

HOUSE BILL NO. 52

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/23/19

Referred:

A BILL

FOR AN ACT ENTITLED

1 **"An Act eliminating marriage as a defense to certain crimes of sexual assault; relating to**
2 **enticement of a minor; relating to harassment in the first degree; relating to harassment**
3 **in the second degree; relating to indecent viewing or production of a picture; relating to**
4 **the definition of 'sexual contact'; relating to assault in the second degree; relating to**
5 **sentencing; relating to prior convictions; relating to the definition of 'most serious**
6 **felony'; relating to the definition of 'sexual felony'; relating to the duty of a sex offender**
7 **or child kidnapper to register; relating to eligibility for discretionary parole; and**
8 **providing for an effective date."**

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

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

12 LEGISLATIVE FINDINGS AND INTENT FOR SECS. 13 AND 16 - 19 OF THIS

1 ACT. (a) The legislature finds for sec. 13 of this Act, the legislature did not intend, by
2 enacting ch. 90, SLA 2003, and the legislature does not now intend by enacting this Act, to
3 impose any limitation on which previous convictions may be considered when imposing a
4 sentence under AS 12.55.125(i).

5 (b) It is the intent of the legislature for sec. 13 of this Act, in AS 12.55.145, as
6 amended by sec. 13 of this Act, to overturn the decision in *Williams v. State*, 418 P.3d 870
7 (Alaska App. 2018) to the extent that it held that, when imposing a sentence under
8 AS 12.55.125(i), prior felony convictions should not be considered if 10 or more years has
9 elapsed between the date of the defendant's unconditional discharge on the immediately
10 preceding offense and commission of the present offense unless the prior conviction was for
11 an unclassified or class A felony.

12 (c) It is the intent of the legislature that all prior felony convictions be considered
13 when imposing a sentence under AS 12.55.125(i) regardless of the age of those convictions.

14 (d) The legislature finds for secs. 16 - 19 of this Act that

15 (1) protecting the public from sex offenders is a primary governmental interest
16 and the release of certain information about sex offenders to public agencies and the general
17 public will assist in protecting the public;

18 (2) the state's transient population means that sex offenders who are required
19 to register in the state where they were convicted may relocate to this state for various
20 reasons;

21 (3) the supreme court's narrow interpretation of Alaska's sex offender
22 registration requirements in its decision in *State, Department of Public Safety v. Doe*, 425
23 P.3d 115 (Alaska 2018) hinders the state's ability to protect the public from sex offenders who
24 may come to this state in so far as it only requires a person to register as a sex offender in this
25 state if that person has been convicted of an offense that is similar to a sex offense as defined
26 in AS 12.63.100.

27 (e) It is the intent of the legislature to overturn *State, Department of Public Safety v.*
28 *Doe*, 425 P.3d 115 (Alaska 2018) to the extent that it held that sex offenders required to
29 register in another jurisdiction do not have to also register in Alaska unless their underlying
30 conviction is similar to a sex offense as defined in AS 12.63.100. Additionally, it is the intent
31 of the legislature to give reciprocity to other jurisdictions and require sex offenders who are

1 physically present in Alaska and are required to register as a sex offender in another
 2 jurisdiction to also register as a sex offender in Alaska regardless of whether the person's
 3 underlying conviction is similar to a sex offense as defined in AS 12.63.100.

4 * **Sec. 2.** AS 11.41.432(b) is amended to read:

5 (b) Except as provided in **(d)** [(a)] of this section, in a prosecution under
 6 **AS 11.41.410 - 11.41.427** [AS 11.41.410 OR 11.41.420], it is not a defense that the
 7 victim was, at the time of the alleged offense, the legal spouse of the defendant.

8 * **Sec. 3.** AS 11.41.432 is amended by adding a new subsection to read:

9 (d) It is a defense to a crime charged under AS 11.41.425(a)(2) - (5) or
 10 11.41.427 that the offender is married to the person and neither party has filed with the
 11 court for separation, divorce, or dissolution of the marriage.

12 * **Sec. 4.** AS 11.41.452(a) is amended to read:

13 (a) A person commits the crime of [ONLINE] enticement of a minor if the
 14 person, being 18 years of age or older, knowingly **communicates** [USES A
 15 COMPUTER TO COMMUNICATE] with another person to entice, solicit, or
 16 encourage the person to engage in an act described in AS 11.41.455(a)(1) - (7) and

17 (1) the other person is a child under 16 years of age; or

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

20 * **Sec. 5.** AS 11.41.452(d) is amended to read:

21 (d) Except as provided in (e) of this section, [ONLINE] enticement **of a minor**
 22 is a class B felony.

23 * **Sec. 6.** AS 11.41.452(e) is amended to read:

24 (e) **Enticement of a minor** [ONLINE ENTICEMENT] is a class A felony if
 25 the defendant was, at the time of the offense, required to register as a sex offender or
 26 child kidnapper under AS 12.63 or a similar law of another jurisdiction.

27 * **Sec. 7.** AS 11.61.118(a) is amended to read:

28 (a) A person commits the crime of harassment in the first degree if

29 (1) the person violates AS 11.61.120(a)(5) and the offensive physical
 30 contact is contact with human or animal blood, mucus, saliva, [SEMEN,] urine,
 31 vomitus, or feces; or

1 (2) under circumstances not proscribed under AS 11.41.434 -
 2 11.41.440, the person violates AS 11.61.120(a)(5) and the offensive physical contact
 3 is contact by the person touching through clothing another person's genitals, buttocks,
 4 or female breast.

5 * **Sec. 8.** AS 11.61.120(a) is amended to read:

6 (a) A person commits the crime of harassment in the second degree if, with
 7 intent to harass or annoy another person, that person

8 (1) insults, taunts, or challenges another person in a manner likely to
 9 provoke an immediate violent response;

10 (2) telephones another and fails to terminate the connection with intent
 11 to impair the ability of that person to place or receive telephone calls;

12 (3) makes repeated telephone calls at extremely inconvenient hours;

13 (4) makes an anonymous or obscene telephone call, an obscene
 14 electronic communication, or a telephone call or electronic communication that
 15 threatens physical injury or sexual contact;

16 (5) subjects another person to offensive physical contact;

17 (6) except as provided in AS 11.61.116, publishes or distributes
 18 electronic or printed photographs, pictures, or films that show the genitals, anus, or
 19 female breast of the other person or show that person engaged in a sexual act; [OR]

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

23 **(8) under circumstances not proscribed in AS 11.41.455 or**
 24 **11.61.125, repeatedly sends electronic or printed photographs, pictures, or films**
 25 **to another person that show the genitals of any person.**

26 * **Sec. 9.** AS 11.61.123(a) is amended to read:

27 (a) A person commits the crime of indecent viewing or **production of a**
 28 **picture** [PHOTOGRAPHY] if, in the state, the person knowingly

29 **(1)** views [, OR PRODUCES] a picture of, the private exposure of the
 30 genitals, anus, or female breast of another person and the view [OR PRODUCTION]
 31 is without the knowledge or consent of

1 **(A)** [(1)] the parent or guardian of the person viewed [, OR
2 WHO IS SHOWN] in the picture, if the person [WHO IS] viewed [OR
3 SHOWN] is under 16 years of age; and

4 **(B)** [(2)] the person viewed [OR SHOWN] in the picture, if the
5 person viewed [OR SHOWN] is at least 13 years of age; **or**

6 **(2) produces a picture of, the private exposure of the genitals,**
7 **anus, or female breast of another person and the production is without the**
8 **knowledge or consent of**

9 **(A) the parent or guardian of the person shown in the**
10 **picture, if the person shown is under 16 years of age; and**

11 **(B) the person shown in the picture, if the person shown is**
12 **at least 13 years of age.**

13 * **Sec. 10.** AS 11.61.123(c) is amended to read:

14 (c) This section does not apply to **the** viewing or **production of pictures**
15 [PHOTOGRAPHY] conducted by a law enforcement agency for a law enforcement
16 purpose.

17 * **Sec. 11.** AS 11.61.123(d) is amended to read:

18 (d) In a prosecution under this section, it is an affirmative defense that the
19 viewing or **production of pictures** [PHOTOGRAPHY] was conducted as a security
20 surveillance system, notice of the viewing or **production** [PHOTOGRAPHY] was
21 posted, and any viewing or use of pictures produced is done only in the interest of
22 crime prevention or prosecution.

23 * **Sec. 12.** AS 11.61.123(f) is amended to read:

24 (f) Indecent viewing or **production of a picture** [PHOTOGRAPHY] is a

25 (1) class C felony if

26 **(A) the person violates (a)(1) or (2) of this section and the person**
27 viewed or shown in a picture was, at the time of the viewing or production of the
28 picture, **under 16 years of age** [A MINOR]; **or**

29 **(B) the person violates (a)(2) of this section and the person shown**
30 **in a picture was, at the time of the production of the picture, an adult**

31 (2) class A misdemeanor if the person **violates (a)(1) of this section**

1 and the person viewed [OR SHOWN] in a picture was, at the time of the viewing
2 [OR PRODUCTION] of the picture, an adult.

3 * **Sec. 13.** AS 11.81.900(b)(59) is amended to read:

4 (59) "sexual contact" means

5 (A) the defendant's

6 (i) knowingly touching, directly or through clothing, the
7 victim's genitals, anus, or female breast; [OR]

8 (ii) knowingly causing the victim to touch, directly or
9 through clothing, the defendant's or victim's genitals, anus, or female
10 breast; or

11 (iii) knowingly causing the victim to come into
12 contact with semen;

13 (B) but "sexual contact" does not include acts

14 (i) that may reasonably be construed to be normal
15 caretaker responsibilities for a child, interactions with a child, or
16 affection for a child;

17 (ii) performed for the purpose of administering a
18 recognized and lawful form of treatment that is reasonably adapted to
19 promoting the physical or mental health of the person being treated; or

20 (iii) that are a necessary part of a search of a person
21 committed to the custody of the Department of Corrections or the
22 Department of Health and Social Services;

23 * **Sec. 14.** AS 12.55.125(d) is amended to read:

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

28 (1) if the offense is a first felony conviction and does not involve
29 circumstances described in (2) or (5) of this subsection, zero to two years; a defendant
30 sentenced under this paragraph may, if the court finds it appropriate, be granted a
31 suspended imposition of sentence under AS 12.55.085;

1 (2) if the offense is a first felony conviction, the defendant violated
2 AS 11.41.130, and the victim was

3 (A) a child under 16 years of age, two to four years; or

4 (B) was 16 years of age or older, one to three years;

5 (3) if the offense is a second felony conviction, two to five years;

6 (4) if the offense is a third felony conviction, four to 10 years;

7 **(5) if the defendant violated AS 11.41.210(a)(1) and**

8 **(A) the offense is a first felony conviction, one to three**

9 **years;**

10 **(B) the offense is a second felony conviction, four to seven**

11 **years;**

12 **(C) the offense is a third felony conviction, six to ten years.**

13 * **Sec. 15.** AS 12.55.125(i) is amended to read:

14 (i) A defendant convicted of

15 (1) sexual assault in the first degree, sexual abuse of a minor in the
16 first degree, or sex trafficking in the first degree under AS 11.66.110(a)(2) may be
17 sentenced to a definite term of imprisonment of not more than 99 years and shall be
18 sentenced to a definite term within the following presumptive ranges, subject to
19 adjustment as provided in AS 12.55.155 - 12.55.175:

20 (A) if the offense is a first felony conviction, the offense does
21 not involve circumstances described in (B) of this paragraph, and the victim
22 was

23 (i) less than 13 years of age, 25 to 35 years;

24 (ii) 13 years of age or older, 20 to 30 years;

25 (B) if the offense is a first felony conviction and the defendant
26 possessed a firearm, used a dangerous instrument, or caused serious physical
27 injury during the commission of the offense, 25 to 35 years;

28 (C) if the offense is a second felony conviction and does not
29 involve circumstances described in (D) of this paragraph, 30 to 40 years;

30 (D) if the offense is a second felony conviction and the
31 defendant has a prior conviction for a sexual felony, 35 to 45 years;

1 (E) if the offense is a third felony conviction and the defendant
2 is not subject to sentencing under (F) of this paragraph or (I) of this section, 40
3 to 60 years;

4 (F) if the offense is a third felony conviction, the defendant is
5 not subject to sentencing under (I) of this section, and the defendant has two
6 prior convictions for sexual felonies, 99 years;

7 (2) unlawful exploitation of a minor under AS 11.41.455(c)(2),
8 [ONLINE] enticement of a minor under AS 11.41.452(e), or attempt, conspiracy, or
9 solicitation to commit sexual assault in the first degree, sexual abuse of a minor in the
10 first degree, or sex trafficking in the first degree under AS 11.66.110(a)(2) may be
11 sentenced to a definite term of imprisonment of not more than 99 years and shall be
12 sentenced to a definite term within the following presumptive ranges, subject to
13 adjustment as provided in AS 12.55.155 - 12.55.175:

14 (A) if the offense is a first felony conviction, the offense does
15 not involve circumstances described in (B) of this paragraph, and the victim
16 was

17 (i) under 13 years of age, 20 to 30 years;

18 (ii) 13 years of age or older, 15 to 30 years;

19 (B) if the offense is a first felony conviction and the defendant
20 possessed a firearm, used a dangerous instrument, or caused serious physical
21 injury during the commission of the offense, 25 to 35 years;

22 (C) if the offense is a second felony conviction and does not
23 involve circumstances described in (D) of this paragraph, 25 to 35 years;

24 (D) if the offense is a second felony conviction and the
25 defendant has a prior conviction for a sexual felony, 30 to 40 years;

26 (E) if the offense is a third felony conviction, the offense does
27 not involve circumstances described in (F) of this paragraph, and the defendant
28 is not subject to sentencing under (I) of this section, 35 to 50 years;

29 (F) if the offense is a third felony conviction, the defendant is
30 not subject to sentencing under (I) of this section, and the defendant has two
31 prior convictions for sexual felonies, 99 years;

1 (3) sexual assault in the second degree, sexual abuse of a minor in the
2 second degree, [ONLINE] enticement of a minor under AS 11.41.452(d), unlawful
3 exploitation of a minor under AS 11.41.455(c)(1), or distribution of child pornography
4 under AS 11.61.125(e)(2) may be sentenced to a definite term of imprisonment of not
5 more than 99 years and shall be sentenced to a definite term within the following
6 presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

7 (A) if the offense is a first felony conviction, five to 15 years;

8 (B) if the offense is a second felony conviction and does not
9 involve circumstances described in (C) of this paragraph, 10 to 25 years;

10 (C) if the offense is a second felony conviction and the
11 defendant has a prior conviction for a sexual felony, 15 to 30 years;

12 (D) if the offense is a third felony conviction and does not
13 involve circumstances described in (E) of this paragraph, 20 to 35 years;

14 (E) if the offense is a third felony conviction and the defendant
15 has two prior convictions for sexual felonies, 99 years;

16 (4) sexual assault in the third degree, **sexual abuse of a minor in the**
17 **third degree if the victim is at least six years younger than the offender,** incest,
18 indecent exposure in the first degree, **indecent viewing or production of a picture**
19 **under AS 11.61.123(a) if the person viewed or shown in the picture was, at the**
20 **time of the viewing or production, under 16 years of age,** possession of child
21 pornography, distribution of child pornography under AS 11.61.125(e)(1), or attempt,
22 conspiracy, or solicitation to commit sexual assault in the second degree, sexual abuse
23 of a minor in the second degree, unlawful exploitation of a minor, or distribution of
24 child pornography, may be sentenced to a definite term of imprisonment of not more
25 than 99 years and shall be sentenced to a definite term within the following
26 presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

27 (A) if the offense is a first felony conviction, two to 12 years;

28 (B) if the offense is a second felony conviction and does not
29 involve circumstances described in (C) of this paragraph, eight to 15 years;

30 (C) if the offense is a second felony conviction and the
31 defendant has a prior conviction for a sexual felony, 12 to 20 years;

1 (D) if the offense is a third felony conviction and does not
2 involve circumstances described in (E) of this paragraph, 15 to 25 years;

3 (E) if the offense is a third felony conviction and the defendant
4 has two prior convictions for sexual felonies, 99 years.

5 * **Sec. 16.** AS 12.55.145(a) is amended to read:

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

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

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

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

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

22 (2) AS 12.55.125(l),

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

26 (B) commission of and conviction for offenses relied on as
27 prior most serious felony offenses must occur in the following order:
28 conviction for the first offense must occur before commission of the second
29 offense, and conviction for the second offense must occur before commission
30 of the offense for which the defendant is being sentenced;

31 (3) AS 12.55.135(g),

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

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

8 (C) two or more convictions arising out of a single, continuous
9 criminal episode during which there was no substantial change in the nature of
10 the criminal objective are considered a single conviction unless the defendant
11 was sentenced to consecutive sentences for the crimes; offenses committed
12 while attempting to escape or avoid detection or apprehension after the
13 commission of another offense are not part of the same criminal episode or
14 objective;

15 (4) AS 12.55.125(i),

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

19 (B) a felony conviction in another jurisdiction making it a
20 crime to commit any lewd and lascivious act upon a child under the age of 16
21 years, with the intent of arousing, appealing to, or gratifying the sexual desires
22 of the defendant or the victim is a prior conviction for a sexual felony;

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

30 **(D) a conviction in this or another jurisdiction of an offense**
31 **having elements similar to those of a felony defined as such under Alaska**

1 **law at the time the offense was committed is considered a prior felony**
 2 **conviction;**

3 (5) AS 12.55.135(a),

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

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

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

19 * **Sec. 17.** AS 12.55.185(10) is amended to read:

20 (10) "most serious felony" means

21 (A) arson in the first degree, sex trafficking in the first degree
 22 under AS 11.66.110(a)(2), [ONLINE] enticement of a minor under
 23 AS 11.41.452(e), or any unclassified or class A felony prescribed under
 24 AS 11.41; or

25 (B) an attempt, or conspiracy to commit, or criminal
 26 solicitation under AS 11.31.110 of, an unclassified felony prescribed under
 27 AS 11.41;

28 * **Sec. 18.** AS 12.55.185(16) is amended to read:

29 (16) "sexual felony" means sexual assault in the first degree, sexual
 30 abuse of a minor in the first degree, sex trafficking in the first degree, sexual assault in
 31 the second degree, sexual abuse of a minor in the second degree, **sexual abuse of a**

1 **minor in the third degree if the victim is at least six years younger than the**
 2 **offender,** unlawful exploitation of a minor, **indecent viewing or production of a**
 3 **picture under AS 11.61.123(a) if the person viewed or shown in the picture was,**
 4 **at the time of the viewing or production, under 16 years of age,** distribution of
 5 child pornography, sexual assault in the third degree, incest, indecent exposure in the
 6 first degree, possession of child pornography, [ONLINE] enticement of a minor, and
 7 felony attempt, conspiracy, or solicitation to commit those crimes;

8 * **Sec. 19.** AS 12.63.100(5) is amended to read:

9 (5) "sex offender or child kidnapper" means

10 (A) a person convicted of a sex offense or child kidnapping in
 11 this state or another jurisdiction regardless of whether the conviction occurred
 12 before, after, or on January 1, 1999; **or**

13 (B) **a person who is required to register as a sex offender or**
 14 **child kidnapper under the laws of another jurisdiction;**

15 * **Sec. 20.** AS 12.63.100(6) is amended to read:

16 (6) "sex offense" means

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

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

25 (i) sexual assault in the first degree;

26 (ii) sexual assault in the second degree;

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

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

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

31 (i) AS 11.41.410 - 11.41.438;

- 1 (ii) AS 11.41.440(a)(2);
- 2 (iii) AS 11.41.450 - 11.41.458;
- 3 (iv) AS 11.41.460 or AS 26.05.900(c) if the indecent
4 exposure is before a person under 16 years of age and the offender has
5 previously been convicted under AS 11.41.460 or AS 26.05.900(c);
- 6 (v) AS 11.61.125 - 11.61.128;
- 7 (vi) AS 11.66.110, 11.66.130(a)(2)(B), or
8 AS 26.05.900(b) if the person who was induced or caused to engage in
9 prostitution was under 20 years of age at the time of the offense;
- 10 (vii) former AS 11.15.120, former 11.15.134, or assault
11 with the intent to commit rape under former AS 11.15.160, former
12 AS 11.40.110, or former 11.40.200;
- 13 (viii) AS 11.61.118(a)(2) if the offender has a previous
14 conviction for that offense;
- 15 (ix) AS 11.66.100(a)(2) if the offender is subject to
16 punishment under AS 11.66.100(e);
- 17 (x) AS 26.05.890 if the person engaged in sexual
18 penetration or sexual contact with the victim;
- 19 (xi) AS 26.05.890 if, at the time of the offense, the
20 victim is under a duty to obey the lawful orders of the offender,
21 regardless of whether the offender is in the direct chain of command
22 over the victim;
- 23 (xii) AS 26.05.893 if the person engaged in sexual
24 penetration or sexual contact with the victim;
- 25 (xiii) AS 26.05.900(a)(1) - (4) if the victim is under 18
26 years of age at the time of the offense; [OR]
- 27 (xiv) AS 26.05.900 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; or
- 31 (xv) AS 11.61.123 if the offender is subject to

1 **punishment under AS 11.61.123(f)(1); [OR]**

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

7 (i) child pornography; or

8 (ii) pandering and prostitution if the person who is
9 induced, enticed, caused, or procured to engage in a sexual act is under
10 20 years of age at the time of the offense; **or**

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

13 * **Sec. 21.** AS 33.16.090(a) is amended to read:

14 (a) A prisoner sentenced to an active term of imprisonment of at least 181
15 days may, in the discretion of the board, be released on discretionary parole if the
16 prisoner

17 (1) has served the amount of time specified under (b) of this section,
18 except that

19 (A) a prisoner sentenced to one or more mandatory 99-year
20 terms under AS 12.55.125(a) or one or more definite terms under
21 AS 12.55.125(l) is not eligible for consideration for discretionary parole;

22 (B) a prisoner is not eligible for consideration of discretionary
23 parole if made ineligible by order of a court under AS 12.55.115;

24 (C) a prisoner imprisoned under AS 12.55.086 is not eligible
25 for discretionary parole unless the actual term of imprisonment is more than
26 one year;

27 **(D) a prisoner sentenced to a single sentence within or**
28 **below a presumptive range set out in AS 12.55.125(i)(1) and (2), and has**
29 **not been allowed by the three-judge panel under AS 12.55.175 to be**
30 **considered for discretionary parole release, is not eligible for**
31 **consideration of discretionary parole;**

1 **(E) a sentence that is ineligible for a good time deduction**
 2 **under AS 33.20.010(a)(3) and has not been allowed by the three-judge**
 3 **panel under AS 12.55.175 to be considered for discretionary parole**
 4 **release, is not eligible for consideration for discretionary parole;** or

5 (2) is at least 60 years of age, has served at least 10 years of a sentence
 6 for one or more crimes in a single judgment, and has not been convicted of an
 7 unclassified felony or a sexual felony as defined in AS 12.55.185.

8 * **Sec. 22.** AS 11.41.432(a)(2) and AS 33.16.090(b)(2) are repealed.

9 * **Sec. 23.** The uncodified law of the State of Alaska is amended by adding a new section to
 10 read:

11 **APPLICABILITY.** (a) The following sections apply to offenses committed on or after
 12 the effective date of this Act:

- 13 (1) AS 11.41.432(b), as amended by sec. 2 of this Act;
 14 (2) AS 11.41.452(a), as amended by sec. 4 of this Act;
 15 (3) AS 11.41.452(d), as amended by sec. 5 of this Act;
 16 (4) AS 11.41.452(e), as amended by sec. 6 of this Act;
 17 (5) AS 11.61.120(a), as amended by sec. 8 of this Act;
 18 (6) AS 11.61.123(a), as amended by sec. 9 of this Act;
 19 (7) AS 11.61.123(f), as amended by sec. 12 of this Act;
 20 (8) AS 11.81.900(b)(59), as amended by sec. 13 of this Act;
 21 (9) AS 12.55.125(d), as amended by sec. 14 of this Act;
 22 (10) AS 12.55.125(i), as amended by sec. 15 of this Act;
 23 (11) AS 12.55.145(a), as amended by sec. 16 of this Act;
 24 (12) AS 12.55.185(10), as amended by sec. 17 of this Act;
 25 (13) AS 12.55.185(16), as amended by sec. 18 of this Act.

26 (b) The following sections apply to the duty to register as a sex offender for offenses
 27 committed on or after the effective date of this Act:

- 28 (1) AS 12.63.100(5), as amended by sec. 19 of this Act;
 29 (2) AS 12.63.100(6), as amended by sec. 20 of this Act.

30 (c) AS 33.16.090(a), as amended by sec. 21 of this Act, applies to parole granted on
 31 or after the effective date of this Act for conduct occurring on or after the effective date of this

1 Act.

2 * **Sec. 24.** This Act takes effect July 1, 2019.