

# LEGAL SERVICES

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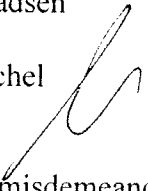
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

March 22, 2011

**SUBJECT:** Misdemeanors (CSHB 6 ( ))(Work Order No. 27-LS0027\T))

**TO:** Representative Max Gruenberg  
Attn: Ted Madsen

**FROM:** Jean M. Mischel 

You have asked for examples of misdemeanors in the state that may be construed to involve a breach of trust or dishonesty and for others that do not for purposes of interpreting the above-referenced bill.

A court would form its own interpretation of the phrases as used in the bill when presented with a specific set of facts. If the phrase is considered to be ambiguous the legislative history of the bill, including committee minutes, may be relied upon.

In my opinion, two examples of a misdemeanor involving a breach of trust are endangering the welfare of a vulnerable adult in the second degree, AS 11.51.210, and endangering the welfare of a child that results in physical injury to the child under AS 11.51.100.

For a misdemeanor involving dishonesty, a court would likely consider whether an element of the crime is knowledge or intent. For example, aiding the nonpayment of child support in the second degree under AS 11.51.122 requires proof that the person knows of an obligor's duty to pay child support. Another example of a misdemeanor involving dishonesty is theft in the third degree under AS 11.46.140. A third example is issuing a bad check under AS 11.46.280.

Some examples of misdemeanors that do not involve a breach of trust or dishonesty would likely involve personal use or possession of a small amount of a controlled substance. Criminal trespass in the first degree under AS 11.46.320 may not involve a breach of trust or dishonesty.

If I may be of further assistance, please advise.

JMM:plm  
11-173.plm