

**HOUSE BILL NO. 364**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

**BY REPRESENTATIVE KAWASAKI**

**Introduced: 2/26/14**

**Referred: Judiciary, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the crime of harassment; relating to the definition of 'sex offense';**  
2 **and relating to the penalties for certain offenses."**

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

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

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

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

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

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

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

1 (5) the defendant has been previously convicted of a crime under this  
 2 section, AS 11.41.270, or AS 11.56.740, or a law or ordinance of this or another  
 3 jurisdiction with elements similar to a crime under this section, AS 11.41.270, or  
 4 AS 11.56.740; or

5 (6) the defendant has been previously convicted of a crime, or an  
 6 attempt or solicitation to commit a crime, under (A) AS 11.41.100 - 11.41.250,  
 7 11.41.300 - 11.41.460, AS 11.56.807, 11.56.810, AS 11.61.118, 11.61.120, or (B) a  
 8 law or an ordinance of this or another jurisdiction with elements similar to a crime, or  
 9 an attempt or solicitation to commit a crime, under AS 11.41.100 - 11.41.250,  
 10 11.41.300 - 11.41.460, AS 11.56.807, 11.56.810, AS 11.61.117, 11.61.118  
 11 [AS 11.61.118], or 11.61.120, involving the same victim as the present offense.

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

13 **Sec. 11.61.117. Harassment in the first degree.** (a) A person commits the  
 14 crime of harassment in the first degree, if the person violates AS 11.61.118 and the  
 15 person knowingly directed the conduct constituting the offense at a uniformed or  
 16 otherwise clearly identified peace officer, firefighter, correctional employee,  
 17 emergency medical technician, paramedic, ambulance attendant, or other emergency  
 18 responder or medical professional who was engaged in the performance of official  
 19 duties at the time of the harassment.

20 (b) In this section, "medical professional" has the meaning given in  
 21 AS 12.55.135(k).

22 (c) Harassment in the first degree is a class C felony.

23 \* **Sec. 3.** AS 11.61.118 is amended to read:

24 **Sec. 11.61.118. Harassment in the second [FIRST] degree.** (a) A person  
 25 commits the crime of harassment in the second [FIRST] degree if

26 (1) the person violates AS 11.61.120(a)(5) and the offensive physical  
 27 contact is contact with human or animal blood, mucus, saliva, semen, urine, vomitus,  
 28 or feces; or

29 (2) under circumstances not proscribed under AS 11.41.434 -  
 30 11.41.440, the person violates AS 11.61.120(a)(5) and the offensive physical contact  
 31 is contact by the person touching through clothing another person's genitals, buttocks,

1 or female breast.

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

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

4 **Sec. 11.61.120. Harassment in the third [SECOND] degree.** (a) A person  
5 commits the crime of harassment in the third [SECOND] degree if, with intent to  
6 harass or annoy another person, that person

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

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

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

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

15 (5) subjects another person to offensive physical contact; or

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

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

20 \* **Sec. 5.** AS 12.55.125(i) is amended to read:

21 (i) A defendant convicted of

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

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

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

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

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

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

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

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

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

14 (2) unlawful exploitation of a minor under AS 11.41.455(c)(2), online  
15 enticement of a minor under AS 11.41.452(e), or attempt, conspiracy, or solicitation to  
16 commit sexual assault in the first degree, sexual abuse of a minor in the first degree, or  
17 sex trafficking in the first degree under AS 11.66.110(a)(2) may be sentenced to a  
18 definite term of imprisonment of not more than 99 years and shall be sentenced to a  
19 definite term within the following presumptive ranges, subject to adjustment as  
20 provided in AS 12.55.155 - 12.55.175:

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

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

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

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

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

31 (D) if the offense is a second felony conviction and the

1 defendant has a prior conviction for a sexual felony, 30 to 40 years;

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

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

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

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

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

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

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

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

23 (4) sexual assault in the third degree, incest, indecent exposure in the  
24 first degree, **harassment in the first degree under AS 11.61.117 involving the**  
25 **touching through clothing of another person's genitals, buttocks, or female**  
26 **breast,** possession of child pornography, distribution of child pornography under  
27 AS 11.61.125(e)(1), or attempt, conspiracy, or solicitation to commit sexual assault in  
28 the second degree, sexual abuse of a minor in the second degree, unlawful exploitation  
29 of a minor, or distribution of child pornography, may be sentenced to a definite term  
30 of imprisonment of not more than 99 years and shall be sentenced to a definite term  
31 within the following presumptive ranges, subject to adjustment as provided in

1 AS 12.55.155 - 12.55.175:

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

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

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

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

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

11 \* **Sec. 6.** AS 12.55.135(d) is amended to read:

12 (d) A defendant convicted of assault in the fourth degree [OR  
13 HARASSMENT IN THE FIRST DEGREE] who knowingly directed the conduct  
14 constituting the offense at

15 (1) a uniformed or otherwise clearly identified peace officer,  
16 firefighter, correctional employee, emergency medical technician, paramedic,  
17 ambulance attendant, or other emergency responder or medical professional who was  
18 engaged in the performance of official duties at the time of the assault or harassment  
19 shall be sentenced to a minimum term of imprisonment of

20 (A) 90 [60] days if the defendant violated AS 11.41.230(a)(1)  
21 or (2) [OR AS 11.61.118];

22 (B) 30 days if the defendant violated AS 11.41.230(a)(3);

23 (2) a person who was on school grounds during school hours or during  
24 a school function or a school-sponsored event, on a school bus, at a school-sponsored  
25 event, or in the administrative offices of a school district, if students are educated at  
26 that office, shall be sentenced to a minimum term of imprisonment of 60 days if the  
27 defendant violated AS 11.41.230(a)(1) or (2); in this paragraph,

28 (A) "school bus" has the meaning given in AS 11.71.900;

29 (B) "school district" has the meaning given in AS 47.07.063;

30 (C) "school grounds" has the meaning given in AS 11.71.900.

31 \* **Sec. 7.** AS 12.55.135 is amended by adding a new subsection to read:

1 (l) A defendant convicted of harassment in the second degree who knowingly  
 2 directed the conduct constituting the offense at a person who was on school grounds  
 3 during school hours or during a school function or a school-sponsored event, on a  
 4 school bus, at a school-sponsored event, or in the administrative offices of a school  
 5 district, if students are educated at that office, shall be sentenced to a minimum term of  
 6 imprisonment of 90 days if the defendant violated AS 11.61.118; in this subsection,

7 (1) "school bus" has the meaning given in AS 11.71.900;

8 (2) "school district" has the meaning given in AS 47.07.063;

9 (3) "school grounds" has the meaning given in AS 11.71.900.

10 \* **Sec. 8.** AS 12.63.100(6) is amended to read:

11 (6) "sex offense" means

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

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

20 (i) sexual assault in the first degree;

21 (ii) sexual assault in the second degree;

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

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

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

26 (i) AS 11.41.410 - 11.41.438;

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

28 (iii) AS 11.41.450 - 11.41.458;

29 (iv) AS 11.41.460 if the indecent exposure is before a  
 30 person under 16 years of age and the offender has a previous conviction  
 31 for that offense;

1 (v) AS 11.61.125 - 11.61.128;

2 (vi) AS 11.66.110 or 11.66.130(a)(2) if the person who  
3 was induced or caused to engage in prostitution was under 20 years of  
4 age at the time of the offense;

5 (vii) former AS 11.15.120, former 11.15.134, or assault  
6 with the intent to commit rape under former AS 11.15.160, former  
7 AS 11.40.110, or former 11.40.200;

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

10 (ix) AS 11.66.100(a)(2) if the offender is subject to  
11 punishment under AS 11.66.100(c); **or**

12 **(x) AS 11.61.117 if the offense involved the touching**  
13 **through clothing of another person's genitals, buttocks, or female**  
14 **breast;**

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

17 **APPLICABILITY.** This Act applies to offenses occurring on or after the effective date  
18 of this Act.