



# DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 220  
April 24, 1998

## MULTIPLE CONVICTIONS FOR SEXUAL ASSAULT INVOLVING THE SAME VICTIM DURING SINGLE EPISODE

Reference: Brian E. Erickson  
v.  
State of Alaska

Alaska Court of Appeals  
Opinion No. 1559  
P.2d  
December 12, 1997

### FACTS:

Erickson was convicted of four counts of second-degree sexual abuse of a minor [AS 11.41.436(a)(1)]. The four counts involved the same victim and arose from a single episode of sexual abuse, but each count alleged a different form of sexual penetration.

Erickson argued, under several theories, that he should not have been convicted of four separate charges. He believed that all four charges should have been consolidated into one offense.

### ISSUE:

Can a defendant be convicted of separate crimes when the defendant violates the same criminal statute more than once in a single criminal event?

HELD: Yes.

### REASONING:

1. Distinct types of sexual penetration will support separate convictions for sexual assault.
2. Different forms of sexual penetration constitute different forms of indignity and violation and they must merit separate punishment.

### NOTES:

The Alaska courts have historically upheld convictions involving multiple charges using different criminal statutes violated during the same course of conduct. Following are some examples:

1. Defendant convicted of two counts of manslaughter where two people were killed in a motor vehicle accident (State v. Dunlop, 721 P2d 604).
2. Defendant convicted of both felony murder and first-degree robbery (Todd v. State, 917 P2d 674).
3. Defendant convicted of both arson and manslaughter (Jacynth v. State, 593 P2d 263).
4. Defendant separately convicted of rape, kidnapping, and assault with a deadly weapon (State v. Occhipinti, 562 P2d 348).
5. Defendant could be separately convicted of burglary and larceny (Mead v. State, 489 P2d 738).

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