

SENATE BILL NO. 54

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY SENATOR COGHILL

Introduced: 2/10/17

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to crime and criminal law; relating to violation of condition of release;**
2 **relating to sex trafficking; relating to sentencing; relating to probation; relating to the**
3 **pretrial services program; and providing for an effective date."**

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

5 * **Section 1.** AS 11.56.757(a) is amended to read:

6 (a) A person commits the **crime** [OFFENSE] of violation of condition of
7 release if the person

8 (1) has been charged with a crime or convicted of a crime;

9 (2) has been released under AS 12.30; and

10 (3) violates a condition of release imposed by a judicial officer under
11 AS 12.30, other than the requirement to appear as ordered by a judicial officer.

12 * **Sec. 2.** AS 11.56.757(b) is amended to read:

13 (b) Violation of condition of release is a **class B misdemeanor** [VIOLATION
14 PUNISHABLE BY A FINE OF UP TO \$1,000].

1 * **Sec. 3.** AS 11.66.130(a) is amended to read:

2 (a) A person commits the crime of sex trafficking in the third degree if [,
3 WITH INTENT TO PROMOTE PROSTITUTION,] the person

4 (1) receives compensation for prostitution services rendered by
5 another; and

6 (2) with the intent to promote prostitution,

7 (A) manages, supervises, controls, or owns, either alone or in
8 association with others, a place of prostitution;

9 (B) [(2)] as other than a patron of a prostitute, induces or
10 causes another person who is 20 years of age or older to engage in prostitution;

11 (C) [(3) AS OTHER THAN A PROSTITUTE RECEIVING
12 COMPENSATION FOR PERSONALLY RENDERED PROSTITUTION
13 SERVICES,] receives or agrees to receive money or other property under an
14 agreement or understanding that the money or other property is derived from
15 prostitution; or

16 (D) [(4)] engages in conduct that institutes, aids, or facilitates a
17 prostitution enterprise.

18 * **Sec. 4.** AS 11.66.135(a) is amended to read:

19 (a) A person commits the crime of sex trafficking in the fourth degree if the
20 person

21 (1) receives compensation for prostitution services rendered by
22 another; and

23 (2) engages in conduct that institutes, aids, or facilitates prostitution
24 under circumstances not proscribed under AS 11.66.130(a)(2)(D)
25 [AS 11.66.130(a)(4)].

26 * **Sec. 5.** AS 12.55.125(e) is amended to read:

27 (e) Except as provided in (i) of this section, a defendant convicted of a class C
28 felony may be sentenced to a definite term of imprisonment of not more than five
29 years, and shall be sentenced to a definite term within the following presumptive
30 ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

31 (1) if the offense is a first felony conviction and does not involve

circumstances described in (4) of this subsection, zero to 90 days [PROBATION], with a suspended term of imprisonment of zero to 18 months; a defendant sentenced under this paragraph may, if the court finds it appropriate, be granted a suspended imposition of sentence under AS 12.55.085;

(2) if the offense is a second felony conviction, one to three years;

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

(4) if the offense is a first felony conviction, and the defendant violated

(A) AS 08.54.720(a)(15), one to two years;

(B) AS 28.35.030(n)(1)(A) or 28.35.032(p)(1)(A), 120 days to 239 days;

(C) AS 28.35.030(n)(1)(B) or 28.35.032(p)(1)(B), 240 days to 359 days;

(D) AS 28.35.030(n)(1)(C) or 23.35.032(p)(1)(C), 360 days to two years.

* **Sec. 6.** AS 12.55.125 is amended by adding a new subsection to read:

(q) Except for convictions subject to a mandatory term of imprisonment of 99 years, the court shall impose a term of probation in addition to an active term of imprisonment imposed under (i) of this section.

* **Sec. 7.** AS 12.55.135(a) is amended to read:

(a) A defendant convicted of a class A misdemeanor may be sentenced to a definite term of imprisonment of not more than

(1) one year, if the

(A) conviction is for a crime with a mandatory minimum term of 30 days or more of active imprisonment;

(B) trier of fact finds the aggravating factor that the conduct constituting the offense was among the most serious conduct included in the definition of the offense;

(C) defendant has previously been convicted two or more times [PAST CRIMINAL CONVICTIONS] for conduct violative of criminal laws, punishable as felonies or misdemeanors, similar in nature to the offense for which the defendant is being sentenced;

(D) conviction is for an assault in the fourth degree under AS 11.41.230; or

(E) conviction is for a violation of

(i) AS 11.41.427;

(ii) AS 11.41.440;

(iii) AS 11.41.460, if the indecent exposure is before a person under 16 years of age; or

(iv) AS 11.61.118(a)(2);

(2) **60 days, if the defendant has one previous conviction for conduct violative of criminal laws, punishable as felonies or misdemeanors, similar in nature to the offense for which the defendant is being sentenced;**

(3) 30 days.

* Sec. 8. AS 12.55.135(b) is amended to read:

(b) A defendant convicted of a class B misdemeanor may be sentenced to a definite term of imprisonment of not more than

(1) 10 days unless otherwise specified in the provision of law defining the offense or in this section;

(2) 90 days if the conviction is for a violation of

(A) AS 11.61.116(c)(1) and the person is 21 years of age or older; or

(B) AS 11.61.120(a)(6) and the person is 21 years of age or older; **or**

(3) five days if the conviction is for a violation of AS 11.56.757.

* Sec. 9. AS 12.55.135(l) is amended to read:

(l) A court sentencing a person convicted of theft in the fourth degree under AS 11.46.150, concealment of merchandise under AS 11.46.220(c)(3), removal of identification marks under AS 11.46.260(b)(3), unlawful possession under AS 11.46.270(b)(3), issuing a bad check under AS 11.46.280(d)(4), or criminal simulation under AS 11.46.530(b)(3) may not impose

(1) a sentence of more than **10** [FIVE] days of **active** [SUSPENDED] imprisonment [AND A TERM OF PROBATION OF MORE THAN SIX MONTHS]

1 if the person has previously been convicted two or more times of an offense under
 2 AS 11.46.110 - 11.46.220, 11.46.260 - 11.46.290, 11.46.360 or 11.46.365, or a law or
 3 ordinance of this or another jurisdiction with substantially similar elements; or

4 (2) a term of probation of more than six months [SENTENCE OF
 5 ACTIVE OR SUSPENDED IMPRISONMENT] if the person has not been previously
 6 convicted, or has previously been convicted once, of an offense under AS 11.46.110 -
 7 11.46.220, 11.46.260 - 11.46.290, 11.46.360 or 11.46.365, or a law or ordinance of
 8 this or another jurisdiction with substantially similar elements.

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

10 (6) "sex offense" means

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

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

19 (i) sexual assault in the first degree;

20 (ii) sexual assault in the second degree;

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

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

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

25 (i) AS 11.41.410 - 11.41.438;

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

27 (iii) AS 11.41.450 - 11.41.458;

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

31 (v) AS 11.61.125 - 11.61.128;

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

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

(viii) AS 11.61.118(a)(2) if the offender has a previous
 conviction for that offense; or

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

* **Sec. 11.** AS 18.67.101 is amended to read:

Sec. 18.67.101. Incidents and offenses to which this chapter applies. The
 board may order the payment of compensation in accordance with the provisions of
 this chapter for personal injury or death that resulted from

(1) an attempt on the part of the applicant to prevent the commission of
 crime, or to apprehend a suspected criminal, or aiding or attempting to aid a police
 officer to do so, or aiding a victim of crime; or

(2) the commission or attempt on the part of one other than the
 applicant to commit any of the following offenses:

(A) murder in any degree;

(B) manslaughter;

(C) criminally negligent homicide;

(D) assault in any degree;

(E) kidnapping;

(F) sexual assault in any degree;

(G) sexual abuse of a minor;

(H) robbery in any degree;

(I) threats to do bodily harm;

(J) driving while under the influence of an alcoholic beverage,
 inhalant, or controlled substance or another crime resulting from the operation
 of a motor vehicle, boat, or airplane when the offender is under the influence

of an alcoholic beverage, inhalant, or controlled substance;

(K) arson in the first degree;

(L) sex trafficking in violation of AS 11.66.110 or

11.66.130(a)(2)(B) [11.66.130(a)(2)];

(M) human trafficking in any degree; or

(N) unlawful exploitation of a minor.

* **Sec. 12.** AS 29.25.070(g) is amended to read:

(g) If a municipality prescribes a penalty for a violation of a municipal ordinance, including a violation under (a) of this section, and there is a comparable state **crime** [OFFENSE] under AS 11 or AS 28 with elements that are similar to the municipal ordinance, the municipality may not impose a greater punishment than that imposed for a violation of the state **crime** [LAW]. This subsection applies to home rule and general law municipalities.

* **Sec. 13.** AS 33.07.010, enacted by sec. 117, ch. 36, SLA 2016, is amended to read:

Sec. 33.07.010. Pretrial services program; establishment. The commissioner shall establish and administer a pretrial services program that provides a pretrial risk assessment for all defendants **brought into custody or for any defendant for whom the prosecution requests to have a pretrial risk assessment at the next hearing or arraignment. The pretrial services program shall make** [,] recommendations to the court concerning pretrial release decisions, and **provide** supervision of defendants released while awaiting trial as ordered by the court.

* **Sec. 14.** AS 34.03.360(10) is amended to read:

(10) "illegal activity involving a place of prostitution" means a violation of AS 11.66.120(a)(1) or **11.66.130(a)(2)(A) or (D)** [11.66.130(a)(1) OR (4)];

* **Sec. 15.** AS 11.66.130(b), 11.66.135(b); AS 12.55.125(e)(4)(B), 12.55.125(e)(4)(C), and 12.55.125(e)(4)(D) are repealed.

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

APPLICABILITY. (a) The following sections apply to offenses committed on or after the effective date of those sections:

- 1 (1) AS 11.56.757(a), as amended by sec. 1 of this Act;
- 2 (2) AS 11.56.757(b), as amended by sec. 2 of this Act;
- 3 (3) AS 11.66.130(a), as amended by sec. 3 of this Act; and
- 4 (4) AS 11.66.135(a), as amended by sec. 4 of this Act.

5 (b) The following sections apply to sentences imposed on or after the effective date of
6 those sections for conduct occurring before, on, or after the effective date of those sections:

- 7 (1) AS 12.55.125(e), as amended by sec. 5 of this Act;
- 8 (2) AS 12.55.125(q), enacted by sec. 6 of this Act;
- 9 (3) AS 12.55.135(a), as amended by sec. 7 of this Act;
- 10 (4) AS 12.55.135(b), as amended by sec. 8 of this Act; and
- 11 (5) AS 12.55.135(l), as amended by sec. 9 of this Act.

12 * **Sec. 17.** Section 13 of this Act takes effect January 1, 2018.

13 * **Sec. 18.** Except as provided in sec. 17 of this Act, this Act takes effect immediately under
14 AS 01.10.070(c).