

SENATE BILL NO. 73

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY SENATOR GARDNER

Introduced: 2/29/17

Referred: State Affairs, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to sexual assault by a peace officer against a person who is a victim,**
2 **witness, or perpetrator of a crime."**

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

4 * **Section 1.** AS 11.41.425(a) is amended to read:

5 (a) An offender commits the crime of sexual assault in the third degree if the
6 offender

7 (1) engages in sexual contact with a person who the offender knows is

8 (A) mentally incapable;

9 (B) incapacitated; or

10 (C) unaware that a sexual act is being committed;

11 (2) while employed in a state correctional facility or other placement
12 designated by the commissioner of corrections for the custody and care of prisoners,
13 engages in sexual penetration with a person who the offender knows is committed to
14 the custody of the Department of Corrections to serve a term of imprisonment or

1 period of temporary commitment;

2 (3) engages in sexual penetration with a person 18 or 19 years of age
3 who the offender knows is committed to the custody of the Department of Health and
4 Social Services under AS 47.10 or AS 47.12 and the offender is the legal guardian of
5 the person;

6 (4) while employed in the state by a law enforcement agency as a
7 peace officer, or while acting as a peace officer in the state, engages in sexual
8 penetration with a person with reckless disregard that the person is in the custody or
9 the apparent custody of the offender, [OR] is committed to the custody of a law
10 enforcement agency, **or is the victim, witness, or perpetrator of a crime under**
11 **investigation by the offender**;

12 (5) while employed by the state or a municipality of the state as a
13 probation officer or parole officer, or while acting as a probation officer or parole
14 officer in the state, engages in sexual penetration with a person with reckless disregard
15 that the person is on probation or parole; or

16 (6) while employed as a juvenile probation officer or as a juvenile
17 facility staff, engages in sexual penetration with a person 18 or 19 years of age with
18 reckless disregard that the person is committed to the custody or probationary
19 supervision of the Department of Health and Social Services.

20 * **Sec. 2.** AS 11.41.427(a) is amended to read:

21 (a) An offender commits the crime of sexual assault in the fourth degree if

22 (1) while employed in a state correctional facility or other placement
23 designated by the commissioner of corrections for the custody and care of prisoners,
24 the offender engages in sexual contact with a person who the offender knows is
25 committed to the custody of the Department of Corrections to serve a term of
26 imprisonment or period of temporary commitment;

27 (2) the offender engages in sexual contact with a person 18 or 19 years
28 of age who the offender knows is committed to the custody of the Department of
29 Health and Social Services under AS 47.10 or AS 47.12 and the offender is the legal
30 guardian of the person;

31 (3) while employed in the state by a law enforcement agency as a

1 peace officer, or while acting as a peace officer in the state, the offender engages in
 2 sexual contact with a person with reckless disregard that the person is in the custody or
 3 the apparent custody of the offender, [OR] is committed to the custody of a law
 4 enforcement agency, **or is the victim, witness, or perpetrator of a crime under**
 5 **investigation by the offender;**

6 (4) while employed by the state or a municipality of the state as a
 7 probation officer or parole officer, or while acting as a probation officer or parole
 8 officer in the state, the offender engages in sexual contact with a person with reckless
 9 disregard that the person is on probation or parole; or

10 (5) while employed as a juvenile probation officer or as a juvenile
 11 facility staff, the offender engages in sexual contact with a person 18 or 19 years of
 12 age with reckless disregard that the person is committed to the custody or probationary
 13 supervision of the Department of Health and Social Services.

14 * **Sec. 3.** AS 11.41.432(c) is amended to read:

15 (c) It is an affirmative defense to a crime charged under

16 **(1) AS 11.41.425(a)(5) or 11.41.427(a)(4) that the offender and the**
 17 **person on probation or parole had, before the person was placed on probation or**
 18 **parole, a dating relationship or a sexual relationship, and the relationship continued**
 19 **until the date of the alleged offense;**

20 **(2) AS 11.41.425(a)(4) or 11.41.427(a)(3) that the offender and the**
 21 **person who is a victim, witness, or perpetrator of a crime under investigation by**
 22 **the offender had, before the person was a victim, witness, or perpetrator of a**
 23 **crime under investigation by the offender, a dating or sexual relationship, and**
 24 **the relationship continued until the date the person became the victim, witness,**
 25 **or perpetrator of a crime under investigation by the offender.**

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

28 APPLICABILITY. This Act applies to offenses committed on or after the effective
 29 date of this Act.