, [OR] of an
25 attempt to commit either the offense under this chapter charged or an offense
26 necessarily included in the offense charged, **or of an offense designated by the**
27 **President of the United States, in an appendix to the 2017 Manual for Courts-**
28 **Martial, United States, as a presidentially prescribed lesser included offense**
29 **under 10 U.S.C. 879.**

30 * **Sec. 12.** AS 26.05.715 is amended by adding a new subsection to read:

31 (c) A member of the militia who solicits or advises another person to commit

1 an offense under this chapter, other than an offense specified in (a) or (b) of this
2 section, shall be punished as a court-martial may direct.

3 * **Sec. 13.** AS 26.05 is amended by adding a new section to read:

4 **Sec. 26.05.737. False or unauthorized pass offenses.** (a) A member of the
5 militia who wrongfully and falsely makes, alters, counterfeits, or tampers with a
6 military or official pass, permit, discharge certificate, or identification card shall be
7 punished as a court-martial may direct.

8 (b) A member of the militia who wrongfully sells, gives, lends, or disposes of
9 a false or unauthorized military or official pass, permit, discharge certificate, or
10 identification card, knowing that the pass, permit, discharge certificate, or
11 identification card is false or unauthorized, shall be punished as a court-martial may
12 direct.

13 (c) A member of the militia who wrongfully uses or possesses a false or
14 unauthorized military or official pass, permit, discharge certificate, or identification
15 card, knowing that the pass, permit, discharge certificate, or identification card is false
16 or unauthorized, shall be punished as a court-martial may direct.

17 * **Sec. 14.** AS 26.05.740 is amended to read:

18 **Sec. 26.05.740. Missing movement; jumping from vessel.** A member of the
19 militia who, **(1)** through neglect or design, misses the movement of a ship, aircraft, or
20 unit with which the member is required, in the course of duty, to move, **or (2)**
21 **intentionally or wrongfully jumps into the water from a vessel in use by the**
22 **armed forces** may be punished by up to one year of confinement, by separation with
23 characterization up to dishonorable discharge, and by such other punishment as a
24 court-martial may direct.

25 * **Sec. 15.** AS 26.05 is amended by adding new sections to read:

26 **Sec. 26.05.767. Impersonation of officer, noncommissioned officer, petty**
27 **officer, agent, or official.** (a) A member of the militia who wrongfully and wilfully
28 impersonates (1) an officer, noncommissioned officer, or petty officer, (2) an agent of
29 superior authority of one of the armed forces of the United States or of the militia of
30 the state, or (3) an official of a government shall be punished as a court-martial may
31 direct.

1 (b) A member of the militia who wrongfully, wilfully, and with intent to
 2 defraud impersonates (1) an officer, noncommissioned officer, or petty officer, (2) an
 3 agent of superior authority of one of the armed forces of the United States or of the
 4 militia of the state, or (3) an official of a government shall be punished as a court-
 5 martial may direct.

6 (c) A member of the militia who wrongfully, wilfully, and without intent to
 7 defraud impersonates an official of a government by committing an act that exercises
 8 or asserts the authority of the office that the person claims to have shall be punished as
 9 a court-martial may direct.

10 **Sec. 26.05.768. Wearing unauthorized insignia, decoration, badge, ribbon,**
 11 **device, or lapel button.** A member of the militia who wears on the member's uniform
 12 or civilian clothing an insignia, decoration, badge, ribbon, device, or lapel button that
 13 the member is not authorized to wear shall be punished as a court-martial may direct.

14 * **Sec. 16.** AS 26.05.785 is amended by adding a new subsection to read:

15 (b) A member of the militia who unlawfully drinks an alcoholic beverage with
 16 a prisoner or unlawfully uses a drug with a prisoner may be punished by up to one
 17 year of confinement, by separation with characterization up to dishonorable discharge,
 18 and by such other punishment as a court-martial may direct, whether or not the
 19 prisoner was committed in strict compliance with law.

20 * **Sec. 17.** AS 26.05 is amended by adding a new section to read:

21 **Sec. 26.05.793. Wrongful interference with adverse administrative**
 22 **proceeding.** A member of the militia who, having reason to believe that an adverse
 23 administrative proceeding is pending against a person subject to this chapter,
 24 wrongfully acts with the intent to influence, impede, or obstruct the conduct of the
 25 proceeding or otherwise obstruct the due administration of justice shall be punished as
 26 a court-martial may direct.

27 * **Sec. 18.** AS 26.05 is amended by adding new sections to read:

28 **Sec. 26.05.796. Wrongful refusal to testify.** A member of the militia who,
 29 during a preliminary hearing or in the presence of a court-martial, board of officers,
 30 military commission, court of inquiry, or officer taking a deposition of or for the state,
 31 wrongfully refuses to qualify as a witness or answer a question after having been

1 directed to do so by the person presiding over the proceeding shall be punished as a
2 court-martial may direct.

3 **Sec. 26.05.798. Retaliation.** A member of the militia who, with the intent to
4 retaliate against a person for reporting or planning to report a criminal offense or for
5 making or planning to make a protected communication, or who, with the intent to
6 discourage any person from reporting a criminal offense or from making or planning
7 to make a protected communication, (1) wrongfully takes or threatens to take an
8 adverse personnel action against a person or (2) wrongfully withholds or threatens to
9 withhold a favorable personnel action with respect to a person shall be punished as a
10 court-martial may direct.

11 * **Sec. 19.** AS 26.05 is amended by adding a new section to read:

12 **Sec. 26.05.833. Offenses against correctional custody and restriction.** (a) A
13 member of the militia who (1) is placed in correctional custody by a person authorized
14 to do so, (2) is placed under physical restraint while in correctional custody, and (3)
15 escapes from the physical restraint before the member is released from physical
16 restraint by proper authority shall be punished as a court-martial may direct.

17 (b) A member of the militia who (1) is placed in correctional custody by a
18 person authorized to do so, (2) is placed under restraint other than physical restraint
19 while in correctional custody, and (3) goes beyond the limits of the restraint before the
20 member is released from or relieved of the restraint by proper authority shall be
21 punished as a court-martial may direct.

22 (c) A member of the militia who (1) is ordered to be restricted to certain limits
23 by a person authorized to do so and (2) with knowledge of the limits of the restriction,
24 goes beyond the limits before the member is released from the limitations by proper
25 authority shall be punished as a court-martial may direct.

26 * **Sec. 20.** AS 26.05.835 is amended by adding a new subsection to read:

27 (b) A member of the militia who (1) takes an oath that is in a matter in which
28 the oath is required or authorized by law and that is administered by a person who has
29 the authority to administer the oath and (2) makes or subscribes to a statement that is
30 false and that the person does not believe to be true at the time the person takes the
31 oath shall be punished as a court-martial may direct.

1 * **Sec. 21.** AS 26.05.855(b) is amended to read:

2 (b) A member of the militia who (1) operates or physically controls a
3 nonmilitary vehicle, aircraft, or vessel while impaired by a **controlled** substance
4 [DESCRIBED IN AS 26.05.870(c)], or (2) operates or is in actual physical control of
5 a nonmilitary vehicle, aircraft, or vessel while under the influence of alcohol or when
6 the alcohol concentration in the person's blood or breath is equal to or exceeds the
7 applicable limit under (d) of this section may be punished by up to one year of
8 confinement, by separation with characterization up to dishonorable discharge, and by
9 such other punishment as a court-martial may direct, or under (e) of this section if the
10 member is not in active duty status at the time of the offense, or by up to five years of
11 confinement, by separation with characterization up to dishonorable discharge, and by
12 such other punishment as a court-martial may direct if the member is in active duty
13 status at the time of the offense.

14 * **Sec. 22.** AS 26.05.855(c) is amended to read:

15 (c) A member of the militia who (1) operates or physically controls a vehicle,
16 aircraft, or vessel of the armed forces of the United States or the militia of a state in a
17 negligent or reckless manner or while impaired by a **controlled** substance
18 [DESCRIBED IN AS 26.05.870(c)], or (2) operates or is in actual physical control of
19 a vehicle, aircraft, or vessel of the armed forces of the United States or the militia of a
20 state while under the influence of alcohol or when the alcohol concentration in the
21 person's blood or breath is equal to or exceeds the applicable limit under (d) of this
22 section may be punished by up to five years of confinement, by separation with
23 characterization up to dishonorable discharge, and by such other punishment as a
24 court-martial may direct.

25 * **Sec. 23.** AS 26.05.860 is amended to read:

26 **Sec. 26.05.860. Drunkenness and other incapacitating offenses [DRUNK**
27 **ON DUTY].** A member of the militia, other than a sentinel or lookout, who **(1)** is
28 found under the influence of alcohol **or a controlled substance** while on duty, **or (2)**
29 **as a result of the use of any alcoholic beverage or drug, is unable to properly**
30 **perform the member's duty** may be punished by up to one year of confinement, by
31 separation with characterization up to dishonorable discharge, and by such other

1 punishment as a court-martial may direct.

2 * **Sec. 24.** AS 26.05.860 is amended by adding a new subsection to read:

3 (b) A member of the militia who, while a prisoner, is drunk or under the
4 influence of a controlled substance other than a controlled substance taken in
5 accordance with a valid prescription shall be punished as a court-martial may direct.

6 * **Sec. 25.** AS 26.05.865 is amended to read:

7 **Sec. 26.05.865. Misbehavior of sentinel.** A sentinel or lookout who **(1) as a**
8 **result of the use of any alcoholic beverage or drug, is unable to properly perform**
9 **the sentinel's or lookout's duties, (2)** is found [UNDER THE INFLUENCE OF
10 ALCOHOL OR] sleeping on the sentinel's or lookout's post, **(3)** [OR] leaves the
11 **sentinel's or lookout's** post before being regularly relieved, **or (4) loiters or**
12 **wrongfully sits down on post** may be punished, if the offense is committed in time of
13 war or emergency as described in AS 26.05.070, by confinement of not more than 10
14 years, by separation with characterization up to dishonorable discharge, and by such
15 other punishment as a court-martial may direct, but if the offense is committed at any
16 other time, by up to one year of confinement, by separation with characterization up to
17 dishonorable discharge, and by such other punishment as a court-martial may direct.

18 * **Sec. 26.** AS 26.05 is amended by adding a new section to read:

19 **Sec. 26.05.867. Disrespect toward sentinel or lookout.** A member of the
20 militia who, knowing that another person is a sentinel or lookout, uses wrongful and
21 disrespectful language or behaves in a wrongful and disrespectful manner that is
22 directed toward and within the hearing of the sentinel or lookout while the sentinel or
23 lookout is executing the sentinel or lookout's duties shall be punished as a court-
24 martial may direct.

25 * **Sec. 27.** AS 26.05.890(a) is amended to read:

26 (a) A member of the militia who commits any of the following acts is guilty of
27 sexual assault and, **except as provided under (g) of this section, shall** [MAY] be
28 punished [BY UP TO 10 YEARS OF CONFINEMENT,] by separation with
29 characterization [UP TO] dishonorable discharge[,] and **may, in addition to**
30 **separation, be punished by up to 10 years of confinement and** by such other
31 punishment as a court-martial may direct:

- 1 (1) a sexual act on another person by
 2 (A) threatening or placing another person in fear;
 3 (B) causing bodily harm to another person;
 4 (C) making a fraudulent representation that the sexual act
 5 serves a professional purpose;
 6 (D) inducing a belief by any artifice, pretense, or concealment
 7 that the person is another person;

8 (2) a sexual act on another person when the person knows or
 9 reasonably should know that the other person is asleep, unconscious, or otherwise
 10 unaware that the sexual act is occurring;

11 (3) a sexual act on another person when the other person is incapable
 12 of consenting to the sexual act because of

13 (A) impairment by a drug, intoxicant, or other similar
 14 substance, and that condition is known or reasonably should be known by the
 15 person;

16 (B) a mental disease or defect or physical disability, and that
 17 condition is known or reasonably should be known by the person.

18 * **Sec. 28.** AS 26.05.890 is amended by adding new subsections to read:

19 (g) The convening authority of the court-martial may reduce, commute, or
 20 suspend a sentence of separation with characterization dishonorable discharge
 21 imposed by a court-martial under (a) of this section to a sentence of separation with
 22 characterization bad conduct if, after sentencing and before the entry of judgment, the
 23 accused provides substantial assistance with the investigation or prosecution of
 24 another person.

25 (h) When a person is convicted of an offense under this section that requires
 26 the person to register as a sex offender under AS 12.63, the court-martial shall provide
 27 the person with information regarding sex offender registration under AS 12.63.010
 28 and, if it can be determined by the court-martial, inform the person whether the
 29 conviction will require the person to register for life or a lesser period under AS 12.63.

30 * **Sec. 29.** AS 26.05 is amended by adding a new section to read:

31 **Sec. 26.05.893. Prohibited sexual activities with military recruit or trainee**

1 **by person in position of special trust.** (a) A member of the militia who (1) is an
 2 officer, a noncommissioned officer, or a petty officer, (2) is in a training leadership
 3 position with respect to a specially protected junior member of the armed forces of the
 4 United States or of the militia of the state, and (3) engages in prohibited sexual activity
 5 with the specially protected junior member of the armed forces of the United States or
 6 of the militia of the state shall be punished as a court-martial may direct.

7 (b) A member of the militia who is a military recruiter and engages in
 8 prohibited sexual activity with (1) an applicant for military service or (2) a specially
 9 protected junior member of the armed forces of the United States or of the militia of
 10 the state who is enlisted under a delayed entry program shall be punished as a court-
 11 martial may direct.

12 (c) Consent is not a defense in a prosecution under this section.

13 (d) When a person is convicted of an offense under this section that requires
 14 the person to register as a sex offender under AS 12.63, the court-martial shall provide
 15 the person with information regarding sex offender registration under AS 12.63.010
 16 and, if it can be determined by the court-martial, inform the person whether the
 17 conviction will require the person to register for life or a lesser period under AS 12.63.

18 * **Sec. 30.** AS 26.05 is amended by adding a new section to read:

19 **Sec. 26.05.897. Assault.** (a) A member of the militia commits the offense of
 20 assault if the person attempts or offers to do bodily harm to another person using
 21 unlawful force or violence, whether or not the attempt or offer is consummated. A
 22 person who commits assault may be punished by up to one year of confinement, by
 23 separation with characterization up to dishonorable discharge, and by such other
 24 punishment as a court-martial may direct.

25 (b) A member of the militia commits the offense of aggravated assault if the
 26 person (1) uses a dangerous weapon or other means or force likely to produce death or
 27 grievous bodily harm to commit the offense described in (a) of this section or (2)
 28 commits the offense described in (a) of this section and intentionally inflicts grievous
 29 bodily harm, with or without a weapon, on another person. A person who commits
 30 aggravated assault may be punished by up to five years of confinement, by separation
 31 with characterization up to dishonorable discharge, and by such other punishment as a

1 court-martial may direct.

2 * **Sec. 31.** AS 26.05.900(a) is amended to read:

3 (a) A member of the militia who knowingly commits any of the following acts
4 without legal justification or lawful authorization is guilty of an offense under this
5 section and may be punished by up to one year of confinement, by separation with
6 characterization up to dishonorable discharge, and by such other punishment as a
7 court-martial may direct:

8 (1) knowingly and wrongfully views the private area of another
9 person, without the other person's consent and under circumstances in which the other
10 person has a reasonable expectation of privacy;

11 (2) knowingly and wrongfully photographs, videotapes, films, or
12 records, by any means, the private area of another person without the other person's
13 consent and under circumstances in which the other person has a reasonable
14 expectation of privacy;

15 (3) knowingly [AND WRONGFULLY] broadcasts [OR
16 DISTRIBUTES] a recording of another person's private area that the person knows
17 or reasonably should know was made or broadcast

18 (A) without the other person's consent; and

19 (B) under circumstances in which the other person had a
20 reasonable expectation of privacy;

21 (4) knowingly distributes a recording of another person's private
22 area that the person knows or reasonably should know was made or distributed

23 (A) without the other person's consent; and

24 (B) under circumstances in which the other person had a
25 reasonable expectation of privacy [UNDER THE CIRCUMSTANCES

26 DESCRIBED IN (2) OF THIS SUBSECTION].

27 * **Sec. 32.** AS 26.05.900(d) is amended by adding new paragraphs to read:

28 (7) "recording" means a still or moving visual image captured or
29 recorded by any means;

30 (8) "without the other person's consent" has the meaning given to
31 "without consent" in AS 11.41.470.

1 * **Sec. 33.** AS 26.05.900 is amended by adding a new subsection to read:

2 (e) When a person is convicted of an offense under this section that requires
3 the offender to register as a sex offender under AS 12.63, the court-martial shall
4 provide the person with information regarding sex offender registration under
5 AS 12.63.010 and, if it can be determined by the court-martial, inform the person
6 whether the conviction will require the person to register for life or a lesser period
7 under AS 12.63.

8 * **Sec. 34.** AS 26.05 is amended by adding a new section to read:

9 **Sec. 26.05.913. Public records offenses.** A member of the militia who (1)
10 wilfully and unlawfully alters, conceals, removes, mutilates, obliterates, or destroys a
11 public record or (2) takes a public record with the intent to alter, conceal, remove,
12 mutilate, obliterate, or destroy the public record shall be punished as a court-martial
13 may direct.

14 * **Sec. 35.** AS 26.05.935 is amended by adding a new subsection to read:

15 (d) When a person is convicted of an enumerated offense under (b) of this
16 section that requires the offender to register as a sex offender under AS 12.63, the
17 court-martial shall provide the person with information regarding sex offender
18 registration under AS 12.63.010 and, if it can be determined by the court-martial,
19 inform the person whether the conviction will require the person to register for life or
20 a lesser period under AS 12.63.

21 * **Sec. 36.** AS 26.05 is amended by adding new sections to read:

22 **Sec. 26.05.940. Offenses concerning government computers.** (a) A member
23 of the militia who (1) knowingly accesses a government computer with an
24 unauthorized purpose, (2) by accessing the government computer obtains classified
25 information, and (3) with reason to believe the information could be used to the injury
26 of the United States or to the advantage of any foreign nation, intentionally
27 communicates, delivers, or transmits the information, or causes the information to be
28 communicated, delivered, or transmitted, to any person who is not entitled to receive
29 the information shall be punished as a court-martial may direct.

30 (b) A member of the militia who intentionally accesses a government
31 computer with an unauthorized purpose and by accessing the government computer

1 obtains classified or other protected information from the government computer shall
2 be punished as a court-martial may direct.

3 (c) A member of the militia who knowingly causes the transmission of a
4 program, information, code, or command and, as a result of that conduct, intentionally
5 and without authorization causes damage to a government computer shall be punished
6 as a court-martial may direct.

7 **Sec. 26.05.945. Breach of medical quarantine.** A member of the militia who
8 is ordered into medical quarantine by a person authorized to issue the quarantine order
9 and who, with knowledge of the quarantine order and the limits imposed under the
10 quarantine order, goes beyond the limits imposed under the quarantine order before
11 the person is released from quarantine by proper authority shall be punished as a
12 court-martial may direct.

13 * **Sec. 37.** AS 26.05.990 is amended by adding a new paragraph to read:

14 (22) "controlled substance" means

15 (A) opium, heroin, cocaine, amphetamine, lysergic acid
16 diethylamide, methamphetamine, phencyclidine, barbituric acid, and
17 marijuana;

18 (B) a compound or derivative of a substance specified in (A) of
19 this paragraph;

20 (C) a substance not specified in (A) or (B) of this paragraph
21 that is listed on a schedule of controlled substances prescribed by the President
22 of the United States for the purposes of the armed forces of the United States
23 under 10 U.S.C. 801 - 946 (Uniform Code of Military Justice);

24 (D) a substance not specified in (A) or (B) of this paragraph or
25 on a list prescribed by the President under (C) of this paragraph that is listed in
26 21 U.S.C. 812, schedules I through V;

27 (E) an illicit synthetic drug identified in AS 17.21.010.

28 * **Sec. 38.** AS 26.05.870(c) is repealed.

29 * **Sec. 39.** The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 **APPLICABILITY.** (a) AS 26.05.135, as amended by secs. 6 and 7 of this Act, applies

1 only to a contract entered into on or after the effective date of secs. 6 and 7 of this Act.

2 (b) AS 12.63.100(1), as amended by sec. 1 of this Act, AS 12.63.100(2), as amended
 3 by sec. 2 of this Act, AS 12.63.100(6), as amended by sec. 3 of this Act, AS 12.63.100(8) and
 4 (9), enacted by sec. 4 of this Act, AS 18.65.087(a), as amended by sec. 5 of this Act,
 5 AS 26.05.890(h), enacted by sec. 28 of this Act, AS 26.05.893(d), enacted by sec. 29 of this
 6 Act, AS 26.05.900(e), enacted by sec. 33 of this Act, and AS 26.05.935(d), enacted by sec. 35
 7 of this Act, apply to persons convicted of sex offenses or child kidnapping on or after the
 8 effective date of secs. 1 - 5, 28, 29, 33, and 35 of this Act.

9 (c) AS 26.05.360(b), as amended by sec. 8 of this Act, applies to nonjudicial
 10 punishment imposed for offenses committed on or after the effective date of sec. 8 of this Act.

11 (d) AS 26.05.555(a), as amended by sec. 9 of this Act, AS 26.05.697, enacted by sec.
 12 10 of this Act, AS 26.05.700, as amended by sec. 11 of this Act, AS 26.05.715(c), enacted by
 13 sec. 12 of this Act, AS 26.05.737, enacted by sec. 13 of this Act, AS 26.05.740, as amended
 14 by sec. 14 of this Act, AS 26.05.767 and 26.05.768, enacted by sec. 15 of this Act,
 15 AS 26.05.785(b), enacted by sec. 16 of this Act, AS 26.05.793, enacted by sec. 17 of this Act,
 16 AS 26.05.796 and 26.05.798, enacted by sec. 18 of this Act, AS 26.05.833, enacted by sec. 19
 17 of this Act, AS 26.05.835(b), enacted by sec. 20 of this Act, AS 26.05.855(b), as amended by
 18 sec. 21 of this Act, AS 26.05.855(c), as amended by sec. 22 of this Act, AS 26.05.860, as
 19 amended by sec. 23 of this Act, AS 26.05.860(b), enacted by sec. 24 of this Act,
 20 AS 26.05.865, as amended by sec. 25 of this Act, AS 26.05.867, enacted by sec. 26 of this
 21 Act, AS 26.05.890(a), as amended by sec. 27 of this Act, AS 26.05.890(g), enacted by sec. 28
 22 of this Act, AS 26.05.893(a) - (c), enacted by sec. 29 of this Act, AS 26.05.897, enacted by
 23 sec. 30 of this Act, AS 26.05.900(a), as amended by sec. 31 of this Act, AS 26.05.900(d),
 24 enacted by sec. 32 of this Act, AS 26.05.913, enacted by sec. 34 of this Act, AS 26.05.940
 25 and 26.05.945, enacted by sec. 36 of this Act, and AS 26.05.990(22), enacted by sec. 37 of
 26 this Act, apply to offenses occurring on or after the effective date of secs. 9 - 32, 34, 36, and
 27 37 of this Act.

28 * **Sec. 40.** The uncodified law of the State of Alaska is amended by adding a new section to
 29 read:

30 DUTY OF ADJUTANT GENERAL OF THE DEPARTMENT OF MILITARY AND
 31 VETERANS' AFFAIRS; NOTICE TO REVISOR OF STATUTES. The adjutant general of

1 the Department of Military and Veterans' Affairs shall notify the revisor of statutes, on or
2 before January 1, 2019, if the President of the United States signs an executive order
3 designating the effective date, under sec. 5542, P.L. 114-328, National Defense Authorization
4 Act for Fiscal Year 2017, of the amendments to the Uniform Code of Military Justice made
5 by the Military Justice Act of 2016.

6 * **Sec. 41.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 CONDITIONAL EFFECT. Sections 1 - 5, 8 - 38, and 39(b) - (d) of this Act take
9 effect only if the adjutant general of the Department of Military and Veterans' Affairs notifies
10 the revisor of statutes under sec. 40 of this Act, on or before January 1, 2019, that the
11 President of the United States has signed an executive order designating the effective date,
12 under sec. 5542, P.L. 114-328, National Defense Authorization Act for Fiscal Year 2017, of
13 the amendments to the Uniform Code of Military Justice made by the Military Justice Act of
14 2016 and the effective date designated in the executive order is January 1, 2019, or earlier.

15 * **Sec. 42.** If secs. 1 - 5, 8 - 38, and 39(b) - (d) of this Act take effect under sec. 41 of this
16 Act, they take effect January 1, 2019.

17 * **Sec. 43.** Except as provided in sec. 42 of this Act, this Act takes effect July 1, 2018.