

HOUSE BILL NO. 319

IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/11/22

Referred: State Affairs, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to criminal law and procedure; relating to the crime of harassment;**
2 **relating to the duty to register as a sex offender; amending the definition of 'sex offense';**
3 **relating to lifetime revocation of a teaching certificate for certain offenses; relating to**
4 **the definition of 'domestic violence'; relating to multidisciplinary child protection teams;**
5 **relating to arrest authority for pretrial services officers and probation officers; and**
6 **providing for an effective date."**

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

8 *** Section 1.** AS 11.41.260(a) is amended to read:

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

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

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

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

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

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

10 (6) the defendant has been previously convicted of a crime, or an
11 attempt or solicitation to commit a crime, under (A) AS 11.41.100 - 11.41.250,
12 11.41.300 - 11.41.460, AS 11.56.807, 11.56.810, AS 11.61.117, 11.61.118
13 [AS 11.61.118], 11.61.120, or (B) a law or an ordinance of this or another jurisdiction
14 with elements similar to a crime, or an attempt or solicitation to commit a crime, under
15 AS 11.41.100 - 11.41.250, 11.41.300 - 11.41.460, AS 11.56.807, 11.56.810,
16 AS 11.61.117, 11.61.118 [AS 11.61.118], or 11.61.120, involving the same victim as
17 the present offense.

18 * **Sec. 2.** AS 11.61 is amended by adding a new section to read:

19 **Sec. 11.61.117. Harassment in the first degree.** (a) A person commits the
20 crime of harassment in the first degree if, under circumstances not proscribed under
21 AS 11.41.434 - 11.41.440, the person intentionally subjects another person to
22 offensive physical contact by touching, directly or through clothing, another person's
23 genitals, buttocks, or female breast.

24 (b) Harassment in the first degree is a class C felony.

25 * **Sec. 3.** AS 11.61.118 is amended to read:

26 **Sec. 11.61.118. Harassment in the second [FIRST] degree.** (a) A person
27 commits the crime of harassment in the second [FIRST] degree if, under
28 circumstances not proscribed under AS 11.41.434 - 11.41.440, the person violates
29 AS 11.61.120(a)(5) and the offensive physical contact is contact

30 (1) with human or animal blood, mucus, saliva, semen, urine, vomitus,
31 or feces; or

1 (2) by the person touching through clothing another person's genitals,
2 buttocks, or female breast.

3 (b) Harassment in the **second** [FIRST] degree is a class A misdemeanor.

4 * **Sec. 4.** AS 11.61.120 is amended to read:

5 **Sec. 11.61.120. Harassment in the third [SECOND] degree.** (a) A person
6 commits the crime of harassment in the **third** [SECOND] degree if **the person** [,
7 WITH INTENT TO HARASS OR ANNOY ANOTHER PERSON, THAT PERSON]

8 (1) **with intent to harass or annoy another person,** insults, taunts, or
9 challenges another person in a manner likely to provoke an immediate violent
10 response;

11 (2) **with intent to harass or annoy another person,** telephones
12 another and fails to terminate the connection with intent to impair the ability of that
13 person to place or receive telephone calls;

14 (3) **with intent to harass or annoy another person,** makes repeated
15 telephone calls at extremely inconvenient hours;

16 (4) **with intent to harass or annoy another person,** makes an
17 anonymous or obscene telephone call, an obscene electronic communication, or a
18 telephone call or electronic communication that threatens physical injury or sexual
19 contact;

20 (5) **knowingly** subjects another person to offensive physical contact;

21 (6) **with intent to harass or annoy another person, and** except as
22 provided in AS 11.61.116, publishes or distributes electronic or printed photographs,
23 pictures, or films that show the genitals, anus, or female breast of the other person or
24 show that person engaged in a sexual act;

25 (7) **knowingly and** repeatedly sends or publishes an electronic
26 communication that insults, taunts, challenges, or intimidates a person under 18 years
27 of age in a manner that places the person in reasonable fear of physical injury; or

28 (8) under circumstances not proscribed under AS 11.41.455,
29 AS 11.61.125, or 11.61.128, **with intent to harass or annoy another person,**
30 repeatedly sends to another person, publishes, or distributes electronic or printed
31 photographs, pictures, or films that show the genitals of any person.

1 (b) Harassment in the **third** [SECOND] degree is a class B misdemeanor.

2 * **Sec. 5.** AS 12.63.010(b) is amended to read:

3 (b) A sex offender or child kidnapper required to register under (a) of this
4 section shall register with the Department of Corrections if the sex offender or child
5 kidnapper is incarcerated or in person at the Alaska state trooper post or municipal
6 police department located nearest to where the sex offender or child kidnapper resides
7 at the time of registration. To fulfill the registration requirement, the sex offender or
8 child kidnapper shall

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

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

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

25 (C) all aliases used;

26 (D) the sex offender's or child kidnapper's driver's license
27 number;

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

1 (F) any identifying features of the sex offender or child
2 kidnapper;

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

5 (H) a statement concerning whether the offender or kidnapper
6 has had treatment for a mental abnormality or personality disorder since the
7 date of conviction for an offense requiring registration under this chapter;
8 [AND]

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

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

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

17 * **Sec. 6.** AS 12.63.010(d) is amended to read:

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

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

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

1 * **Sec. 7.** AS 12.63.010 is amended by adding new subsections to read:

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

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

15 * **Sec. 8.** AS 12.63.020(a) is amended to read:

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

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

20 (A) continues for the lifetime of a sex offender or child
21 kidnapper convicted of

22 (i) one aggravated sex offense; or

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

28 (B) ends 15 years following the sex offender's or child
29 kidnapper's unconditional discharge from a conviction for a single sex offense
30 that is not an aggravated sex offense or for a single child kidnapping if the sex
31 offender or child kidnapper has supplied proof that is acceptable to the

1 department of the unconditional discharge; the registration period under this
2 subparagraph

3 (i) is tolled for **the period of noncompliance if the sex**
4 **offender or child kidnapper has failed** [EACH YEAR THAT A SEX
5 OFFENDER OR CHILD KIDNAPPER FAILS] to comply with the
6 requirements of this chapter or is incarcerated for the offense or
7 kidnapping for which the offender or kidnapper is required to register
8 or for any other offense;

9 (ii) may include the time a sex offender or child
10 kidnapper was absent from this state if the sex offender or child
11 kidnapper has complied with any sex offender or child kidnapper
12 registration requirements of the jurisdiction in which the offender or
13 kidnapper was located and if the sex offender or child kidnapper
14 provides the department with proof of the compliance while the sex
15 offender or child kidnapper was absent from this state; and

16 (iii) continues for a sex offender or child kidnapper who
17 has not supplied proof acceptable to the department of the offender's or
18 kidnapper's unconditional discharge for the sex offense or child
19 kidnapping requiring registration;

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

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

24 (7) "sex offense" means

25 (A) a crime under AS 11.41.100(a)(3), or a similar law of
26 another jurisdiction, in which the person committed or attempted to commit a
27 sexual offense, or a similar offense under the laws of the other jurisdiction; in
28 this subparagraph, "sexual offense" has the meaning given in
29 AS 11.41.100(a)(3);

30 (B) a crime under AS 11.41.110(a)(3), or a similar law of
31 another jurisdiction, in which the person committed or attempted to commit

1 one of the following crimes, or a similar law of another jurisdiction:

2 (i) sexual assault in the first degree;

3 (ii) sexual assault in the second degree;

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

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

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

8 (i) AS 11.41.410 - 11.41.438;

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

10 (iii) AS 11.41.450 - 11.41.458;

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

14 (v) AS 11.61.125 - 11.61.128;

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

18 (vii) former AS 11.15.120, former 11.15.134, or assault
19 with the intent to commit rape under former AS 11.15.160, former
20 AS 11.40.110, or former 11.40.200;

21 (viii) AS 11.61.117 [AS 11.61.118(a)(2)] if the offender
22 has a previous conviction for that offense;

23 (ix) AS 11.66.100(a)(2) if the offender is subject to
24 punishment under as 11.66.100(e);

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

27 (xi) AS 26.05.890 if, at the time of the offense, the
28 victim is under a duty to obey the lawful orders of the offender,
29 regardless of whether the offender is in the direct chain of command
30 over the victim;

31 (xii) AS 26.05.893 if the person engaged in sexual

1 penetration or sexual contact with the victim;

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

4 (xiv) AS 26.05.900 if, at the time of the offense, the
5 victim is under a duty to obey the lawful orders of the offender,
6 regardless of whether the offender is in the direct chain of command
7 over the victim; or

8 (xv) AS 11.61.123 if the offender is subject to
9 punishment under AS 11.61.123(g)(1) or (2);

10 (xvi) AS 11.61.116 if the offender is subject to
11 punishment under AS 11.61.116(c)(2);

12 (xvii) AS 11.61.130(a)(2); or

13 (xviii) AS 11.61.140(a)(6) or (7) [AS 11.61.123(f)(1)
14 OR (2)];

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

20 (i) child pornography; or

21 (ii) pandering and prostitution if the person who is
22 induced, enticed, caused, or procured to engage in a sexual act is under
23 20 years of age at the time of the offense; or

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

26 * **Sec. 10.** AS 14.20.030(b) is amended to read:

27 (b) The commissioner or the Professional Teaching Practices Commission
28 shall revoke for life the certificate of a person who has been convicted of a crime, or
29 an attempt, solicitation, or conspiracy to commit a crime, involving a minor under
30 AS 11.41.410 - 11.41.460, AS 11.61.125 - 11.61.127, or a law or ordinance in another
31 jurisdiction with elements similar to an offense described in this subsection.

1 * **Sec. 11.** AS 18.66.990(3) is amended to read:

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

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

7 (B) burglary under AS 11.46.300 - 11.46.310;

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

9 (D) arson or criminally negligent burning under AS 11.46.400 -
10 11.46.430;

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

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

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

14 (H) harassment under AS 11.61.117, 11.61.118,
15 11.61.120(a)(2) - (4) [AS 11.61.120(a)(2) - (4)]; [OR]

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

18 (J) interfering with a report of a crime involving domestic
19 violence under AS 11.56.745; or

20 (K) unlawful contact under AS 11.56.750 - 11.56.755;

21 * **Sec. 12.** AS 33.05.070 is amended by adding a new subsection to read:

22 (e) At any time within the probation period, the probation officer may file a
23 complaint with the court and arrest a probationer, with or without a warrant, if the
24 officer has probable cause to believe the probationer has committed an offense under
25 AS 11.56.759.

26 * **Sec. 13.** AS 33.07.030(g) is amended to read:

27 (g) A pretrial services officer may

28 (1) recommend pretrial diversion to the court and parties before
29 adjudication in accordance with the guidelines established by the commissioner under
30 AS 33.07.020(6);

31 (2) if the officer has probable cause to believe the defendant has

1 committed an offense under AS 11.56.320, 11.56.610, 11.56.730, 11.56.750,
 2 11.56.757 [AS 11.56.730 OR 11.56.757] or has violated the defendant's release
 3 conditions, file a complaint with the court and

4 (A) arrest, with or without a warrant, a defendant who has been
 5 released while awaiting trial; or

6 (B) request the court to issue warrants related to any violation
 7 of the defendant's release conditions;

8 (3) refer interested defendants for substance abuse screening,
 9 assessment, and treatment on a voluntary basis and assist any defendant whose offense
 10 or criminal history identified a dependency on, abuse of, or addiction to alcohol or
 11 controlled substances with accessing and obtaining appropriate treatment in the
 12 community to address those needs;

13 (4) recommend that a defendant charged with an offense involving the
 14 use of alcohol or controlled substances comply with a program established under
 15 AS 47.38.020; and

16 (5) coordinate with community-based organizations and tribal courts
 17 and councils to develop and expand pretrial diversion options.

18 * **Sec. 14.** AS 47.14.300(a) is amended to read:

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

31 (1) ensure that investigations involving child abuse or neglect are

1 coordinated and conducted by trained investigators;

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

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

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

9 * **Sec. 15.** AS 47.17.020(e) is amended to read:

10 (e) The department shall immediately notify the nearest law enforcement
11 agency if the department

12 (1) concludes that the harm was caused by a person who is not
13 responsible for the child's welfare;

14 (2) is unable to determine

15 (A) who caused the harm to the child; or

16 (B) whether the person who is believed to have caused the
17 harm has responsibility for the child's welfare; or

18 (3) concludes that the report involves

19 (A) possible criminal sex abuse or sex offenses under
20 AS 11.41.410 - 11.41.458, AS 11.61.116, 11.61.117 [11.61.118(a)(2)],
21 11.61.120(a)(6), 11.61.123, or 11.61.128, including sex offenses committed by
22 a minor against a minor; or

23 (B) abuse or neglect that results in the need for medical
24 treatment of the child.

25 * **Sec. 16.** The uncodified law of the State of Alaska enacted in sec. 142(c), ch. 4, FSSLA
26 2019, is amended to read:

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

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

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

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

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

2 * **Sec. 17.** AS 11.61.118(a)(2) is repealed.

3 * **Sec. 18.** The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 APPLICABILITY. (a) AS 11.41.260(a), as amended by sec. 1 of this Act,
6 AS 11.61.117, enacted by sec. 2 of this Act, AS 11.61.118, as amended by sec. 3 of this Act,
7 AS 11.61.120, as amended by sec. 4 of this Act, AS 33.05.070(e), enacted by sec. 12 of this
8 Act, and AS 33.07.030(g), as amended by sec. 13 of this Act, apply to offenses committed on
9 or after the effective date of those sections.

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

14 (c) AS 12.63.020(a), as amended by sec. 8 of this Act, applies to the tolling of the
15 duty to register as a sex offender or child kidnapper on or after the effective date of this Act
16 for determinations of noncompliance made by the Department of Public Safety on or after the
17 effective date of this Act.

18 (d) Nothing in AS 12.63.020(a), as amended by sec. 8 of this Act, may be construed
19 as invalidating a decision of the Department of Public Safety to toll the period of registration
20 or continue the period of registration under AS 12.63 before the effective date of this Act.

21 (e) AS 12.63.100(7), as amended by sec. 9 of this Act, applies to the duty to register
22 as a sex offender for offenses committed on or after the effective date of this Act.

23 (f) AS 14.20.030(b), as amended by sec. 10 of this Act, applies to convictions
24 occurring before, on, or after the effective date of this Act for conduct occurring before, on, or
25 after the effective date of this Act.

26 * **Sec. 19.** This Act takes effect July 1, 2022.