



# LAWS OF ALASKA

1978

Source

SCS CSHB 661 am S

Chapter No.

166

## AN ACT

Revising the criminal laws of the state; changing Rule 35 of the Alaska Supreme Court's Rules of Criminal Procedure; and providing for an effective date.

### BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

\* Section 1. AS 11 is amended by adding a new chapter to read:

#### CHAPTER 16. PARTIES TO CRIME.

Sec. 11.16.100. LEGAL ACCOUNTABILITY BASED UPON CONDUCT. A person is guilty of an offense if it is committed by his own conduct or by the conduct of another person for which he is legally accountable under sec. 110 of this chapter, or by both.

Sec. 11.16.110. LEGAL ACCOUNTABILITY BASED UPON THE CONDUCT OF ANOTHER: COMPLICITY. A person is legally accountable for the conduct of another person constituting an offense if

(1) he is made legally accountable by a provision of law defining the offense;

(2) with intent to promote or facilitate the commission of the offense,

(A) he solicits the other person to commit the offense; or

(B) he aids or abets the other person in planning or committing the offense; or

(3) acting with the culpable mental state that is sufficient for the commission of the offense, he causes an innocent person or a person who lacks criminal responsibility to engage in the proscribed conduct.

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2  
3           Sec. 11.16.120. EXEMPTIONS TO LEGAL ACCOUNTABILITY FOR CONDUCT OF  
4 ANOTHER. (a) In a prosecution for an offense in which legal accoun-  
5 tability is based on the conduct of another person,

6           (1) it is an affirmative defense that the defendant, under  
7 circumstances manifesting a voluntary and complete renunciation of his  
8 criminal intent, .

9           (A) terminated his complicity before the commission of  
10 the offense;

11           (B) wholly deprived his complicity of its effectiveness  
12 in the commission of the offense; and

13           (C) gave timely warning to law enforcement authorities  
14 or, if timely warning could not be given to law enforcement autho-  
15 rities by reasonable efforts, otherwise made a reasonable effort to  
16 prevent the commission of the offense;

17           (2) it is not a defense that

18           (A) the other person has not been prosecuted for or  
19 convicted of an offense based upon the conduct in question or has  
20 been convicted of a different offense or degree of offense;

21           (B) the offense, as defined, can be committed only by a  
22 particular class of persons to which the defendant does not belong  
23 and he is for that reason legally incapable of committing the  
24 offense in an individual capacity; or

25           (C) the other person is not guilty of the offense.

26           (b) Except as otherwise provided by a provision of law defining a  
27 offense, a person is not legally accountable for the conduct of another  
28 constituting an offense if

29           (1) he is the victim of the offense; or

1 (2) the offense is so defined that his conduct is inevitably  
2 incidental to its commission.

3 Sec. 11.16.130. LEGAL ACCOUNTABILITY OF ORGANIZATIONS. (a)  
4 Except as otherwise expressly provided, an organization is legally  
5 accountable for conduct constituting an offense if the conduct

6 (1) is the conduct of its agent and

7 (A) within the scope of his employment and in behalf of  
8 the organization; or

9 (B) is solicited, subsequently ratified, or subsequently  
10 adopted by the organization; or

11 (2) consists of an omission to discharge a specific duty of  
12 affirmative performance imposed on organizations by law.

13 (b) In this section "agent" means a director, officer, or employee  
14 of an organization or any other person who is authorized to act in  
15 behalf of the organization.

16 \* Sec. 2. AS 11 is amended by adding a new chapter to read:

17 CHAPTER 31. ATTEMPT AND SOLICITATION.

18 Sec. 11.31.100. ATTEMPT. (a) A person is guilty of an attempt to  
19 commit a crime if, with intent to commit a crime, he engages in conduct  
20 which constitutes a substantial step toward the commission of that  
21 crime.

22 (b) In a prosecution under this section, it is not a defense that  
23 it was factually or legally impossible to commit the crime which was the  
24 object of the attempt if the conduct engaged in by the defendant would  
25 be a crime had the circumstances been as he believed them to be.

26 (c) In a prosecution under this section, it is an affirmative  
27 defense that the defendant, under circumstances manifesting a voluntary  
28 and complete renunciation of his criminal intent, prevented the commis-  
29 sion of the attempted crime.

1 (d) An attempt is a

2 (1) class A felony if the crime attempted is murder in any  
3 degree or kidnapping;

4 (2) class B felony if the crime attempted is a class A  
5 felony;

6 (3) class C felony if the crime attempted is a class B  
7 felony;

8 (4) class A misdemeanor if the crime attempted is a class C  
9 felony;

0 (5) class B misdemeanor if the crime attempted is a class A  
1 or class B misdemeanor.

2 Sec. 11.31.110. SOLICITATION. (a) A person commits the crime of  
3 solicitation if, with intent to cause another to engage in conduct  
4 constituting a crime, he solicits the other person to engage in that  
5 conduct.

6 (b) In a prosecution under this section,

7 (1) it is not a defense

8 (A) that the defendant belongs to a class of persons who  
9 by definition are legally incapable in an individual capacity of  
0 committing the crime that is the object of the solicitation; or

1 (B) that a person whom the defendant solicits could not  
2 be guilty of the crime that is the object of the solicitation;

3 (2) it is an affirmative defense that the defendant, under  
4 circumstances manifesting a voluntary and complete renunciation of his  
5 criminal intent, after soliciting another person to engage in conduct  
6 constituting a crime, prevented the commission of the crime.

7 (c) Solicitation is a

8 (1) class A felony if the crime solicited is murder in any  
9 degree or kidnapping;

1 (2) class B felony if the crime solicited is a class A  
2 felony;

3 (3) class C felony if the crime solicited is a class B  
4 felony;

5 (4) class A misdemeanor if the crime solicited is a class C  
6 felony;

7 (5) class B misdemeanor if the crime solicited is a class A  
8 or class B misdemeanor.

9 Sec. 11.31.140. MULTIPLE CONVICTIONS BARRED. (a) It is not a  
10 defense to a prosecution under sec. 100 or 110 of this chapter that the  
11 crime that is the object of the attempt or solicitation was actually  
12 committed pursuant to the attempt or solicitation.

13 (b) A person may not be convicted of more than one crime defined  
14 by sec. 100 or 110 of this chapter for conduct designed to commit or  
15 culminate in commission of the same crime.

16 (c) A person may not be convicted on the basis of the same course  
17 of conduct of both (1) a crime defined by sec. 100 or 110 of this chap-  
18 ter; and (2) the crime that is the object of the attempt or sollicita-  
19 tion.

20 (d) This section does not bar inclusion of multiple counts in a  
21 single indictment or information charging commission of a crime defined  
22 by sec. 100 or 110 of this chapter and commission of the crime that is  
23 the object of the attempt or solicitation.

24 Sec. 11.31.150. SUBSTANTIVE CRIMES INVOLVING ATTEMPT OR SOLICITATION. Notwithstanding sec. 140(d) of this chapter,

25 (1) a person may not be charged under sec. 100 of this chap-  
26 ter if the crime allegedly attempted by the defendant is defined in such  
27 a way that an attempt to engage in the proscribed conduct constitutes  
28 commission of the crime itself;

1 (2) a person may not be charged under sec. 110 of this chap-  
2 ter if the solicitation in question is defined as a specific crime under  
3 other provisions of law.

4 \* Sec. 3. AS 11 is amended by adding a new chapter to read:

5 CHAPTER 41. OFFENSES AGAINST THE PERSON.

6 ARTICLE 1. HOMICIDE.

7 Sec. 11.41.100. MURDER IN THE FIRST DEGREE. (a) A person commits  
8 the crime of murder in the first degree if, with intent to cause the  
9 death of another person, he

10 (1) causes the death of any person; or

11 (2) compels or induces any person to commit suicide through  
12 duress or deception.

13 (b) Murder in the first degree is an unclassified felony and is  
14 punishable as provided in AS 12.55.

15 Sec. 11.41.110. MURDER IN THE SECOND DEGREE. (a) A person com-  
16 mits the crime of murder in the second degree if

17 (1) with intent to cause serious physical injury to another  
18 person or knowing that his conduct is substantially certain to cause  
19 death or serious physical injury to another person, he causes the death  
20 of any person;

21 (2) he intentionally performs an act that results in the  
22 death of another person under circumstances manifesting an extreme  
23 indifference to the value of human life; or

24 (3) acting either alone or with one or more persons, he com-  
25 mits or attempts to commit arson in the first degree, kidnapping, sexual  
26 assault in the first degree under sec. 410(a)(1) or (2) of this chapter  
27 sexual assault in the second degree, burglary in the first degree,  
28 escape in the first or second degree, or robbery in any degree and, in  
29 the course of or in furtherance of that crime, or in immediate flight

1 from that crime, any person causes the death of a person other than one  
2 of the participants.

3 (b) Murder in the second degree is an unclassified felony and is  
4 punishable as provided in AS 12.55.

5 Sec. 11.41.115. DEFENSES TO MURDER. (a) In a prosecution under  
6 sec. 100(a)(1) or 110(a)(1) of this chapter, it is a defense that the  
7 defendant acted in a heat of passion, before there had been a reasonable  
8 opportunity for the passion to cool, when the heat of passion resulted  
9 from a serious provocation by the intended victim.

10 (b) In a prosecution under sec. 110(a)(3) of this chapter, it is  
11 an affirmative defense that the defendant

12 (1) did not commit the homicidal act or in any way solicit or  
13 aid in its commission;

14 (2) was not armed with a dangerous instrument;

15 (3) had no reasonable ground to believe that another partici-  
16 pant, if any, was armed with a dangerous instrument; and

17 (4) had no reasonable ground to believe that another partici-  
18 pant, if any, intended to engage in conduct likely to result in death or  
19 serious physical injury.

20 (c) A person may not be convicted of murder in the second degree  
21 under sec. 110(a)(3) of this chapter if the only underlying crime is  
22 burglary, the sole purpose of the burglary is a criminal homicide, and  
23 the person killed is the intended victim of the defendant. However, if  
24 the defendant causes the death of any other person, the defendant may be  
25 convicted of murder in the second degree under sec. 110(a)(3) of this  
26 chapter. Nothing in this subsection precludes a prosecution for or  
27 conviction of murder in the first degree or murder in the second degree  
28 under sec. 110(a)(1) or (2) of this chapter or of any other crime, in-  
29 cluding manslaughter or burglary.

1 (d) In a prosecution under sec. 100(a)(1) or 110(a)(1) of this  
2 chapter, it is an affirmative defense that, at the time of the homicidal  
3 act, the defendant honestly but unreasonably believed that the circum-  
4 stances were such that, had they been as he believed them to be, they  
5 would have constituted a justification for the killing under AS  
6 11.81.300 - 11.81.430.

7 (e) Nothing in (a), (b), or (d) of this section precludes a pro-  
8 secution for or conviction of manslaughter or any other crime not speci-  
9 fically precluded.

10 (f) In this section,

11 (1) "intended victim" means a person whom the defendant was  
12 attempting to kill or to whom the defendant was attempting to cause  
13 serious physical injury when he caused the death of the person he is  
14 charged with killing;

15 (2) "serious provocation" means conduct which is sufficient  
16 to excite an intense passion in a reasonable person in the defendant's  
17 situation, other than a person who is intoxicated, under the circum-  
18 stances as he reasonably believed them to be; insulting words, insulting  
19 gestures, or hearsay reports of conduct engaged in by the intended  
20 victim do not, alone or in combination with each other, constitute  
21 serious provocation.

22 Sec. 11.41.120. MANSLAUGHTER. (a) A person commits the crime of  
23 manslaughter if he

24 (1) intentionally, knowingly, or recklessly causes the death  
25 of another person under circumstances not amounting to murder in the  
26 first or second degree; or

27 (2) intentionally aids another person to commit suicide.

28 (b) Manslaughter is a class A felony.

29 Sec. 11.41.130. CRIMINALLY NEGLIGENT HOMICIDE. (a) A person

1 commits the crime of criminally negligent homicide if, with criminal  
2 negligence, he causes the death of another person.

3 (b) Criminally negligent homicide is a class C felony.

4 Sec. 11.41.140. DEFINITION. As used in secs. 100 - 140 of this  
5 chapter, "person", when referring to the victim of a crime, means a  
6 human being who has been born and was alive at the time of the criminal  
7 act. A person is "alive" if he has spontaneous respiratory or cardiac  
8 function or, when respiratory and cardiac functions are maintained by  
9 artificial means, he has spontaneous brain function.

10 ARTICLE 2. ASSAULT AND RECKLESS ENDANGERMENT.

11 Sec. 11.41.200. ASSAULT IN THE FIRST DEGREE. (a) A person com-  
12 mits the crime of assault in the first degree if

13 (1) with intent to cause serious physical injury to another  
14 person, he causes physical injury to any person by means of a dangerous  
15 instrument;

16 (2) with intent to cause serious physical injury to another  
17 person, he causes serious physical injury to any person; or

18 (3) he intentionally performs an act that results in serious  
19 physical injury to another person under circumstances manifesting ex-  
20 treme indifference to the value of human life.

21 (b) Assault in the first degree is a class A felony.

22 Sec. 11.41.210. ASSAULT IN THE SECOND DEGREE. (a) A person  
23 commits the crime of assault in the second degree if

24 (1) with intent to cause physical injury to another person,  
25 he causes serious physical injury to any person;

26 (2) he intentionally places another person in fear of immi-  
27 nent serious physical injury by means of a dangerous instrument; or

28 (3) he recklessly causes serious physical injury to another  
29 person by means of a dangerous instrument.

1 (b) Assault in the second degree is a class B felony.

2 Sec. 11.41.230. ASSAULT IN THE THIRD DEGREE. (a) A person com-  
3 mits the crime of assault in the third degree if

4 (1) he intentionally or recklessly causes physical injury to  
5 another person;

6 (2) with criminal negligence he causes physical injury to  
7 another person by means of a dangerous instrument; or

8 (3) by words or other conduct he intentionally places another  
9 person in fear of imminent physical injury.

10 (b) Assault in the third degree is a class A misdemeanor.

11 Sec. 11.41.250. RECKLESS ENDANGERMENT. (a) A person commits the  
12 crime of reckless endangerment if he recklessly engages in conduct which  
13 creates a substantial risk of serious physical injury to another person.

14 (b) Reckless endangerment is a class A misdemeanor.

15 ARTICLE 3. KIDNAPPING AND CUSTODIAL INTERFERENCE.

16 Sec. 11.41.300. KIDNAPPING. (a) A person commits the crime of  
17 kidnapping if

18 (1) he restrains another person with intent to

19 (A) hold him for ransom, reward, or other payment;

20 (B) use him as a shield or hostage;

21 (C) inflict physical injury upon him or place him or a  
22 third person in apprehension that any person will be subjected to  
23 serious physical injury;

24 (D) interfere with the performance of a governmental or  
25 political function; or

26 (E) facilitate the commission of a felony or flight  
27 after commission of a felony; or

28 (2) he restrains another person

29 (A) by secreting and holding him in a place where he is

1 not likely to be found; or

2 (B) under circumstances which expose him to a substantial  
3 risk of serious physical injury.

4 (b) In a prosecution under (a)(2)(A) of this section, it is an  
5 affirmative defense that

6 (1) the defendant was a relative of the victim;

7 (2) the victim was a child under 18 years of age or an incom-  
8 petent person; and

9 (3) the primary intent of the defendant was to assume custody  
10 of the victim.

11 (c) Except as provided in (d) of this section, kidnapping is an  
12 unclassified felony and is punishable as provided in AS 12.55.

13 (d) In a prosecution for kidnapping, it is an affirmative defense  
14 which reduces the crime to a class A felony that the defendant volun-  
15 tarily caused the release of the victim alive in a safe place before  
16 arrest, or within 24 hours after arrest, without having caused serious  
17 physical injury to the victim and without having engaged in conduct  
18 described in sec. 410(a)(1) or (2) or 420 of this chapter.

19 Sec. 11.41.320. CUSTODIAL INTERFERENCE IN THE FIRST DEGREE. (a)  
20 A person commits the crime of custodial interference in the first degree  
1 if he violates sec. 330 of this chapter and causes the victim to be  
2 removed from the state.

3 (b) Custodial interference in the first degree is a class C  
4 felony.

5 Sec. 11.41.330. CUSTODIAL INTERFERENCE IN THE SECOND DEGREE. (a)  
6 A person commits the crime of custodial interference in the second  
7 degree if, being a relative of a child under 18 years of age or a rela-  
8 tive of an incompetent person and knowing that he has no legal right to  
9 do so, he takes, entices, or keeps that child or incompetent person from  
10

1 his lawful custodian with intent to hold him for a protracted period.

2 (b) Custodial interference in the second degree is a class A  
3 misdemeanor.

4 Sec. 11.41.370. DEFINITIONS. In secs. 300 - 370 of this chapter,  
5 unless the context requires otherwise,

6 (1) "lawful custodian" means a parent, guardian, or other  
7 person responsible by authority of law for the care, custody, or control  
8 of another;

9 (2) "relative" means a parent, stepparent, ancestor, descen-  
10 dant, sibling, uncle, or aunt, including a relative of the same degree  
11 through marriage or adoption;

12 (3) "restrain" means to restrict a person's movements unlaw-  
13 fully and without consent, so as to interfere substantially with his  
14 liberty by moving him from one place to another or by confining him  
15 either in the place where the restriction commences or in a place to  
16 which he has been moved; a restraint is "without consent" if it is  
17 accomplished

18 (A) by acquiescence of the victim, if the victim is  
19 under 16 years of age or is an incompetent person and his lawful  
20 custodian has not acquiesced in the movement or confinement; or

21 (B) by force, threat, or deception.

22 ARTICLE 4. SEXUAL OFFENSES.

23 Sec. 11.41.410. SEXUAL ASSAULT IN THE FIRST DEGREE. (a) A person  
24 commits the crime of sexual assault in the first degree if,

25 (1) being any age, he engages in sexual penetration with  
26 another person without consent of that person;

27 (2) being any age, he attempts to engage in sexual penetra-  
28 tion with another person without consent of that person and causes  
29 serious physical injury to that person;

1 (3) being 16 years of age or older, he engages in sexual  
2 penetration with another person under 13 years of age; or

3 (4) being 18 years of age or older, he engages in sexual  
4 penetration with another person who is under 18 years of age and who

5 (A) is entrusted to his care by authority of law; or

6 (B) is his son or daughter, whether adopted, illegiti-  
7 mate, or stepchild.

8 (b) Sexual assault in the first degree is a class A felony.

9 Sec. 11.41.420. SEXUAL ASSAULT IN THE SECOND DEGREE. (a) A  
10 person commits the crime of sexual assault in the second degree if he  
11 coerces another person to engage in sexual contact by the express or  
12 implied threat of imminent death, imminent physical injury, or imminent  
13 kidnapping to be inflicted on anyone or by causing physical injury to  
14 any person, regardless of whether the victim resists.

15 (b) Sexual assault in the second degree is a class B felony.

16 Sec. 11.41.430. SEXUAL ASSAULT IN THE THIRD DEGREE. (a) A person  
17 commits the crime of sexual assault in the third degree if he engages in  
18 sexual penetration with a person who he knows

19 (1) is suffering from a mental disorder or defect which  
20 renders him incapable of appraising the nature of the conduct under cir-  
21 cumstances in which a person who is capable of appraising the nature of  
22 the conduct would not engage in sexual penetration; or

23 (2) is incapacitated.

24 (b) Sexual assault in the third degree is a class C felony.

25 Sec. 11.41.440. SEXUAL ABUSE OF A MINOR. (a) A person commits  
26 the crime of sexual abuse of a minor if, being 16 years of age or older,  
27 he engages in

28 (1) sexual penetration with a person who is under 16 years of  
29 age but 13 years of age or older; or

1                   (2) sexual contact with a person who is under 13 years of  
2 age.

3                   (b) Sexual abuse of a minor is a class C felony.

4                   Sec. 11.41.445. GENERAL PROVISIONS. (a) In a prosecution under  
5 secs. 410 - 440 of this chapter, it is an affirmative defense that, at  
6 the time of the alleged offense, the victim was the legal spouse of the  
7 defendant unless

8                   (1) the spouses were living apart; or

9                   (2) the defendant caused physical injury to the victim.

10                   (b) In a prosecution under secs. 410 - 440 of this chapter, when-  
11 ever a provision of law defining an offense depends upon a victim's  
12 being under a certain age, it is an affirmative defense that, at the  
13 time of the alleged offense, the defendant reasonably believed the  
14 victim to be that age or older, unless the victim was under 13 years of  
15 age at the time of the alleged offense.

16                   Sec. 11.41.450. INCEST. (a) A person commits the crime of inces  
17 if, being 18 years of age or older, he engages in sexual penetration  
18 with a person who is related to him, either legitimately or illegiti-  
19 mately, as

20                   (1) his ancestor or descendant of the whole or half blood;

21                   (2) his brother or sister of the whole or half blood; or

22                   (3) his uncle, aunt, nephew, or niece by blood.

23                   (b) Incest is a class C felony.

24                   Sec. 11.41.455. UNLAWFUL EXPLOITATION OF A MINOR. (a) A person  
25 commits the crime of unlawful exploitation of a minor if, in this state  
26 and with the intent of producing for any commercial purpose a live per-  
27 formance, film, photograph, negative, slide, book, newspaper, or maga-  
28 zine that depicts such conduct, he knowingly induces or employs a child  
29 under 16 years of age to engage in, or photographs, films, or televises

1 a child under 16 years of age engaged in

2 (1) sexual penetration;

3 (2) the obscene touching of another person's genitals, anus,  
4 or female breast;

5 (3) the obscene touching by another person of the child's  
6 genitals, anus, or female breast;

7 (4) masturbation;

8 (5) bestiality; or

9 (6) the obscene exhibition of the child's genitals.

10 (b) Unlawful exploitation of a minor is a class B felony.

11 Sec. 11.41.470. DEFINITIONS. For purposes of secs. 410 - 470 of  
12 this chapter, unless the context requires otherwise,

13 (1) "incapacitated" means that a person is temporarily in-  
14 capable of appraising the nature of his conduct and is physically unable  
15 to express unwillingness to act;

16 (2) "victim" means the person alleged to have been subjected  
17 to sexual assault in any degree or sexual abuse of a minor;

18 (3) "without consent" means that a person

19 (A) with or without resisting, is coerced by the use of  
20 force against a person or property, or by the express or implied  
21 threat of imminent death, imminent physical injury, or imminent  
22 kidnapping to be inflicted on anyone; or

23 (B) is incapacitated as a result of an act of the de-  
24 fendant.

25 ARTICLE 5. ROBBERY, EXTORTION, AND COERCION.

26 Sec. 11.41.500. ROBBERY IN THE FIRST DEGREE. (a) A person com-  
27 mits the crime of robbery in the first degree if he violates sec. 510 of  
28 this chapter and, in the course of violating that section or in immedi-  
29 ate flight thereafter, he or another participant

1 (1) is armed with a deadly weapon or represents by words or  
2 other conduct that he or another participant is so armed;

3 (2) uses or attempts to use a dangerous instrument or repre-  
4 sents by words or other conduct that he or another participant is armed  
5 with a dangerous instrument; or

6 (3) causes or attempts to cause serious physical injury to  
7 any person.

8 (b) Robbery in the first degree is a class A felony.

9 Sec. 11.41.510. ROBBERY IN THE SECOND DEGREE. (a) A person  
10 commits the crime of robbery in the second degree if, in the course of  
11 taking or attempting to take property from the immediate presence and  
12 control of a person, he uses or threatens the immediate use of force  
13 upon any person with intent to

14 (1) prevent or overcome resistance to his taking the property  
15 or his retention of the property after taking; or

16 (2) compel any person to deliver the property or engage in  
17 other conduct which might aid in the taking of the property.

18 (b) Robbery in the second degree is a class B felony.

19 Sec. 11.41.520. EXTORTION. (a) A person commits the crime of  
20 extortion if he obtains the property of another by threatening or sug-  
21 gesting that he or another may

22 (1) inflict physical injury on anyone, except under circum-  
23 stances constituting robbery in any degree, or commit any other crime;

24 (2) accuse anyone of a crime;

25 (3) expose confidential information or a secret, whether true  
26 or false, tending to subject a person to hatred, contempt, or ridicule  
27 or to impair his credit or business repute;

28 (4) take or withhold action as a public servant or cause a  
29 public servant to take or withhold action;

1 (5) bring about or continue a strike, boycott, or other col-  
2 lective unofficial action, if the property is not demanded or received  
3 for the benefit of the group in whose interest the person making the  
4 threat or suggestion purports to act;

5 (6) testify or provide information or withhold testimony or  
6 information with respect to a person's legal claim or defense; or

7 (7) inflict any other harm which would not benefit the person  
8 making the threat or suggestion.

9 (b) A threat or suggestion to perform any of the acts described in  
10 (a) of this section includes an offer to protect another from any harm-  
11 ful act when the offeror has no apparent means to provide the protection  
12 or when the price asked for rendering the protection service is grossly  
13 disproportionate to its cost to the offeror.

14 (c) It is a defense to a prosecution based on (a)(2), (3), or (4)  
15 of this section that the property obtained by threat of accusation,  
16 exposure, lawsuit, or other invocation of official action was honestly  
17 claimed as restitution or indemnification for harm done in the circum-  
18 stances to which the accusation, exposure, lawsuit, or other official  
19 action relates, or as compensation for property or lawful services.

20 (d) Extortion is a class B felony.

21 Sec. 11.41.530. COERCION. (a) A person commits the crime of  
22 coercion if he compels another person to engage in conduct from which he  
23 has a legal right to abstain or abstain from conduct in which he has a  
24 legal right to engage, by means of instilling in him a fear that, if the  
25 demand is not complied with, he or another may

26 (1) inflict physical injury on anyone, except under circum-  
27 stances constituting robbery in any degree, or commit any other crime;

28 (2) accuse anyone of a crime;

29 (3) expose confidential information or a secret, whether true

1 or false, tending to subject a person to hatred, contempt, or ridicule  
2 or to impair his credit or business repute;

3 (4) take or withhold action as a public servant or cause a  
4 public servant to take or withhold action;

5 (5) bring about or continue a strike, boycott, or other  
6 collective unofficial action, if the property is not demanded or re-  
7 ceived for the benefit of the group in whose interest the person making  
8 the threat or suggestion purports to act;

9 (6) testify or provide information or withhold testimony or  
10 information with respect to a persons's legal claim or defense.

11 (b) It is a defense to a prosecution under (a)(2), (3), or (4) of  
12 this section that the defendant reasonably believed that the accusation  
13 or exposure was true or that the lawsuit or other invocation of official  
14 action was justified and that his sole intent was to compel or induce  
15 the victim to take reasonable action to correct the wrong that is the  
16 subject of the accusation, exposure, lawsuit, or invocation of official  
17 action or to refrain from committing an offense.

18 (c) Coercion is a class C felony.

19 \* Sec. 4. AS 11 is amended by adding a new chapter to read:

20 CHAPTER 46. OFFENSES AGAINST PROPERTY.

21 ARTICLE 1. THEFT AND RELATED OFFENSES.

22 Sec. 11.46.100. THEFT DEFINED. A person commits theft if

23 (1) with intent to deprive another of property or to appro-  
24 priate property of another to himself or a third person, he obtains the  
25 property of another;

26 (2) he commits theft of lost or mislaid property under sec.  
27 160 of this chapter;

28 (3) he commits theft by deception under sec. 180 of this  
29 chapter;

1 (4) he commits theft by receiving under sec. 190 of this  
2 chapter;

3 (5) he commits theft of services under sec. 200 of this  
4 chapter; or

5 (6) he commits theft by failure to make required disposition  
6 of funds received or held under sec. 210 of this chapter.

7 Sec. 11.46.110. CONSOLIDATION OF THEFT OFFENSES: PLEADING AND  
8 PROOF. (a) Each instance of conduct defined as theft under sec. 100 of  
9 this chapter constitutes theft in the first, second, third, or fourth  
10 degree.

11 (b) An accusation of theft is sufficient if it alleges that the  
12 defendant committed theft of property or services of the nature or value  
13 required for the commission of the crime charged without designating the  
14 particular way or manner in which the theft was committed.

15 (c) Proof that the defendant engaged in conduct constituting theft  
16 as defined in sec. 100 of this chapter is sufficient to support a con-  
17 viction based upon any indictment, information, or complaint for theft.

18 Sec. 11.46.120. THEFT IN THE FIRST DEGREE. (a) A person commits  
19 the crime of theft in the first degree if he commits theft as defined in  
20 sec. 100 of this chapter and the value of the property or services is  
21 \$25,000 or more.

22 (b) Theft in the first degree is a class B felony.

23 Sec. 11.46.130. THEFT IN THE SECOND DEGREE. (a) A person commits  
24 the crime of theft in the second degree if he commits theft as defined  
25 in sec. 100 of this chapter and

26 (1) the value of the property or services is \$500 or more but  
27 less than \$25,000;

28 (2) the property is a firearm or explosive; or

29 (3) the property is taken from the person of another.

1 (b) Theft in the second degree is a class C felony.

2 Sec. 11.46.140. THEFT IN THE THIRD DEGREE. (a) A person commits  
3 the crime of theft in the third degree if he commits theft as defined in  
4 sec. 100 of this chapter and

5 (1) the value of the property or services is \$50 or more but  
6 less than \$500; or

7 (2) the property is a credit card.

8 (b) Theft in the third degree is a class A misdemeanor.

9 Sec. 11.46.150. THEFT IN THE FOURTH DEGREE. (a) A person commits  
10 the crime of theft in the fourth degree if he commits theft as defined  
11 in sec. 100 of this chapter and the value of the property or services is  
12 less than \$50.

13 (b) Theft in the fourth degree is a class B misdemeanor.

14 Sec. 11.46.160. THEFT OF LOST OR MISLAID PROPERTY. (a) A person  
15 commits theft of lost or mislaid property if he obtains property of  
16 another knowing that the property was lost, mislaid, or delivered under  
17 a mistake as to the nature or amount of the property or the identity of  
18 the recipient and he fails to take reasonable measures to restore the  
19 property to the owner with intent to deprive the owner of the property.

20 (b) As used in this section "reasonable measures" includes noti-  
21 fying the identified owner or a peace officer.

22 Sec. 11.46.180. THEFT BY DECEPTION. (a) A person commits theft  
23 by deception if, with intent to deprive another of property or to appro-  
24 priate property of another to himself or a third person, he obtains the  
25 property of another by deception.

26 (b) In a prosecution based on theft by deception, if the state  
27 seeks to prove that the defendant used deception by promising perfor-  
28 mance which he did not intend to perform or knew would not be performed  
29 that intent or knowledge may not be established solely by or inferred  
30

1 solely from the fact that the promise was not performed.

2 (c) As used in this section, "deception" has the meaning ascribed  
3 to it in AS 11.81.900 but does not include falsity as to matters having  
4 no pecuniary significance or "puffing" by statements unlikely to deceive  
5 reasonable persons in the group addressed.

6 Sec. 11.46.190. THEFT BY RECEIVING. (a) A person commits theft  
7 by receiving if he buys, receives, retains, conceals, or disposes of  
8 stolen property with reckless disregard that the property was stolen.

9 (b) As used in this section, "receives" includes acquiring posses-  
10 sion, control, or title, or lending on the security of the property.

11 Sec. 11.46.200. THEFT OF SERVICES. (a) A person commits theft of  
12 services if

13 (1) he obtains services, known by him to be available only  
14 for compensation, by deception, force, threat, or other means to avoid  
15 payment for the services; or

16 (2) having control over the disposition of services of others  
17 to which he is not entitled, he knowingly diverts those services to his  
18 own benefit or to the benefit of another not entitled to them.

19 (b) Absconding without paying for hotel, restaurant, or other  
20 services for which compensation is customarily paid immediately upon the  
21 receiving of them is prima facie evidence that the services were ob-  
22 tained by deception.

23 Sec. 11.46.210. THEFT BY FAILURE TO MAKE REQUIRED DISPOSITION OF  
24 FUNDS RECEIVED OR HELD. (a) A person commits theft by failure to make  
25 required disposition of funds received or held if

26 (1) he obtains property from anyone or personal services from  
27 his employee upon an agreement or subject to a known legal obligation to  
28 make specified payment or other disposition to a third person, whether  
29 from that property or its proceeds or from his own property to be re-

1 served in equivalent amount; and

2 (2) he exercises control over the property or services as his  
3 own and fails to make the required payment or disposition.

4 (b) It is not a defense to a prosecution under this section that  
5 it may be impossible to identify particular property as belonging to the  
6 victim at the time of the defendant's failure to make the required  
7 payment or disposition.

8 (c) In a prosecution based on theft by failure to make required  
9 disposition of funds received or held, the fact that the defendant was  
10 fiduciary or an officer or employee of a government or a financial  
11 institution is prima facie evidence

12 (1) that he exercised control over property or services as  
13 his own if he failed to pay or account upon lawful demand or if an audi  
14 reveals a shortage or falsification of accounts; and

15 (2) that he knew any legal obligation relevant under (a)(1)  
16 of this section.

17 Sec. 11.46.220. CONCEALMENT OF MERCHANDISE. (a) A person commit  
18 the crime of concealment of merchandise if without authority he know-  
19 ingly conceals on or about his person the merchandise of a commercial  
20 establishment, not purchased by the person, while still upon the pre-  
21 mises of the commercial establishment, with intent to deprive the owner  
22 of the merchandise.

23 (b) Merchandise found concealed upon or about the person which has  
24 not been purchased by the person is prima facie evidence of a knowing  
25 concealment.

26 (c) Concealment of merchandise is

27 (1) a class C felony if the value of the merchandise is \$50  
28 or more;

29 (2) a class A misdemeanor if the value of the merchandise is

1 \$50 or more but less than \$500;

2 (3) a class B misdemeanor if the value of the merchandise is  
3 less than \$50.

4 Sec. 11.46.230. REASONABLE DETENTION AS DEFENSE. (a) In a civil  
5 or criminal action upon the complaint of a person who has been detained  
6 in or in the immediate vicinity of a commercial establishment for the  
7 purpose of investigation or questioning as to the ownership of merchan-  
8 dise, it is a defense that

9 (1) the person was detained in a reasonable manner and for  
10 not more than a reasonable time to permit investigation or questioning  
11 by a peace officer or by the owner of the commercial establishment or  
12 his agent; and

13 (2) the peace officer, owner, or owner's agent had probable  
14 cause to believe that the person detained was committing or attempting  
15 to commit concealment of merchandise.

16 (b) As used in this section, "reasonable time" means the time  
17 necessary to permit the person detained to make a statement or refuse to  
18 make a statement, and any additional time necessary to examine employees  
19 and records of the commercial establishment relative to the ownership of  
20 the merchandise.

21 Sec. 11.46.260. REMOVAL OF IDENTIFICATION MARKS. (a) A person  
22 commits the crime of removal of identification marks if, with intent to  
23 cause interruption to the ownership of another, he defaces, erases, or  
24 otherwise alters or attempts to deface, erase, or otherwise alter any  
25 serial number or identification mark placed or inscribed on a propelled  
26 vehicle, bicycle, firearm, movable or immovable construction tool or  
27 equipment, appliance, merchandise, or other article or its component  
28 parts.

29 (b) Removal of identification marks is

1 (1) a class C felony if the value of the property on which  
2 the serial number or identification mark appeared is \$500 or more;

3 (2) a class A misdemeanor if the value of the property on  
4 which the serial number or identification mark appeared is \$50 or more  
5 but less than \$500;

6 (3) a class B misdemeanor if the value of the property on  
7 which the serial number or identification mark appeared is less than  
8 \$50.

9 Sec. 11.46.270. UNLAWFUL POSSESSION. (a) A person commits the  
10 crime of unlawful possession if he possesses a propelled vehicle, bi-  
11 cycle, firearm, movable or immovable construction tool or equipment,  
12 appliance, merchandise or other article or its component parts knowing  
13 that the serial number or identification mark placed on it by the manu-  
14 facturer or owner for the purpose of identification has been defaced,  
15 erased, or otherwise altered with the intent of causing interruption to  
16 the ownership of another.

17 (b) Unlawful possession is

18 (1) a class C felony if the value of the property on which  
19 the serial number or identification mark appeared is \$500 or more;

20 (2) a class A misdemeanor if the value of the property on  
21 which the serial number or identification mark appeared is \$50 or more  
22 but less than \$500;

23 (3) a class B misdemeanor if the value of the property on  
24 which the serial number or identification mark appeared is less than  
25 \$50.

26 Sec. 11.46.280. ISSUING A BAD CHECK. (a) A person commits the  
27 crime of issuing a bad check if he issues a check knowing that it will  
28 not be honored by the drawee.

29 (b) In a prosecution under this section, it is prima facie evi-

1 dence that the drawer knew the check would not be honored by the drawee  
2 if

3 (1) payment of the check was refused by the drawee for lack  
4 of funds upon presentation within 30 days after issue, and the drawer  
5 failed to make full satisfaction of the amount due within 15 days after  
6 notice of dishonor was deposited as first class mail, addressed to the  
7 drawer at the address appearing on the dishonored check or his last  
8 known address; or

9 (2) the drawer had no account with the drawee at the time the  
10 check was issued.

11 (c) In this section,

12 (1) "amount due" means the face amount of the dishonored  
13 check plus all costs and protest fees assessed by the drawee;

14 (2) "check" means a draft, check, or similar sight order for  
15 the payment of money, but does not include a postdated check or a promis-  
16 sory note;

17 (3) a person "issues" a check when as a drawer he delivers it  
18 or causes it to be delivered to a person who thereby acquires a right  
19 against the drawer with respect to the check; a person who draws a check  
20 with the intent that it be so delivered is considered to have issued it  
21 if the delivery occurs.

22 (d) Issuing a bad check is

23 (1) a class B felony if the face amount of the check is  
24 \$25,000 or more;

25 (2) a class C felony if the face amount of the check is \$500  
26 or more but less than \$25,000;

27 (3) a class A misdemeanor if the face amount of the check is  
28 \$50 or more but less than \$500;

29 (4) a class B misdemeanor if the face amount of the check is

1 less than \$50.

2 Sec. 11.46.285. FRAUDULENT USE OF A CREDIT CARD. (a) A person  
3 commits the crime of fraudulent use of a credit card if, with intent to  
4 defraud, he uses a credit card to obtain property or services with  
5 knowledge that

6 (1) the card is stolen or forged;  
7 (2) the card is expired or has been revoked or cancelled; or  
8 (3) for any other reason his use of the card is unauthorized  
9 by either the issuer or the person to whom the credit card is issued.

10 (b) Fraudulent use of a credit card is

11 (1) a class C felony if the value of the property or services  
12 obtained is \$500 or more;

13 (2) a class A misdemeanor if the value of the property or  
14 services obtained is \$50 or more but less than \$500;

15 (3) a class B misdemeanor if the value of the property or  
16 services obtained is less than \$50.

17 Sec. 11.46.290. OBTAINING A CREDIT CARD BY FRAUDULENT MEANS. (a)  
18 A person commits the crime of obtaining a credit card by fraudulent  
19 means if

20 (1) he buys a credit card from a person other than the issuer  
21 or, as other than the issuer, he sells a credit card;

22 (2) with intent to defraud, he obtains control of a credit  
23 card as a security for debt; or

24 (3) with intent to defraud, he makes a false statement in an  
25 application for a credit card.

26 (b) Obtaining a credit card by fraudulent means under (a)(1) or  
27 (2) of this section is a class C felony. Obtaining a credit card by  
28 fraudulent means under (a)(3) of this section is a class A misdemeanor

29 ARTICLE 2. BURGLARY AND CRIMINAL TRESPASS.

1           Sec. 11.46.300. BURGLARY IN THE FIRST DEGREE. (a) A person  
2 commits the crime of burglary in the first degree if he violates sec.  
3 310 of this chapter and

4           (1) the building is a dwelling; or

5           (2) in effecting entry or while in the building or immediate  
6 flight from the building, he

7           (A) is armed with a firearm;

8           (B) causes or attempts to cause physical injury to a  
9 person; or

10          (C) uses or threatens to use a dangerous instrument.

11          (b) Burglary in the first degree is a class B felony.

12           Sec. 11.46.310. BURGLARY IN THE SECOND DEGREE. (a) A person  
13 commits the crime of burglary in the second degree if he enters or  
14 remains unlawfully in a building with intent to commit a crime in the  
15 building.

16          (b) Burglary in the second degree is a class C felony.

17           Sec. 11.46.320. CRIMINAL TRESPASS IN THE FIRST DEGREE. (a) A  
18 person commits the crime of criminal trespass in the first degree if he  
19 enters or remains unlawfully

20          (1) on real property with intent to commit a crime on that  
21 real property; or

22          (2) in a dwelling.

23          (b) Criminal trespass in the first degree is a class A misde-  
24 meanor.

25           Sec. 11.46.330. CRIMINAL TRESPASS IN THE SECOND DEGREE. (a) A  
26 person commits the crime of criminal trespass in the second degree if he  
27 enters or remains unlawfully

28          (1) in or upon premises; or

29          (2) in a propelled vehicle.

1 (b) Criminal trespass in the second degree is a class B misde-  
2 meanor.

3 Sec. 11.46.340. DEFENSE: EMERGENCY USE OF PREMISES. In a pro-  
4 secution under sec. 300, 310, 320, or 330(a)(1) of this chapter, it is  
5 an affirmative defense that

6 (1) the entry, use, or occupancy of premises or use of per-  
7 sonal property on the premises is for an emergency in the case of imme-  
8 diate and dire need; and

9 (2) as soon as reasonably practical after the entry, use, or  
10 occupancy, the person contacts the owner of the premises, the owner's  
11 agent or, if the owner is unknown, the nearest state or local police  
12 agency, and makes a report of the time of the entry, use, or occupancy  
13 and any damage to the premises or personal property, unless notice  
14 waiving necessity of the report is posted on the premises by the owner  
15 or the owner's agent.

16 Sec. 11.46.350. DEFINITION. (a) As used in secs. 300 - 350 of  
17 this chapter, unless the context requires otherwise, "enter or remain  
18 unlawfully" means to

19 (1) enter or remain in or upon premises or in a propelled  
20 vehicle when the premises or propelled vehicle, at the time of the entry  
21 or remaining, is not open to the public and when the defendant is not  
22 otherwise privileged to do so; or

23 (2) fail to leave premises or a propelled vehicle that is  
24 open to the public after being lawfully directed to do so personally by  
25 the person in charge.

26 (b) For purposes of this section, a person who, without intent to  
27 commit a crime on the land, enters or remains upon unimproved and ap-  
28 parently unused land, which is neither fenced nor otherwise enclosed in  
29 a manner designed to exclude intruders, is privileged to do so unless

1 (1) notice against trespass is personally communicated to him  
2 by the owner of the land or some other authorized person; or

3 (2) notice against trespass is given by posting in a reason-  
4 ably conspicuous manner under the circumstances.

5 ARTICLE 3. ARSON, CRIMINAL MISCHIEF, AND RELATED OFFENSES.

6 Sec. 11.46.400. ARSON IN THE FIRST DEGREE. (a) A person commits  
7 the crime of arson in the first degree if he intentionally damages any  
8 property by starting a fire or causing an explosion and by that act  
9 recklessly places another person in danger of serious physical injury.

10 (b) Arson in the first degree is a class A felony.

11 Sec. 11.46.410. ARSON IN THE SECOND DEGREE. (a) A person commits  
12 the crime of arson in the second degree if he intentionally damages a  
13 building by starting a fire or causing an explosion.

14 (b) In a prosecution under this section, it is an affirmative  
15 defense

16 (1) that no person other than the defendant had a possessory,  
17 proprietary, or security interest in the building or that all persons  
18 having such an interest consented to the defendant's conduct; and

19 (2) that the sole intent of the defendant was to damage or  
20 destroy the building for a lawful purpose.

21 (c) Arson in the second degree is a class B felony.

22 Sec. 11.46.430. CRIMINALLY NEGLIGENT BURNING. (a) A person  
23 commits the crime of criminally negligent burning if with criminal  
24 negligence he damages property of another by fire or explosion.

25 (b) Criminally negligent burning is a class A misdemeanor.

26 Sec. 11.46.450. FAILURE TO CONTROL OR REPORT A DANGEROUS FIRE.  
27 (a) A person commits the crime of failure to control or report a dan-  
28 gerous fire if he knows that a fire is endangering life or a substantial  
29 amount of property of another and fails to take reasonable measures to

1 put out or control the fire, when he can do so without substantial risk  
2 to himself, or to give a prompt fire alarm if

3 (1) he knows that he is under an official, contractual, or  
4 other legal duty to prevent or combat the fire; or

5 (2) the fire was started by him, with his consent, or on  
6 property in his custody or control.

7 (b) Failure to control or report a dangerous fire is a class A  
8 misdemeanor.

9 Sec. 11.46.480. CRIMINAL MISCHIEF IN THE FIRST DEGREE. (a) A  
10 person commits the crime of criminal mischief in the first degree if,  
11 having no right to do so or any reasonable ground to believe he has such  
12 a right,

13 (1) with intent to cause a substantial interruption or im-  
14 pairment of a service rendered to the public by a utility or by an  
15 organization which deals with emergencies involving danger to life or  
16 property, he damages or tampers with property of that utility or organi-  
17 zation and causes substantial interruption or impairment of service to  
18 the public;

19 (2) with intent to damage property of another by the use of  
20 widely dangerous means, he damages property of another in an amount  
21 exceeding \$100,000 by the use of widely dangerous means; or

22 (3) he intentionally damages an oil or gas pipeline or sup-  
23 porting facility.

24 (b) Criminal mischief in the first degree is a class B felony.

25 Sec. 11.46.482. CRIMINAL MISCHIEF IN THE SECOND DEGREE. (a) A  
26 person commits the crime of criminal mischief in the second degree if,  
27 having no right to do so or any reasonable ground to believe he has such  
28 a right,

29 (1) with intent to damage property of another, he damages

1 property of another in an amount of \$500 or more;

2 (2) he tampers with an oil or gas pipeline or supporting  
3 facility or an airplane or helicopter with reckless disregard for the  
4 risk of harm to or loss of the property;

5 (3) he recklessly creates a risk of damage in an amount  
6 exceeding \$100,000 to property of another by the use of widely dangerous  
7 means; or

8 (4) he drives, tows away, or takes the propelled vehicle of  
9 another and damages the vehicle in an amount of \$500 or more or causes  
10 the owner to incur reasonable expenses of \$500 or more as a result of  
11 the loss of use of the vehicle.

12 (b) Criminal mischief in the second degree is a class C felony.

13 Sec. 11.46.484. CRIMINAL MISCHIEF IN THE THIRD DEGREE. (a) A  
14 person commits the crime of criminal mischief in the third degree if,  
15 having no right to do so or any reasonable ground to believe he has such  
16 a right,

17 (1) with intent to damage property of another, he damages  
18 property of another in an amount of \$50 or more but less than \$500;

19 (2) he drives, tows away, or takes the propelled vehicle of  
20 another; or

21 (3) having custody of a propelled vehicle under a written  
22 agreement with the owner of the vehicle by which he has agreed to return  
23 the vehicle to the owner at a specified time, he knowingly retains or  
24 withholds possession of the vehicle without the consent of the owner for  
25 so long a period beyond the time specified as to render the retention or  
26 possession of the vehicle an unreasonable deviation from the agreement.

27 (b) Criminal mischief in the third degree is a class A misde-  
28 meanor.

29 Sec. 11.46.486. CRIMINAL MISCHIEF IN THE FOURTH DEGREE. (a) A

1 person commits the crime of criminal mischief in the fourth degree if,  
2 having no right to do so or any reasonable ground to believe he has such  
3 a right,

4 (1) with reckless disregard for the risk of harm to or loss  
5 of the property or with intent to cause substantial inconvenience to  
6 another, he tampers with property of another;

7 (2) with intent to damage property of another, he damages  
8 property of another in an amount less than \$50; or

9 (3) he rides in a propelled vehicle knowing it has been  
10 stolen or that it is being used in violation of sec. 482(a)(4) or 484-  
11 (a)(2) of this chapter.

12 (b) Criminal mischief in the fourth degree is a class B misde-  
13 meanor.

14 Sec. 11.46.488. LITTERING. (a) A person commits the offense of  
15 littering if without permission he places or throws litter on any public  
16 or private property or in any public or private waters and does not  
17 immediately remove it.

18 (b) As used in this section, "litter" means any rubbish, refuse,  
19 or debris of whatever kind or description, whether or not it is of  
20 value.

21 (c) Littering is a violation.

22 Sec. 11.46.490. DEFINITIONS. As used in secs. 400 - 490 of this  
23 chapter, unless the context requires otherwise,

24 (1) "oil or gas pipeline or supporting facilities" means real  
25 property or tangible personal property used in the exploration for,  
26 production or refining of, or pipeline transportation of oil, gas, or  
27 gas liquids, except for property used solely in the retail distribution  
28 of oil or gas;

29 (2) "tamper" means to interfere with something improperly,

1 meddle with it, or make unwarranted alterations to its existing condi-  
2 tion;

3 (3) "utility" means an enterprise, whether publicly or pri-  
4 vately owned or operated, which provides gas, electric, steam, water,  
5 sewer, or communications service, and any common carrier;

6 (4) "widely dangerous means" means any difficult-to-confine  
7 substance, force, or other means capable of causing widespread damage,  
8 including fire, explosion, avalanche, poison, radioactive material,  
9 bacteria, collapse of a building, or flood.

10 ARTICLE 4. FORGERY AND RELATED OFFENSES.

11 Sec. 11.46.500. FORGERY IN THE FIRST DEGREE. (a) A person com-  
12 mits the crime of forgery in the first degree if he violates sec. 510 of  
13 this chapter and the written instrument is or purports to be

14 (1) part of an issue of money, securities, postage, revenue  
15 stamps, or other valuable instruments issued by a government or govern-  
16 mental agency; or

17 (2) part of an issue of stock, bonds, or other instruments  
18 representing interests in or claims against an organization or its  
19 property.

20 (b) Forgery in the first degree is a class B felony.

21 Sec. 11.46.505. FORGERY IN THE SECOND DEGREE. (a) A person  
22 commits the crime of forgery in the second degree if he violates sec.  
23 510 of this chapter and the instrument is or purports to be

24 (1) a deed, will, codicil, contract, assignment, negotiable  
25 or other commercial instrument, or other document which does or may  
26 evidence, create, transfer, alter, terminate, or otherwise affect a  
27 legal right, interest, obligation, or status; or

28 (2) a public record.

29 (b) Forgery in the second degree is a class C felony.

1           Sec. 11.46.510. FORGERY IN THE THIRD DEGREE. (a) A person com-  
2 mits the crime of forgery in the third degree if, with intent to de-  
3 fraud, he

- 4           (1) falsely makes, completes, or alters a written instrument;  
5           (2) knowingly possesses a forged instrument; or  
6           (3) knowingly utters a forged instrument.

7           (b) Forgery in the third degree is a class A misdemeanor.

8           Sec. 11.46.520. CRIMINAL POSSESSION OF A FORGERY DEVICE. (a) A  
9 person commits the crime of criminal possession of a forgery device if,  
10 with intent to use it or aid another to use it for purposes of forgery,

11           (1) he makes or possesses a plate, die, or other device,  
12 apparatus, equipment, or article specifically designed for use in forg-  
13 ing written instruments; or

14           (2) he makes or possesses a device, apparatus, equipment, or  
15 article capable of or adaptable for purposes of forgery.

16           (b) Criminal possession of a forgery device is a class C felony.

17           Sec. 11.46.530. CRIMINAL SIMULATION. (a) A person commits the  
18 crime of criminal simulation if,

19           (1) with intent to defraud, he makes or alters any object in  
20 such a manner that it appears to have a rarity, age, source, or author-  
21 ship that it does not in fact possess; or

22           (2) with knowledge of its true character and with intent to  
23 defraud, he possesses or utters an object so simulated.

24           (b) Criminal simulation is

25           (1) a class C felony if the value of what the object purports  
26 to represent is \$500 or more;

27           (2) a class A misdemeanor if the value of what the object  
28 purports to represent is \$50 or more but less than \$500;

29           (3) a class B misdemeanor if the value of what the object

1 purports to represent is less than \$50.

2 Sec. 11.46.540. OBTAINING A SIGNATURE BY DECEPTION. (a) A person  
3 commits the crime of obtaining a signature by deception if, with intent  
4 to defraud, he causes another to sign or execute a written instrument by  
5 deception.

6 (b) Obtaining a signature by deception is a class A misdemeanor.

7 Sec. 11.46.550. OFFERING A FALSE INSTRUMENT FOR RECORDING. (a) A  
8 person commits the crime of offering a false instrument for recording  
9 if, knowing that a written instrument relating to or affecting property  
10 or directly affecting a contractual relationship contains a false state-  
11 ment or false information, and with intent to defraud, he presents or  
12 offers it to a public office or a public servant intending that it be  
13 registered, filed, or recorded or become a part of the records of that  
14 public office or public servant.

15 (b) Offering a false instrument for recording is a class C felony.

16 Sec. 11.46.570. CRIMINAL IMPERSONATION. (a) A person commits the  
17 crime of criminal impersonation if he

18 (1) assumes a false identity and does an act in his assumed  
19 character with intent to defraud; or

20 (2) pretends to be a representative of some person or organi-  
21 zation and does an act in his pretended capacity with intent to defraud.

22 (b) Criminal impersonation is a class A misdemeanor.

23 Sec. 11.46.580. DEFINITIONS. (a) In secs. 500 - 580 of this  
24 chapter, unless the context requires otherwise,

25 (1) to "falsely alter" a written instrument means to change,  
26 without authorization by anyone entitled to grant it, a written instru-  
27 ment, whether complete or incomplete, by means of erasure, obliteration,  
28 deletion, insertion of new matter, transposition of matter, or any other  
29 manner, so that the instrument so altered falsely appears or purports to

1 be in all respects an authentic creation of its ostensible maker or  
2 authorized by him;

3 (2) to "falsely complete" a written instrument means to  
4 transform, by adding, inserting, or changing matter, an incomplete  
5 written instrument into a complete one without the authority of anyone  
6 entitled to grant it, so that the complete written instrument falsely  
7 appears or purports to be in all respects an authentic creation of its  
8 ostensible maker or authorized by him;

9 (3) to "falsely make" a written instrument means to make or  
10 draw a complete or incomplete written instrument which purports to be a  
11 authentic creation of its ostensible maker, but which is not, either  
12 because the ostensible maker is fictitious or because, if real, he did  
13 not authorize the making or drawing of the instrument.

14 (b) In secs. 500 - 580 of this chapter,

15 (1) "forged instrument" means a written instrument which has  
16 been falsely made, completed, or altered;

17 (2) "utter" means to issue, deliver, publish, circulate,  
18 disseminate, transfer, or tender a written instrument or other object to  
19 another;

20 (3) "written instrument" means a paper, document, instrument  
21 electronic recording, or article containing written or printed matter or  
22 the equivalent, whether complete or incomplete, used for the purpose of  
23 reciting, embodying, conveying, or recording information or constituting  
24 a symbol or evidence of value, right, privilege, or identification,  
25 which is capable of being used to the advantage or disadvantage of some  
26 person.

27 ARTICLE 5. BUSINESS AND COMMERCIAL OFFENSES.

28 Sec. 11.46.600. SCHEME TO DEFRAUD. (a) A person commits the  
29 crime of scheme to defraud if he

- 1 (1) engages in conduct constituting a scheme  
2 (A) to defraud five or more persons;  
3 (B) to obtain property or services from five or more  
4 persons by false or fraudulent pretense, representation, or pro-  
5 mise; or  
6 (C) to obtain \$10,000 or more from one or more persons;  
7 and  
8 (2) obtains property or services in accordance with the  
9 scheme.

10 (b) Scheme to defraud is a class B felony.

11 Sec. 11.46.620. MISAPPLICATION OF PROPERTY. (a) A person commits  
12 the crime of misapplication of property if he knowingly misapplies  
13 property that has been entrusted to him as a fiduciary or that is pro-  
14 perty of the government or a financial institution.

15 (b) It is not a defense to a prosecution under this section that  
16 it may be impossible to identify particular property as belonging to the  
17 victim at the time of the defendant's misapplication.

18 (c) For purposes of this section, "misapply" means to deal with or  
19 dispose of property contrary to

- 20 (1) law;  
21 (2) a judicial rule or order; or  
22 (3) the obligations of a fiduciary relationship.

23 (d) Misapplication of property is a class A misdemeanor.

24 Sec. 11.46.630. FALSIFYING BUSINESS RECORDS. (a) A person com-  
25 mits the crime of falsifying business records if, with intent to de-  
26 fraud, he

27 (1) makes or causes a false entry in the business records of  
28 an enterprise;

- 29 (2) alters, erases, obliterates, deletes, removes, or de-

1 stroy a true entry in the business records of an enterprise;

2 (3) omits to make a true entry in the business records of an  
3 enterprise in violation of a duty to do so which he knows to be imposed  
4 upon him by law or by the nature of his position; or

5 (4) prevents the making of a true entry or causes the omis-  
6 sion of a true entry in the business records of an enterprise.

7 (b) For purposes of this section,

8 (1) "business record" means a writing or article kept or  
9 maintained by an enterprise for the purpose of evidencing or reflecting  
10 its condition or activity;

11 (2) "enterprise" means a private entity of one or more per-  
12 sons, corporate or otherwise, engaged in business, commercial, profes-  
13 sional, charitable, political, industrial, or social activity.

14 (c) Falsifying business records is a class C felony.

15 Sec. 11.46.660. COMMERCIAL BRIBE RECEIVING. (a) A person commits  
16 the crime of commercial bribe receiving if he solicits, accepts, or  
17 agrees to accept a benefit with intent to violate a duty to which he is  
18 subject as

19 (1) an agent or employee of another;

20 (2) a trustee, guardian, or other fiduciary;

21 (3) a lawyer, physician, accountant, appraiser, or other pro-  
22 fessional adviser;

23 (4) an officer, director, partner, manager, or other partici-  
24 pant in the direction of the affairs of an organization; or

25 (5) an arbitrator or other purportedly disinterested adjudi-  
26 cator or referee.

27 (b) Commercial bribe receiving is a class C felony.

28 Sec. 11.46.670. COMMERCIAL BRIBERY. (a) A person commits the  
29 crime of commercial bribery if, knowing that another is subject to a

1 duty described in sec. 660(a) of this chapter and with intent to influ-  
2 ence that person to violate that duty, he confers, offers to confer, or  
3 agrees to confer a benefit on that person.

4 (b) Commercial bribery is a class C felony.

5 Sec. 11.46.710. DECEPTIVE BUSINESS PRACTICES. (a) A person  
6 commits the crime of deceptive business practices if, in the course of  
7 engaging in a business, occupation, or profession, he

8 (1) makes a false statement in an advertisement or communi-  
9 cation addressed to the public or to a substantial number of persons in  
10 connection with the promotion of the sale of property or services or to  
11 increase the consumption of property or services;

12 (2) uses or possesses for use a false weight or measure or  
13 any other device for falsely determining or recording any quality or  
14 quantity;

15 (3) sells, offers for sale, exposes for sale, or delivers  
16 less than the represented quantity of a commodity or service;

17 (4) sells, offers for sale, or exposes for sale adulterated  
18 commodities; or

19 (5) sells, offers for sale, or exposes for sale mislabeled  
20 commodities.

21 (b) As used in this section,

22 (1) "adulterated" means varying from the standard of com-  
23 position or quality prescribed by law or, if none, as set by established  
24 commercial usage;

25 (2) "false statement" means an offer to sell or provide  
26 property or services made with intent not to sell or provide the adver-  
27 tised property or services

28 (A) at the price or of the quality advertised;

29 (B) in a quantity sufficient to meet the reasonably ex-

1           pected public demand unless quantity is specifically stated in the  
2 advertisement; or

3                   (C) at all.

4           (3) "mislabeled" means

5                   (A) varying from the standard of truth or disclosure in  
6 labeling prescribed by law or, if none, as set by established  
7 commercial usage; or

8                   (B), represented as being another person's product,  
9 though otherwise labeled accurately as to quality and quantity.

10           (c) Deceptive business practices is a class A misdemeanor.

11           Sec. 11.46.720. MISREPRESENTATION OF USE OF A PROPELLED VEHICLE.

12           (a) A person commits the crime of misrepresentation of use of a pro-  
13 pelled vehicle if, with intent to deceive any person, he sells, leases,  
14 or offers or exposes for sale or lease a propelled vehicle knowing that  
15 a usage registering device on the vehicle has been disconnected, ad-  
16 justed, or replaced so as to misrepresent the distance traveled by the  
17 vehicle or the hours of engine use.

18           (b) As used in this section, "usage registering device" means any  
19 odometer, speedometer, recording tachometer, hobbsmeter, or other in-  
20 strument that registers the distance traveled by the vehicle or the  
21 hours of engine use.

22           (c) Misrepresentation of use of a propelled vehicle is a class A  
23 misdemeanor.

24           Sec. 11.46.730. DEFRAUDING CREDITORS. (a) A person commits the  
25 crime of defrauding creditors if

26                   (1) knowing that property is subject to a security interest,  
27 he

28                   (A) with intent to defraud, fails to disclose that  
29 security interest to a buyer of that property; or

1 (B) destroys, removes, conceals, encumbers, transfers,  
2 or otherwise deals with that property with intent to hinder en-  
3 forcement of that security interest;

4 (2) he destroys, removes, conceals, encumbers, transfers, or  
5 otherwise deals with his property with intent to defraud an existing  
6 judgment creditor; or

7 (3) knowing that proceedings have been or are about to be  
8 instituted for the appointment of an administrator or that a composition  
9 agreement or other arrangement for the benefit of creditors has been  
10 made or is about to be made, he, with intent to defraud any creditor,

11 (A) destroys, removes, conceals, encumbers, transfers,  
12 or otherwise disposes of any part of or interest in the debtor's  
13 estate;

14 (B) obtains a substantial part of or interest in the  
15 debtor's estate;

16 (C) presents to any creditor or to the administrator a  
17 writing or record relating to the debtor's estate knowing that it  
18 contains a false statement; or

19 (D) misrepresents or fails to disclose to the adminis-  
20 trator the existence, amount, or location of any part of or in-  
21 terest in the debtor's estate or any information which he is  
22 legally required to furnish to the administrator.

23 (b) As used in this section, "administrator" means an assignee or  
24 trustee for the benefit of creditors, a liquidator, a receiver, or any  
25 other person entitled to administer property for the benefit of credi-  
26 tors.

27 (c) Defrauding creditors is a class A misdemeanor unless the  
28 secured party, judgment creditor, or creditor incurs a pecuniary loss of  
29 \$500 or more as a result of the defendant's conduct, in which case de-

1       frauding secured creditors is

2               (1) a class B felony if the loss is \$25,000 or more;

3               (2) a class C felony if the loss is \$500 or more but less  
4 than \$25,000.

5                               ARTICLE 6. GENERAL PROVISIONS.

6               Sec. 11.46.980. DETERMINATION OF VALUE; AGGREGATION OF AMOUNTS.

7       (a) In this chapter, whenever it is necessary to determine the value of  
8 property, that value is the market value of the property at the time and  
9 place of the crime unless otherwise specified or, if the market value  
10 cannot reasonably be ascertained, the cost of replacement of the pro-  
11 perty within a reasonable time after the crime.

12       (b) The value of written instruments, exclusive of public and  
13 corporate bonds and securities and other instruments having a readily  
14 ascertainable market value, shall be determined in the following manner:

15               (1) the value of an instrument constituting an evidence of  
16 debt, including a check, draft, or promissory note, is the amount due or  
17 collected on the instrument;

18               (2) the value of any other instrument that affects a valuable  
19 legal right, privilege, or obligation shall be considered the greatest  
20 amount of economic loss which the owner of the instrument might reason-  
21 ably incur because of the loss of the instrument.

22       (c) In determining the degree or classification of a crime under  
23 this chapter, amounts involved in criminal acts committed under one  
24 course of conduct, whether from the same person or several persons,  
25 shall be aggregated.

26       Sec. 11.46.985. DECEIVING A MACHINE. In a prosecution under this  
27 chapter for an offense that requires "deception" as an element, it is  
28 not a defense that the defendant deceived or attempted to deceive a  
29 machine. For purposes of this section, "machine" includes a vending

1 machine, computer, turnstile, or automated teller machine.

2 Sec. 11.46.990. DEFINITIONS. In this chapter, unless the context  
3 requires otherwise,

4 (1) "appropriate" or "appropriate property of another to one-  
5 self or a third person" means to

6 (A) exercise control over property of another, or to aid  
7 a third person to exercise control over property of another, per-  
8 manently or for so extended a period or under such circumstances as  
9 to acquire the major portion of the economic value or benefit of  
10 the property; or

11 (B) dispose of the property of another for the benefit  
12 of oneself or a third person;

13 (2) "deprive" or "deprive another of property" means to

14 (A) withhold property of another or cause property of  
15 another to be withheld from him permanently or for so extended a  
16 period or under such circumstances that the major portion of its  
17 economic value or benefit is lost to him;

18 (B) dispose of the property in such a manner or under  
19 such circumstances as to make it unlikely that the owner will  
20 recover the property;

11 (C) retain the property of another with intent to re-  
12 store it to him only if he pays a reward or other compensation for  
13 its return;

14 (D) sell, give, pledge, or otherwise transfer any inter-  
15 est in the property of another; or

16 (E) subject the property of another to the claim of a  
17 person other than the owner;

8 (3) "financial institution" means a bank, insurance company,  
9 credit union, building and loan association, investment trust, or other

1 organization held out to the public as a place of deposit of funds or  
2 medium of savings or collective investment;

3 (4) "intent to defraud", when necessary to constitute an  
4 offense, is sufficiently established if an intent appears to defraud any  
5 person; "intent to defraud" means

6 (A) an intent to injure someone's interest which has  
7 value or an intent to use deception; or

8 (B), knowledge that the defendant is facilitating a fraud  
9 or injury to be perpetrated or inflicted by someone else;

10 (5) "obtain" means

11 (A) in relation to property, to bring about a transfer  
12 or a purported transfer of a legal interest in the property whether  
13 to the obtainer or another or to exert control over property of  
14 another; or

15 (B) in relation to a service, to secure performance of  
16 the service;

17 (6) "property of another" means property in which a person  
18 has an interest which the defendant is not privileged to infringe,  
19 whether or not the defendant also has an interest in the property and  
20 whether or not the person from whom the property was obtained or with-  
21 held himself obtained the property unlawfully; "property of another"  
22 does not include property in the possession of the defendant in which  
23 another has only a security interest, even if legal title is in the  
24 secured party under a conditional sales contract or other security  
25 agreement; in the absence of a specific agreement to the contrary, the  
26 holder of a security interest in property is not privileged to infringe  
27 the debtor's right of possession without the consent of the debtor;

28 (7) "stolen property" means property of another that was  
29 obtained unlawfully.

1 \* Sec. 5. AS 11 is amended by adding a new chapter to read:

2 CHAPTER 51. OFFENSES AGAINST THE FAMILY.

3 Sec. 11.51.100. ENDANGERING THE WELFARE OF A MINOR. (a) A person  
4 commits the crime of endangering the welfare of a minor if, being a  
5 parent, guardian, or other person legally charged with the care of a  
6 child under 10 years of age, he intentionally deserts the child in any  
7 place under circumstances creating a substantial risk of physical injury  
8 to the child.

9 (b) Endangering the welfare of a minor is a class C felony.

10 Sec. 11.51.120. CRIMINAL NONSUPPORT. (a) A person commits the  
11 crime of criminal nonsupport if, being a person legally charged with the  
12 support of a child under 18 years of age, he fails without lawful excuse  
13 to provide support for the child.

14 (b) As used in this section "support" includes necessary food,  
15 care, clothing, shelter, medical attention, and education. There is no  
16 failure to provide medical attention to a child if he is provided treat-  
17 ment solely by spiritual means through prayer in accordance with the  
18 tenets and practices of a recognized church or religious denomination by  
19 an accredited practitioner of the church or denomination.

20 (c) Criminal nonsupport is a class A misdemeanor.

21 Sec. 11.51.125. FAILURE TO PERMIT VISITATION WITH A MINOR. (a) A  
22 custodian commits the offense of failure to permit visitation with a  
23 minor if he intentionally, and without just excuse, fails to permit  
24 visitation with a child under 18 years of age in his custody in sub-  
25 stantial conformance with a court order that is specific as to when he  
26 must permit another to have visitation with that child.

27 (b) The custodian may not be charged under this section with more  
28 than one offense in respect to what is, under the court order, a single  
29 continuous period of visitation.

1 (c) In a prosecution under this section, existing provisions of  
2 law prohibiting the disclosure of confidential communications between  
3 husband and wife do not apply, and both husband and wife are competent  
4 to testify for or against each other as to all relevant matters, if a  
5 court order has awarded custody to one spouse and visitation to the  
6 other.

7 (d) As used in this section,

8 (1) "court order" means a decree, judgment, or order issued  
9 by a court of competent jurisdiction;

10 (2) "custodian" means a natural person who has been awarded  
11 custody, either temporary or permanent, of a child under 18 years of  
12 age;

13 (3) "just excuse" includes illness of the child which makes  
14 it dangerous to the health of the child for visitation to take place in  
15 conformance with the court order; "just excuse" does not include the  
16 wish of the child not to have visitation with the person entitled to it

17 (e) Failure to permit visitation with a minor is a violation.

18 Sec. 11.51.130. CONTRIBUTING TO THE DELINQUENCY OF A MINOR. (a)  
19 A person commits the crime of contributing to the delinquency of a minor  
20 if, being 19 years of age or older, he

21 (1) aids, causes, or permits a child under 18 years of age to  
22 do any act prohibited by state law;

23 (2) induces, causes, or permits a child under 18 years of age  
24 to participate in unlawful gambling;

25 (3) permits a child under 18 years of age to enter or remain  
26 in a building where the unlawful sale of a drug occurs; or

27 (4) engages in sexual contact with a child under 16 years of  
28 age but 13 years of age or older.

29 (b) Contributing to the delinquency of a minor is a class A misde

1 meanor.

2 Sec. 11.51.140. UNLAWFUL MARRYING. (a) A person commits the  
3 crime of unlawful marrying if he knowingly marries or purports to marry

4 (1) another person when he or the other person is lawfully  
5 married to a third person;

6 (2) more than one person simultaneously; or

7 (3) a person who simultaneously is marrying another person.

8 (b) Unlawful marrying is a class A misdemeanor.

9 \* Sec. 6. AS 11 is amended by adding a new chapter to read:

10 CHAPTER 56. OFFENSES AGAINST PUBLIC ADMINISTRATION.

11 ARTICLE 1. BRIBERY AND RELATED OFFENSES.

12 Sec. 11.56.100. BRIBERY. (a) A person commits the crime of  
13 bribery if he confers, offers to confer, or agrees to confer a benefit  
14 upon a public servant with the intent to influence the public servant's  
15 vote, opinion, judgment, action, decision, or exercise of discretion in  
16 his official capacity.

17 (b) In a prosecution under this section, it is not a defense that  
18 the person sought to be influenced was not qualified to act in the  
19 desired way, whether because he had not assumed office, lacked juris-  
20 diction, or for any other reason.

21 (c) Bribery is a class B felony.

22 Sec. 11.56.110. RECEIVING A BRIBE. (a) A public servant commits  
23 the crime of receiving a bribe if he

24 (1) solicits a benefit with the intent that his vote, opin-  
25 ion, judgment, action, decision, or exercise of discretion as a public  
26 servant will be influenced; or

27 (2) accepts or agrees to accept a benefit upon an agreement  
28 or understanding that his vote, opinion, judgment, action, decision, or  
29 exercise of discretion as a public servant will be influenced.

1 (b) Receiving a bribe is a class B felony.

2 Sec. 11.56.120. RECEIVING UNLAWFUL GRATUITIES. (a) A public ser-  
3 vant commits the crime of receiving unlawful gratuities if, for having  
4 engaged in an official act which he was required or authorized to per-  
5 form and for which he was not entitled to any special or additional  
6 compensation, he

7 (1) solicits a benefit, regardless of value; or

8 (2) accepts or agrees to accept a benefit having a value of  
9 \$50 or more.

10 (b) Receiving unlawful gratuities is a class A misdemeanor.

11 Sec. 11.56.130. DEFINITION. As used in secs. 100 - 130 of this  
12 chapter, "benefit" has the meaning ascribed to it in AS 11.81.900 but  
13 does not include

14 (1) political campaign contributions reported in accordance  
15 with AS 15.13;

16 (2) concurrence in official action in the cause of legitimate  
17 compromise between public servants; or

18 (3) support, including a vote, solicited by a public servant  
19 or offered by any person in an election.

20 ARTICLE 2. PERJURY AND RELATED OFFENSES.

21 Sec. 11.56.200. PERJURY. (a) A person commits the crime of  
22 perjury if he makes a false sworn statement which he does not believe to  
23 be true.

24 (b) In a prosecution under this section, it is not a defense that

25 (1) the statement was inadmissible under the rules of evi-  
26 dence; or

27 (2) the oath or affirmation was taken or administered in an  
28 irregular manner.

29 (c) Perjury is a class B felony.

1           Sec. 11.56.210. UNSWORN FALSIFICATION. (a) A person commits the  
2 crime of unsworn falsification if, with the intent to mislead a public  
3 servant in the performance of his duty, he submits a false written or  
4 recorded statement which he does not believe to be true

5                 (1) in an application for a benefit; or

6                 (2) on a form bearing notice, authorized by law, that false  
7 statements made in it are punishable.

8           (b) Unsworn falsification is a class A misdemeanor.

9           Sec. 11.56.220. PROOF OF GUILT. In a prosecution for perjury or  
10 unsworn falsification it is not necessary that proof be made by a parti-  
11 cular number of witnesses or by documentary or other type of evidence.

12           Sec. 11.56.230. PERJURY BY INCONSISTENT STATEMENTS. (a) A person  
13 commits the crime of perjury by inconsistent statements if

14                 (1) in the course of one or more official proceedings he  
15 makes two or more sworn statements which are irreconcilably inconsistent  
16 to the degree that one of them is necessarily false;

17                 (2) he does not believe one of the statements to be true at  
18 the time the statement is made; and

19                 (3) each statement is made within the jurisdiction of this  
20 state and within the period of the statute of limitations for the crime  
21 charged.

22           (b) In a prosecution under this section, it is not necessary for  
23 the state to prove which statement was false but only that one or the  
24 other was false and not believed by the defendant to be true at the time  
25 he made the statement. Proof of the irreconcilable inconsistency of the  
26 statements is prima facie evidence that one or the other of the state-  
27 ments was false.

28           (c) Perjury by inconsistent statements is a class C felony.

29           Sec. 11.56.235. RETRACTION AS A DEFENSE. (a) In a prosecution

1 under sec. 200 or 230 of this chapter, if the false statement was made  
2 in an official proceeding, it is an affirmative defense that the de-  
3 fendant expressly retracted his false statement

4 (1) during the course of the same official proceeding;

5 (2) before discovery of the falsification became known to  
6 him;

7 (3) before reliance upon the false statement by the person  
8 for whom it was intended; and

9 (4) if the official proceeding involved a trier of fact,  
10 before the subject matter of the official proceeding was submitted to  
11 the ultimate trier of fact.

12 (b) In a prosecution under sec. 200 of this chapter, if the false  
13 statement was not made in an official proceeding, it is an affirmative  
14 defense that the defendant expressly retracted his false statement

15 (1) before discovery of the falsification became known to  
16 him; and

17 (2) before reliance upon the false statement by the person  
18 for whom it was intended.

19 (c) In a prosecution under sec. 210 of this chapter, it is an  
20 affirmative defense that the defendant expressly retracted his false  
21 statement before reliance upon the false statement by the person for  
22 whom it was intended.

23 (d) As used in this section, "during the course of the same offi-  
24 cial proceeding" includes separate hearings at separate stages of the  
25 same official proceeding.

26 Sec. 11.56.240. DEFINITIONS. As used in secs. 200 - 240 of this  
27 chapter, unless the context requires otherwise,

28 (1) "statement" means a representation of fact and includes  
29 representation of opinion, belief, or other state of mind when the

1 representation clearly relates to state of mind apart from or in ad-  
2 dition to any facts which are the subject of the representation;

3 (2) "sworn statement" means

4 (A) a statement knowingly given under oath or affirma-  
5 tion attesting to the truth of what is stated, including a notari-  
6 zed statement; or

7 (B) a statement knowingly given under penalty of perjury  
8 under AS 09.65.012.

9 ARTICLE 3. ESCAPE AND RELATED OFFENSES.

10 Sec. 11.56.300. ESCAPE IN THE FIRST DEGREE. (a) A person commits  
11 the crime of escape in the first degree if, without lawful authority, he  
12 removes himself from official detention by means of a deadly weapon.

13 (b) Escape in the first degree is a class A felony.

14 Sec. 11.56.310. ESCAPE IN THE SECOND DEGREE. (a) A person com-  
15 mits the crime of escape in the second degree if, without lawful autho-  
16 rity, he

17 (1) removes himself from

18 (A) a correctional facility while under official deten-  
19 tion;

20 (B) official detention on a charge of a felony or for  
21 extradition; or

22 (C) official detention and during the escape, or at any  
23 time before being restored to official detention, he possesses on  
24 or about his person a firearm; or

25 (2) violates sec. 340 or 350 of this chapter and during the  
26 time of his unlawful evasion, or at any time before being restored to  
27 official detention, he possesses on or about his person a firearm.

28 (b) Escape in the second degree is a class B felony.

29 Sec. 11.56.320. ESCAPE IN THE THIRD DEGREE. (a) A person commits

1 the crime of escape in the third degree if he removes himself from  
2 official detention during any lawful movement or activity incident to  
3 confinement within a correctional facility on a charge of a misdemeanor

4 (b) Escape in the third degree is a class C felony.

5 Sec. 11.56.330. ESCAPE IN THE FOURTH DEGREE. (a) A person com-  
6 mits the crime of escape in the fourth degree if, without lawful autho-  
7 rity, he removes himself from official detention on a charge of a mis-  
8 demeanor or if he violates sec. 340 or 350 of this chapter and leaves c  
9 attempts to leave the state.

10 (b) Escape in the fourth degree is a class A misdemeanor.

11 Sec. 11.56.340. UNLAWFUL EVASION IN THE FIRST DEGREE. (a) A  
12 person commits the crime of unlawful evasion in the first degree if he  
13 fails to return to official detention on a charge of a felony following  
14 temporary leave granted for a specific purpose or limited period, in-  
15 cluding privileges granted under AS 33.30.150, 33.30.250, or 33.30.260.

16 (b) Unlawful evasion in the first degree is a class A misdemeanor

17 Sec. 11.56.350. UNLAWFUL EVASION IN THE SECOND DEGREE. (a) A  
18 person commits the crime of unlawful evasion in the second degree if he  
19 fails to return to official detention on a charge of a misdemeanor  
20 following temporary leave granted for a specific purpose or limited  
21 period, including privileges granted under AS 33.30.150, 33.30.250, or  
22 33.30.260.

23 (b) Unlawful evasion in the second degree is a class B misde-  
24 meanor.

25 Sec. 11.56.370. PERMITTING AN ESCAPE. (a) A public servant who  
26 is required by law to have charge of a person charged with or convicted  
27 of a crime commits the crime of permitting an escape if with criminal  
28 negligence he permits a person under official detention to escape.

29 (b) Permitting an escape is a class C felony.

1           Sec. 11.56.375. PROMOTING CONTRABAND IN THE FIRST DEGREE. (a) A  
2 person commits the crime of promoting contraband in the first degree if  
3 he violates sec. 380 of this chapter and the contraband is

4           (1) a deadly weapon;

5           (2) an article that is intended by the defendant to be used  
6 as a means of facilitating an escape; or

7           (3) a controlled substance.

8           (b) Promoting contraband in the first degree is a class C felony.

9           Sec. 11.56.380. PROMOTING CONTRABAND IN THE SECOND DEGREE. (a) A  
10 person commits the crime of promoting contraband in the second degree if  
11 he

12           (1) introduces, takes, conveys, or attempts to introduce,  
13 take, or convey contraband into a correctional facility; or

14           (2) makes, obtains, possesses, or attempts to make, obtain,  
15 or possess anything he knows to be contraband while under official  
16 detention within a correctional facility.

17           (b) Promoting contraband in the second degree is a class A misde-  
18 meanor.

19           Sec. 11.56.390. DEFINITION. As used in secs. 300 - 390 of this  
20 chapter, "contraband" means any article or thing which persons confined  
21 in a correctional facility are prohibited by law from obtaining, making,  
22 or possessing in that correctional facility.

23           ARTICLE 4. OFFENSES RELATING TO JUDICIAL AND OTHER PROCEEDINGS.

24           Sec. 11.56.510. INTERFERENCE WITH OFFICIAL PROCEEDINGS. (a) A  
25 person commits the crime of interference with official proceedings if he

26           (1) uses force on anyone, damages the property of anyone, or  
27 threatens anyone with intent to

28           (A) improperly influence a witness or otherwise influ-  
29 ence the testimony of a witness;

1 (B) influence a juror's vote, opinion, decision, or  
2 other action as a juror;

3 (C) retaliate against a witness or juror because of his  
4 participation in an official proceeding; or

5 (D) otherwise affect the outcome of an official pro-  
6 ceeding; or

7 (2) confers, offers to confer, or agrees to confer a benefit

8 (A) upon a witness with intent to improperly influence  
9 that witness; or

10 (B) upon a juror with intent to influence the juror's  
11 vote, opinion, decision, or other action as a juror or otherwise  
12 affect the outcome of an official proceeding.

13 (b) Interference with official proceedings is a class B felony.

14 Sec. 11.56.520. RECEIVING A BRIBE BY A WITNESS OR JUROR. (a) A  
15 person commits the crime of receiving a bribe by a witness or juror if  
16 he solicits a benefit with the intent that, or accepts or agrees to  
17 accept a benefit upon an agreement or understanding that,

18 (1) he will be improperly influenced as a witness; or

19 (2) his vote, decision, opinion, or other action as a juror  
20 will be influenced.

21 (b) Receiving a bribe by a witness or juror is a class B felony.

22 Sec. 11.56.540. TAMPERING WITH A WITNESS. (a) A person commits  
23 the crime of tampering with a witness if he knowingly induces or at-  
24 tempts to induce a witness to

25 (1) testify falsely, offer misleading testimony, or unlaw-  
26 fully withhold testimony in an official proceeding; or

27 (2) absent himself from an official proceeding to which he  
28 has been summoned.

29 (b) Tampering with a witness is a class A misdemeanor.

1           Sec. 11.56.590. JURY TAMPERING. (a) A person commits the crime  
2 of jury tampering if he directly or indirectly communicates with a juror  
3 other than as permitted by the rules governing the official proceeding  
4 with intent to

5           (1) influence the juror's vote, opinion, decision, or other  
6 action as a juror; or

7           (2) otherwise affect the outcome of the official proceeding.

8           (b) Jury tampering is a class C felony.

9           Sec. 11.56.600. MISCONDUCT BY A JUROR. (a) A person commits the  
10 crime of misconduct by a juror if, being a juror, he promises or agrees,  
11 before the submission of any part of an official proceeding to a jury  
12 for deliberation, to vote for or agree to a verdict for or against a  
13 party in the official proceeding, or otherwise to affect the outcome of  
14 the official proceeding.

15           (b) Misconduct by a juror is a class C felony.

16           Sec. 11.56.610. TAMPERING WITH PHYSICAL EVIDENCE. (a) A person  
17 commits the crime of tampering with physical evidence if he

18           (1) destroys, mutilates, alters, suppresses, conceals, or  
19 removes physical evidence with intent to impair its verity or avail-  
20 ability in an official proceeding or a criminal investigation;

21           (2) makes, presents, or uses physical evidence, knowing it to  
22 be false, with intent to mislead a juror who is engaged in an official  
23 proceeding or a public servant who is engaged in an official proceeding  
24 or a criminal investigation;

25           (3) prevents the production of physical evidence in an offi-  
26 cial proceeding or a criminal investigation by the use of force, threat,  
27 or deception against anyone; or

28           (4) does any act described by (1), (2), or (3) of this sub-  
29 section with intent to prevent the institution of an official proceed-

1 ing.

2 (b) Tampering with physical evidence is a class C felony.

3 Sec. 11.56.620. SIMULATING LEGAL PROCESS. (a) A person commits  
4 the crime of simulating legal process if, with intent to cause the  
5 recipient to take an action on it, he issues, sends, or delivers

6 (1) a request for payment of money on behalf of any creditor  
7 that in form and substance simulates any legal process issued by a court  
8 of this state; or ,

9 (2) any purported summons, subpoena, or other legal process  
10 knowing that the process was not issued or authorized by a court or  
11 other official body authorized by law to do so.

12 (b) Simulating legal process is a class A misdemeanor.

13 ARTICLE 5. OBSTRUCTION OF PUBLIC ADMINISTRATION.

14 Sec. 11.56.700. RESISTING OR INTERFERING WITH ARREST. (a) A  
15 person commits the crime of resisting or interfering with arrest if,  
16 knowing that a peace officer is making an arrest, with the intent of  
17 preventing the officer from making the arrest, he resists the arrest of  
18 himself or interferes with the arrest of another by

19 (1) force;

20 (2) committing any degree of criminal mischief; or

21 (3) any means that creates a substantial risk of physical  
22 injury to any person.

23 (b) Resisting or interfering with arrest is a class A misdemeanor.

24 Sec. 11.56.720. REFUSING TO ASSIST A PEACE OFFICER OR JUDICIAL  
25 OFFICER. (a) A person commits the offense of refusing to assist a  
26 peace officer or judicial officer if, upon a request, command, or order  
27 by a person he knows to be a peace officer or judicial officer, he  
28 unreasonably fails to make a good faith effort to physically assist the  
29 person in the exercise of his official duties.

1 (b) A person who, without expecting compensation, assists a person  
2 in accordance with this section is not liable for civil damages as a  
3 result of an act or omission in rendering that assistance. This sub-  
4 section does not preclude liability for civil damages as a result of  
5 reckless, wilful, wanton, or intentional misconduct.

6 (c) Refusing to assist a peace officer or judicial officer is a  
7 violation.

8 Sec. 11.56.770. HINDERING PROSECUTION IN THE FIRST DEGREE. (a) A  
9 person commits the crime of hindering prosecution in the first degree if  
10 he renders assistance to a person who has committed a crime punishable  
11 as a felony with intent to

12 (1) hinder the apprehension, prosecution, conviction, or  
13 punishment of that person; or

14 (2) assist that person in profiting or benefiting from the  
15 commission of the crime.

16 (b) For purposes of this section, a person "renders assistance" to  
17 another if he

18 (1) harbors or conceals that person;

19 (2) warns that person of impending discovery or apprehension;

20 (3) provides or aids in providing that person with money,  
21 transportation, a dangerous instrument, a disguise, or other means of  
22 avoiding discovery or apprehension;

23 (4) prevents or obstructs, by means of force, threat, or  
24 deception, anyone from performing an act which might aid in the dis-  
25 covery or apprehension of that person;

26 (5) suppresses by an act of concealment, alteration, or  
27 destruction physical evidence which might aid in the discovery or appre-  
28 hension of that person; or

29 (6) aids that person in securing or protecting the proceeds

1 of the crime.

2 (c) Hindering prosecution in the first degree is a class C felony.

3 Sec. 11.56.780. HINDERING PROSECUTION IN THE SECOND DEGREE. (a)

4 A person commits the crime of hindering prosecution in the second degree  
5 if he renders assistance to a person who has committed a crime punish-  
6 able by imprisonment for more than 90 days, with intent to

7 (1) hinder the apprehension, prosecution, conviction, or  
8 punishment of that person; or

9 (2) assist that person in profiting or benefiting from the  
10 commission of the crime.

11 (b) For purposes of this section, a person "renders assistance"  
12 to another if he does any act described in sec. 770(b) of this chap-  
13 ter.

14 (c) Hindering prosecution in the second degree is a class B misde-  
15 meanor.

16 Sec. 11.56.790. COMPOUNDING. (a) A person commits the crime of  
17 compounding if, unless authorized by AS 12.45.120 or 12.45.130, he

18 (1) confers, offers to confer, or agrees to confer a benefit  
19 on another in consideration of that person's concealing an offense,  
20 refraining from initiating or aiding in the prosecution of an offense,  
21 or withholding evidence of an offense; or

22 (2) accepts or agrees to accept a benefit in consideration o  
23 his concealing an offense, refraining from initiating or aiding in the  
24 prosecution of an offense, or withholding evidence of an offense.

25 (b) Compounding is a class A misdemeanor.

26 Sec. 11.56.800. MAKING A FALSE REPORT. (a) A person commits the  
27 crime of making a false report if he knowingly

28 (1) gives false information to a peace officer with the  
29 intent of implicating another in a crime;

1 (2) makes a false report to a peace officer that a crime has  
2 occurred or is about to occur; or

3 (3) makes a false report or gives a false alarm that a fire  
4 or other incident dangerous to life or property calling for an emergency  
5 response has occurred or is about to occur.

6 (b) Making a false report is a class A misdemeanor.

7 Sec. 11.56.810. TERRORISTIC THREATENING. (a) A person commits  
8 the crime of terroristic threatening if he knowingly makes a false  
9 report that a circumstance dangerous to human life exists or is about  
10 to exist and

11 (1) places a person in fear of physical injury to any per-  
12 son;

13 (2) causes evacuation of a building; or

14 (3) causes serious public inconvenience.

15 (b) Terroristic threatening is a class C felony.

16 Sec. 11.56.820. TAMPERING WITH PUBLIC RECORDS. (a) A person  
17 commits the crime of tampering with public records if he knowingly

18 (1) makes a false entry in or falsely alters a public record;  
19 or

20 (2) destroys, mutilates, suppresses, conceals, removes, or  
21 otherwise impairs the verity, legibility, or availability of a public  
22 record, knowing that he lacks the authority to do so.

23 (b) Tampering with public records is a class A misdemeanor.

24 Sec. 11.56.830. IMPERSONATING A PUBLIC SERVANT. (a) A person  
25 commits the crime of impersonating a public servant if he pretends to be  
26 a public servant and does any act in that capacity.

27 (b) It is not a defense to a prosecution under this section that

28 (1) the office the defendant pretended to hold did not in  
29 fact exist; or

1 (2) the defendant was in fact a public servant different than  
2 the one he pretended to be.

3 (c) This section does not apply to a peace officer acting within  
4 the scope and authority of his employment.

5 (d) Impersonating a public servant is a class B misdemeanor.

6 ARTICLE 6. ABUSE OF PUBLIC OFFICE.

7 Sec. 11.56.850. OFFICIAL MISCONDUCT. (a) A public servant com-  
8 mits the crime of official misconduct if, with intent to obtain a bene-  
9 fit or to injure or deprive another person of a benefit, he

10 (1) performs an act relating to his office but constituting  
11 an unauthorized exercise of his official functions, knowing that that  
12 act is unauthorized; or

13 (2) knowingly refrains from performing a duty which is im-  
14 posed upon him by law or is clearly inherent in the nature of his of-  
15 fice.

16 (b) Official misconduct is a class A misdemeanor.

17 Sec. 11.56.860. MISUSE OF CONFIDENTIAL INFORMATION. (a) A person  
18 who is or has been a public servant commits the crime of misuse of  
19 confidential information if he

20 (1) learns confidential information through his employment;  
21 and

22 (2) while in office or after leaving office, uses the confi-  
23 dential information for personal gain or in a manner not connected with  
24 the performance of his official duties other than by giving sworn testi-  
25 mony or evidence in a legal proceeding in conformity with a court order

26 (b) As used in this section, "confidential information" means  
27 information which has been classified confidential by law.

28 (c) Misuse of confidential information is a class A misdemeanor.

29 ARTICLE 7. GENERAL PROVISIONS.

1           Sec. 11.56.900. DEFINITIONS. As used in this chapter, unless the  
2 context requires otherwise,

3           (1) "improperly influence a witness" means to cause or induce  
4 a witness to

5                   (A) testify falsely, offer misleading testimony, or  
6 unlawfully withhold testimony in an official proceeding;

7                   (B) avoid or attempt to avoid legal process summoning  
8 him to testify in an official proceeding, regardless of whether  
9 legal process has issued;

10                   (C) absent himself from an official proceeding to which  
11 he has been summoned; or

12                   (D) engage in conduct described in sec. 610 of this  
13 chapter;

14           (2) "judicial officer" means a supreme court justice, includ-  
15 ing the chief justice, a judge of the superior court, a district court  
16 judge, or a magistrate;

17           (3) "juror" means a person who is a member of an impanelled  
18 jury or a person who has been drawn or summoned to attend as a prospec-  
19 tive juror;

20           (4) "physical evidence" means an article, object, document,  
21 record, or other thing of physical substance;

22           (5) "testimony" means oral or written statements, documents,  
23 or other material that may be offered by a witness in an official pro-  
24 ceeding;

25           (6) "witness" means

26                   (A) a witness summoned or appearing in an official  
27 proceeding; or

28                   (B) a person who the defendant believes may be called as  
29 a witness in an official proceeding, present or future.

1 \* Sec. 7. AS 11 is amended by adding a new chapter to read:

2 CHAPTER 61. OFFENSES AGAINST PUBLIC ORDER.

3 ARTICLE 1. RIOT, DISORDERLY CONDUCT, AND RELATED OFFENSES.

4 Sec. 11.61.100. RIOT. (a) A person commits the crime of riot if  
5 while participating with five or more other persons,

6 (1) he engages in tumultuous and violent conduct in a public  
7 place; and

8 (2) thereby causes, or creates a substantial risk of causing  
9 damage to property or physical injury to a person.

10 (b) Riot is a class C felony.

11 Sec. 11.61.110. DISORDERLY CONDUCT. (a) A person commits the  
12 crime of disorderly conduct if,

13 (1) with intent to disturb the peace and privacy of another  
14 not physically on the same premises or with reckless disregard that his  
15 conduct is having that effect after being informed that it is having  
16 that effect, he makes unreasonably loud noise;

17 (2) in a public place or in a private place of another with-  
18 out consent, and with intent to disturb the peace and privacy of another  
19 or with reckless disregard that his conduct is having that effect after  
20 being informed that it is having that effect, he makes unreasonably loud  
21 noise;

22 (3) in a public place, when a crime has occurred, he refuses  
23 to comply with a lawful order of a peace officer to disperse;

24 (4) in a private place, he refuses to comply with an order  
25 of a peace officer to leave premises in which he has neither a right of  
26 possession nor the express invitation to remain of a person having a  
27 right of possession;

28 (5) in a public or private place, he challenges another to  
29 fight or engages in fighting other than in self-defense;

1 (6) he recklessly creates a hazardous condition for others by  
2 an act which has no legal justification or excuse; or

3 (7) he intentionally exposes his genitals, buttock, anus, or  
4 female breast to another with reckless disregard for the offensive or  
5 insulting effect the act may have on that person.

6 (b) As used in this section, "noise" is "unreasonably loud" if,  
7 considering the nature and purpose of the defendant's conduct and the  
8 circumstances known to him, including the nature of the location and the  
9 time of day or night, his conduct involves a gross deviation from the  
10 standard of conduct that a reasonable person would follow in the same  
11 situation. "Noise" does not include speech which is constitutionally  
12 protected.

13 (c) Disorderly conduct is a class B misdemeanor and is punishable  
14 as authorized in AS 12.55 except that a sentence of imprisonment, if im-  
15 posed, shall be for a definite term of not more than 10 days.

16 Sec. 11.61.120. HARASSMENT. (a) A person commits the crime of  
17 harassment if, with intent to harass or annoy another person, he

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

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

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

25 (4) makes an anonymous or obscene telephone call or a tele-  
26 phone call that threatens physical injury; or

27 (5) subjects another person to offensive physical contact.

28 (b) Harassment is a class B misdemeanor.

29 Sec. 11.61.130. MISCONDUCT INVOLVING A CORPSE. (a) A person

1 commits the crime of misconduct involving a corpse if

2 (1) except as authorized by law or in an emergency, he inten-  
3 tionally disinters, removes, conceals, or mutilates a corpse;

4 (2) he engages in sexual penetration of a corpse; or

5 (3) he detains a corpse for a debt or demand or upon a lien  
6 or charge.

7 (b) Misconduct involving a corpse is a class A misdemeanor.

8 Sec. 11.61.140. CRUELTY TO ANIMALS. (a) A person commits the  
9 crime of cruelty to animals if, except as authorized by law, he

10 (1) intentionally inflicts severe and prolonged physical pain  
11 or suffering on an animal;

12 (2) owns, possesses, keeps, or trains an animal with intent  
13 that it be engaged in an exhibition of fighting; or

14 (3) instigates, promotes, attends, or has a pecuniary inter-  
15 est in an exhibition of fighting animals.

16 (b) It is a defense to a prosecution under this section that the  
17 conduct of the defendant

18 (1) conformed to accepted veterinary practice;

19 (2) was part of scientific research governed by accepted  
20 standards; or

21 (3) was necessarily incident to lawful hunting or trapping  
22 activities.

23 (c) As used in this section, "animal" means a vertebrate living  
24 creature not a human being, but does not include fish.

25 (d) Cruelty to animals is a class A misdemeanor.

26 Sec. 11.61.150. OBSTRUCTION OF HIGHWAYS. (a) A person commits  
27 the crime of obstruction of highways if he knowingly

28 (1) places, drops, or permits to drop on a highway any sub-  
29 stance that creates a substantial risk of physical injury to others

1 using the highway; or

2 (2) renders a highway impassable or passable only with un-  
3 reasonable inconvenience or hazard.

4 (b) It is an affirmative defense to a prosecution under (a)(1) of  
5 this section that

6 (1) the defendant took reasonable steps to remove the sub-  
7 stance from the highway; and

8 (2) no person suffered physical injury as a result of the  
9 presence of the substance on the highway.

10 (c) Obstruction of highways is a class B misdemeanor.

11 ARTICLE 2. WEAPONS AND EXPLOSIVES.

12 Sec. 11.61.200. MISCONDUCT INVOLVING WEAPONS IN THE FIRST DEGREE.

13 (a) A person commits the crime of misconduct involving weapons in the  
14 first degree if he

15 (1) knowingly possesses a firearm capable of being concealed  
16 on his person after having been convicted of a felony by a court of this  
17 state, a court of the United States, or a court of another state or  
18 territory;

19 (2) knowingly sells or transfers a firearm capable of being  
20 concealed on one's person to a person who has been convicted of a felony  
21 by a court of this state, a court of the United States, or a court of  
22 another state or territory;

23 (3) manufactures, possesses, transports, sells, or transfers  
24 a prohibited weapon;

25 (4) knowingly sells or transfers a firearm to a person whose  
26 physical or mental condition is substantially impaired as a result of  
27 the introduction of an intoxicating liquor or drug into his body;

28 (5) removes, covers, alters, or destroys the manufacturer's  
29 serial number on a firearm with intent to render the firearm un-

1 traceable; or

2 (6) possesses a firearm on which the manufacturer's serial  
3 number has been removed, covered, altered, or destroyed, knowing that  
4 the serial number has been removed, covered, altered, or destroyed with  
5 the intent of rendering the firearm untraceable.

6 (b) It is an affirmative defense to a prosecution under (a)(1) or  
7 (2) of this section that

8 (1) the person convicted of the prior offense on which the  
9 action is based received a pardon for that conviction;

10 (2) the underlying conviction upon which the action is based  
11 has been set aside under AS 12.55.085 or as a result of post-conviction  
12 proceedings; or

13 (3) a period of five years or more has elapsed between the  
14 date of the person's unconditional discharge on the prior offense and  
15 the date of the possession, sale, or transfer of the firearm.

16 (c) It is an affirmative defense to a prosecution under (a)(3) of  
17 this section that the manufacture, possession, transportation, sale, or  
18 transfer of the prohibited weapon was in accordance with registration  
19 under the National Firearms Act (26 U.S.C. sec. 5801 et. seq.).

20 (d) The provisions of (a)(3) of this section do not apply to a  
21 peace officer acting within the scope and authority of his employment.

2 (e) As used in this section,

3 (1) "prohibited weapon" means any

4 (A) explosive, incendiary, or noxious gas

5 (i) mine or device that is designed, made, or  
6 adapted for the purpose of inflicting serious physical injury  
7 or death;

8 (ii) rocket, other than an emergency flare, having  
9 propellant charge of more than four ounces;

1 (iii) bomb;

2 (iv) grenade;

3 (B) device designed, made, or adapted to muffle the  
4 report of a firearm;

5 (C) metal knuckles;

6 (D) switchblade or gravity knife;

7 (E) firearm that is capable of shooting more than one  
8 shot automatically, without manual reloading, by a single function  
9 of the trigger; or

10 (F) rifle with a barrel length of less than 16 inches,  
11 shotgun with a barrel length of less than 18 inches, or firearm  
12 made from a rifle or shotgun which, as modified, has an overall  
13 length of less than 26 inches;

14 (2) "unconditional discharge" has the meaning ascribed to it  
15 in AS 12.55.185.

16 (f) Misconduct involving weapons in the first degree is a class C  
17 felony.

18 Sec. 11.61.210. MISCONDUCT INVOLVING WEAPONS IN THE SECOND DEGREE.

19 (a) A person commits the crime of misconduct involving weapons in the  
20 second degree if he

21 (1) possesses on his person a firearm while his physical or  
22 mental condition is substantially impaired as a result of the intro-  
23 duction of an intoxicating liquor or drug into his body;

24 (2) discharges a firearm from, on, or across a highway; or

25 (3) discharges a firearm with reckless disregard for a risk  
26 of damage to property or a risk of physical injury to a person.

27 (b) Misconduct involving weapons in the second degree is a class A  
28 misdemeanor.

29 Sec. 11.61.220. MISCONDUCT INVOLVING WEAPONS IN THE THIRD DEGREE.

1 (a) A person commits the crime of misconduct involving weapons in the  
2 third degree if he

3 (1) knowingly possesses a deadly weapon, other than an or-  
4 dinary pocket knife, that is concealed on his person;

5 (2) knowingly possesses a loaded firearm on his person in any  
6 place where intoxicating liquor is sold for consumption on the premises;  
7 or

8 (3) being an unemancipated minor under 16 years of age,  
9 possesses a firearm without the consent of his parent or guardian.

10 (b) In a prosecution under (a)(1) of this section, it is an affir-  
11 mative defense that the defendant, at the time of his possession, was

12 (1) in his dwelling or on property appurtenant to his  
13 dwelling; or

14 (2) actually engaged in lawful hunting, fishing, trapping, o  
15 ther lawful outdoor activity that necessarily involves the carrying of  
16 a weapon for personal protection.

17 (c) The provisions of (a)(1) and (2) of this section do not apply  
18 to a peace officer acting within the scope and authority of his em-  
19 ployment.

20 (d) In a prosecution under (a)(2) of this section, it is a defens  
21 that the defendant, at the time of his possession, was

22 (1) on business premises owned by or leased to him; or

23 (2) on business premises in the course of his employment for  
24 the owner or lessee of those premises.

25 (e) For purposes of this section, a deadly weapon on a person is  
26 concealed if it is covered or enclosed in any manner so that an observe  
27 cannot determine that it is a weapon without removing it from that whic  
28 covers or encloses it or without opening, lifting, or removing that  
29 which covers or encloses it.

1 (f) For purposes of (a)(2) of this section, a firearm is loaded if  
2 the firing chamber, magazine, clip, or cylinder of the firearm contains  
3 a cartridge.

4 (g) Misconduct involving weapons in the third degree is a class B  
5 misdemeanor.

6 Sec. 11.61.230. POSSESSION OF BURGLARY TOOLS. (a) A person  
7 commits the crime of possession of burglary tools if he possesses a  
8 burglary tool with intent to use or permit use of the tool in the com-  
9 mission of

- 10 (1) burglary in any degree;
- 11 (2) a crime referred to in AS 11.46.130(a)(3); or
- 12 (3) theft of services.

13 (b) As used in this section, "burglary tools" means

14 (1) nitroglycerine, dynamite, or any other tool, instrument,  
15 or device adapted or designed for use in committing a crime referred to  
16 in (1) - (3) of (a) of this section; or

17 (2) an acetylene torch, electric arc, burning bar, thermal  
18 lance, oxygen lance, or other similar device capable of burning through  
19 steel, concrete, or other solid material.

20 (c) Possession of burglary tools is a class A misdemeanor.

21 Sec. 11.61.240. CRIMINAL POSSESSION OF EXPLOSIVES. (a) A person  
22 commits the crime of criminal possession of explosives if he possesses  
23 or manufactures an explosive substance or device and intends to use that  
24 substance or device to commit a crime.

25 (b) Criminal possession of explosives is a

26 (1) class A felony if the crime intended is murder in any  
27 degree or kidnapping;

28 (2) class B felony if the crime intended is a class A felony;

29 (3) class C felony if the crime intended is a class B felony;

1 (4) class A misdemeanor if the crime intended is a class C  
2 felony;

3 (5) class B misdemeanor if the crime intended is a class A or  
4 class B misdemeanor.

5 Sec. 11.61.250. UNLAWFUL FURNISHING OF EXPLOSIVES. (a) A person  
6 commits the crime of unlawful furnishing of explosives if he furnishes  
7 an explosive substance or device to another knowing that that person  
8 intends to use the substance or device to commit a crime.

9 (b) Unlawful furnishing of explosives is a class C felony.

10 \* Sec. 8. AS 11 is amended by adding a new chapter to read:

11 CHAPTER 66. OFFENSES AGAINST PUBLIC HEALTH AND DECENCY.

12 ARTICLE 1. PROSTITUTION AND RELATED OFFENSES.

13 Sec. 11.66.100. PROSTITUTION. (a) A person commits the crime of  
14 prostitution if he engages in or agrees or offers to engage in sexual  
15 conduct in return for a fee.

16 (b) Prostitution is a class B misdemeanor.

17 Sec. 11.66.110. PROMOTING PROSTITUTION IN THE FIRST DEGREE. (a)  
18 A person commits the crime of promoting prostitution in the first degree  
19 if he

20 (1) induces or causes a person to engage in prostitution  
21 through the use of force;

22 (2) as other than a patron of a prostitute, induces or cause  
23 a person under 16 years of age to engage in prostitution; or

24 (3) induces or causes a person in his legal custody to engage  
25 in prostitution.

26 (b) In a prosecution under (a)(2) of this section, it is not a  
27 defense that the defendant reasonably believed that the person he in-  
28 duced or caused to engage in prostitution was 16 years of age or older.

29 (c) Promoting prostitution in the first degree is a class B

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Sec. 11.66.120. PROMOTING PROSTITUTION IN THE SECOND DEGREE. (a)  
A person commits the crime of promoting prostitution in the second  
degree if he

(1) manages, supervises, controls, or owns, either alone or  
in association with others, a prostitution enterprise other than a place  
of prostitution; or

(2) procures or solicits a patron for a prostitute.

(b) Promoting prostitution in the second degree is a class C  
felony.

Sec. 11.66.130. PROMOTING PROSTITUTION IN THE THIRD DEGREE. (a)  
A person commits the crime of promoting prostitution in the third degree  
if, with intent to promote prostitution, he

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

(2) as other than a patron of a prostitute, induces or causes  
a person 16 years of age or older to engage in prostitution;

(3) as other than a prostitute receiving compensation for  
personally rendered prostitution services, receives or agrees to receive  
money or other property pursuant to an agreement or understanding that  
the money or other property is derived from prostitution; or

(4) engages in conduct that institutes, aids, or facilitates  
a prostitution enterprise.

(b) Promoting prostitution in the third degree is a class A mis-  
demeanor.

Sec. 11.66.140. EVIDENCE REQUIRED FOR SECS. 110 - 130 OF THIS  
CHAPTER. In a prosecution under secs. 110 - 130 of this chapter, it is  
not necessary that the testimony of the person whose prostitution is  
alleged to have been compelled or promoted be corroborated by the testi-

1 money of any other witness or by documentary or other types of evidence.

2 Sec. 11.66.150. DEFINITIONS. As used in secs. 100 - 150 of this  
3 chapter, unless the context requires otherwise,

4 (1) "place of prostitution" means any place where a person  
5 engages in sexual conduct in return for a fee;

6 (2) "prostitution enterprise" means an arrangement in which  
7 two or more persons are organized to render sexual conduct in return fo  
8 a fee;

9 (3) "sexual conduct" means genital or anal intercourse,  
10 cunnilingus, fellatio, or masturbation of one person by another person.

11 ARTICLE 2. GAMBLING OFFENSES.

12 Sec. 11.66.200. GAMBLING. (a) A person commits the offense of  
13 gambling if he engages in unlawful gambling.

14 (b) It is an affirmative defense to a prosecution under this  
15 section that the defendant was a player in a social game.

16 (c) Gambling is a violation for the first offense. Gambling is  
17 class B misdemeanor for the second and each subsequent offense.

18 Sec. 11.66.210. PROMOTING GAMBLING IN THE FIRST DEGREE. (a) A  
19 person commits the crime of promoting gambling in the first degree if  
20 promotes or profits from an unlawful gambling enterprise.

21 (b) Promoting gambling in the first degree is a class C felony.

22 Sec. 11.66.220. PROMOTING GAMBLING IN THE SECOND DEGREE. (a) A  
23 person commits the crime of promoting gambling in the second degree if  
24 he promotes or profits from unlawful gambling.

25 (b) Promoting gambling in the second degree is a class A misde-  
26 meanor.

27 Sec. 11.66.230. POSSESSION OF GAMBLING RECORDS IN THE FIRST DE-  
28 GREE. (a) A person commits the crime of possession of gambling recor  
29 in the first degree if, with knowledge of its contents or character, h

1 possesses a gambling record of a kind commonly used in the operation or  
2 promotion of an unlawful gambling enterprise.

3 (b) Possession of gambling records in the first degree is a class  
4 C felony.

5 Sec. 11.66.240. POSSESSION OF GAMBLING RECORDS IN THE SECOND  
6 DEGREE. (a) A person commits the crime of possession of gambling  
7 records in the second degree if, with knowledge of its contents or  
8 character, he possesses a gambling record.

9 (b) Possession of gambling records in the second degree is a class  
10 A misdemeanor.

11 Sec. 11.66.250. AFFIRMATIVE DEFENSES APPLICABLE TO SECS. 230 AND  
12 240. (a) It is an affirmative defense in a prosecution under sec. 230  
13 of this chapter that the gambling record was possessed by the defendant  
14 solely as a player.

15 (b) It is an affirmative defense in a prosecution under sec. 230  
16 or 240 of this chapter that the gambling record

17 (1) was not used or intended to be used by the defendant in  
18 the operation or promotion of unlawful gambling;

19 (2) was used or intended to be used by the defendant in a  
20 social game.

21 Sec. 11.66.260. POSSESSION OF A GAMBLING DEVICE. (a) A person  
22 commits the offense of possession of a gambling device if, with know-  
23 ledge of the character of the device, he manufactures, sells, trans-  
24 ports, places, or possesses, or conducts or negotiates a transaction  
25 affecting or designed to affect ownership, custody, or use of, a gam-  
26 bling device knowing that the device is used or is to be used in un-  
27 lawful gambling.

28 (b) It is an affirmative defense in a prosecution under this  
29 section that the gambling device possessed by the defendant was used or

1 intended to be used only in a social game.

2 (c) Possession of a gambling device is a class A misdemeanor.

3 Sec. 11.66.270. FORFEITURE. If used in violation of secs. 200 -  
4 280 of this chapter, the following property shall be forfeited:

5 (1) a gambling device or gambling record;

6 (2) money, not found on the person, used as a bet or stake;

7 (3) money used as a bet or stake which is found on the person  
8 of one who conducts, finances, manages, supervises, directs, or owns all  
9 or part of an unlawful gambling enterprise.

10 Sec. 11.66.280. DEFINITIONS. As used in secs. 200 - 280 of this  
11 chapter, unless the context requires otherwise,

12 (1) "contest of chance" means a contest, game, gaming scheme  
13 or gaming device in which the outcome depends in a material degree upon  
14 an element of chance, notwithstanding that the skill of the contestants  
15 may also be a factor;

16 (2) "gambling" means that a person stakes or risks something  
17 of value upon the outcome of a contest of chance or a future contingent  
18 event not under his control or influence, upon an agreement or under-  
19 standing that he or someone else will receive something of value in the  
20 event of a certain outcome; "gambling" does not include

21 (A) bona fide business transactions valid under the law  
22 of contracts for the purchase or sale at a future date of securi-  
23 ties or commodities and agreements to compensate for loss caused  
24 the happening of chance, including contracts of indemnity or guar-  
25 anty and life, health, or accident insurance; or

26 (B) playing an amusement device that

27 (1) confers only an immediate right of replay not  
28 exchangeable for something of value other than the privilege  
29 of immediate replay; and

1 (ii) does not contain a method or device by which  
2 the privilege of immediate replay may be cancelled or revoked;

3 (3) "gambling device" means any device, machine, parapher-  
4 nalia, or equipment that is used or usable in the playing phases of  
5 unlawful gambling, whether it consists of gambling between persons or  
6 gambling by a person involving the playing of a machine; "gambling  
7 device" does not include

8 (A) lottery tickets, policy slips, or other items used  
9 in the playing phases of lottery or policy schemes; or

10 (B) an amusement device as described in (2)(B) of this  
11 section;

12 (4) "gambling enterprise" means a gambling business which

13 (A) includes five or more persons who conduct, finance,  
14 manage, supervise, direct, or own all or part of the business;

15 (B) has been or remains in substantially continuous  
16 operation for a period in excess of 30 days or has a gross income  
17 of \$2,000 or more in any single day; and

18 (C) is not a qualified organization under AS 05.15.-  
19 210(15), except that, for purposes of this paragraph, no applica-  
20 tion for a license under AS 05.15.210(15) is required to be con-  
21 sidered a qualified organization;

22 (5) "gambling record" means any writing or paper of a kind  
23 commonly used in the operation or promotion of unlawful gambling and  
24 includes lottery tickets, policy slips, or other writings or papers used  
25 in the playing phases of lottery or policy schemes;

26 (6) "player" means a person who engages in gambling solely as  
27 a contestant or bettor, believing that the risk of losing and the chances  
28 of winning are the same for all participants except for the advantages  
29 of skill and luck, without receiving or becoming entitled to receive

1 any profit from gambling other than personal gambling winnings and  
2 without otherwise rendering any material assistance to the estab-  
3 lishment, conduct, or operation of the particular gambling activity,  
4 except that, for purposes of this paragraph, a person who gambles at a  
5 social game on equal terms with the other participants does not "other-  
6 wise render material assistance" to the establishment, conduct, or  
7 operation by performing, without fee or remuneration, acts directed  
8 towards the arrangement or facilitation of the game, such as inviting  
9 persons to play, permitting the use of premises for the game, or supply-  
10 ing cards or other equipment used in the game;

11 (7) "profits from gambling" means that a person, acting other  
12 than as a player, accepts or receives money or other property under an  
13 agreement or understanding with another person by which he participates  
14 or is to participate in the proceeds of gambling;

15 (8) "promoting gambling" means that a person, acting other  
16 than as a player, engages in conduct that materially aids any form of  
17 gambling; conduct of this nature includes

18 (A) conduct directed toward the

19 (i) creation or establishment of the particular  
20 gambling activity or acquisition or maintenance of premises,  
21 paraphernalia, equipment, or apparatus used in the gambling;

22 (ii) conduct of the playing phases of gambling; or

23 (iii) arrangement of the financial or recording phas  
24 of gambling or toward any other phase of its operation; or

25 (B) having control or right of control over premises  
26 that are used with the defendant's knowledge for purposes of gamb-  
27 ling and permitting the gambling to occur or continue without  
28 making an effort to prevent its occurrence or continuation;

29 (9) "social game" means gambling in a home where no house

1 player, house bank, or house odds exist and where there is no house  
2 income from the operation of the game;

3 (10) "something of value" means any money or property; any  
4 token, object, or article exchangeable for money or property; and any  
5 form of credit or promise directly or indirectly contemplating transfer  
6 of money or property or of an interest in money or property or involving  
7 extension of a service, entertainment, or privilege of playing at a game  
8 or scheme without charge;

9 (11) "unlawful" means not specifically authorized by law.

10 \* Sec. 9. AS 11 is amended by adding a new chapter to read:

11 CHAPTER 76. MISCELLANEOUS OFFENSES.

12 Sec. 11.76.100. SELLING OR GIVING TOBACCO TO A MINOR. (a) A  
13 person, being 19 years of age or older, commits the offense of selling  
14 or giving tobacco to a minor if he knowingly sells, exchanges, or gives  
15 cigarettes, cigars, or tobacco to a person under 16 years of age.

16 (b) Selling or giving tobacco to a minor is a violation.

17 Sec. 11.76.110. INTERFERENCE WITH CONSTITUTIONAL RIGHTS. (a) A  
18 person commits the crime of interference with constitutional rights if

19 (1) he injures, oppresses, threatens, or intimidates another  
20 person with intent to deprive that person of a right, privilege, or  
21 immunity in fact granted by the constitution or laws of this state;

22 (2) he intentionally injures, oppresses, threatens, or intimidates  
23 another person because that person has exercised or enjoyed a  
24 right, privilege, or immunity in fact granted by the constitution or  
25 laws of this state; or

26 (3) under color of law, ordinance, or regulation of this  
27 state or a municipality or other political subdivision of this state, he  
28 intentionally deprives another of a right, privilege, or immunity in  
29 fact granted by the constitution or laws of this state.

1 (b) In a prosecution under this section, whether the injury,  
2 oppression, threat, intimidation, or deprivation concerns a right, pri-  
3 vilege, or immunity granted by the constitution or laws of this state is  
4 a question of law.

5 (c) Interference with constitutional rights is a class A misde-  
6 meanor.

7 \* Sec. 10. AS 11 is amended by adding a new chapter to read:

8 CHAPTER 81. GENERAL PROVISIONS.

9 ARTICLE 1. GENERAL PURPOSES.

10 Sec. 11.81.100. GENERAL PURPOSES. The general purposes of this  
11 title are to

12 (1) proscribe conduct that unjustifiably and inexcusably  
13 causes or threatens substantial harm to individual or public interests;

14 (2) give fair warning of the nature of the conduct constitu-  
15 ting an offense;

16 (3) define the act or omission and accompanying culpable  
17 mental state that constitute each offense and limit the condemnation of  
18 conduct as criminal when it is without fault; and

19 (4) differentiate on reasonable grounds between serious and  
20 minor offenses.

21 ARTICLE 2. APPLICABILITY OF CRIMINAL STATUTES.

22 Sec. 11.81.200. EFFECT OF AMENDMENT OR REPEAL OF CRIMINAL STA-  
23 TUTES. When all or part of a criminal statute is amended or repealed,  
24 the criminal statute or part of it so amended or repealed remains in  
25 force for the purpose of authorizing the accusation, prosecution, con-  
26 viction, and punishment of a person who violated the statute or part of  
27 it before the effective date of the amending or repealing Act, unless  
28 otherwise specified in the amending or repealing Act.

29 Sec. 11.81.210. LIMITATION ON APPLICABILITY. This title does not

1 bar, suspend, or otherwise affect any right to or liability for damages,  
2 penalty, forfeiture, or other remedy authorized by law to be recovered  
3 or enforced in a civil action, regardless of whether the conduct in-  
4 volved in the proceeding constitutes an offense defined in this title.

5 Sec. 11.81.220. ALL OFFENSES DEFINED BY STATUTE. No conduct  
6 constitutes an offense unless it is made an offense

- 7 (1) by this title;  
8 (2) by a statute outside this title; or  
9 (3) by a regulation authorized by and lawfully adopted under  
10 a statute.

11 ARTICLE 3. CLASSIFICATION OF OFFENSES.

12 Sec. 11.81.250. CLASSIFICATION OF OFFENSES. (a) For purposes of  
13 sentencing under AS 12.55, all offenses defined in this title, except  
14 murder in the first and second degree and kidnapping, are classified on  
15 the basis of their seriousness, according to the type of injury charac-  
16 teristically caused or risked by commission of the offense and the  
17 culpability of the offender. Except for murder in the first and second  
18 degree and kidnapping, the offenses in this title are classified into  
19 the following categories:

20 (1) class A felonies, which characteristically involve con-  
1 duct resulting in serious physical injury or a substantial risk of  
2 serious physical injury to a person;

3 (2) class B felonies, which characteristically involve con-  
4 duct resulting in less severe violence against a person than class A  
5 felonies, aggravated offenses against property interests, or aggravated  
6 offenses against public administration or order;

7 (3) class C felonies, which characteristically involve con-  
8 duct serious enough to deserve felony classification but not serious  
9 enough to be classified as A or B felonies;

1 (4) class A misdemeanors, which characteristically involve  
2 less severe violence against a person, less serious offenses against  
3 property interests, less serious offenses against public administration  
4 or order, or less serious offenses against public health and decency  
5 than felonies;

6 (5) class B misdemeanors, which characteristically involve a  
7 minor risk of physical injury to a person, minor offenses against pro-  
8 perty interests, minor offenses against public administration or order,  
9 or minor offenses against public health and decency;

10 (6) violations, which characteristically involve conduct in-  
11 appropriate to an orderly society but which do not denote criminality in  
12 their commission.

13 (b) The classification of each felony defined in this title, ex-  
14 cept murder in the first and second degree and kidnapping, is designate  
15 in the section defining it. A felony under Alaska law defined outside  
16 this title for which no penalty is specifically provided is a class C  
17 felony.

18 (c) The classification of each misdemeanor defined in this title  
19 is designated in the section defining it. A misdemeanor under Alaska  
20 law defined outside this title for which no penalty is provided is a  
21 class A misdemeanor.

22 ARTICLE 4. GENERAL PRINCIPLES OF JUSTIFICATION.

23 Sec. 11.81.300. JUSTIFICATION: DEFENSE. In any prosecution for  
24 an offense, justification as provided in secs. 320 - 430 of this chapt  
25 is a defense.

26 Sec. 11.81.320. JUSTIFICATION: NECESSITY. Conduct which would  
27 otherwise be an offense is justified by reason of necessity to the  
28 extent permitted by common law when

29 (1) neither this title nor any other statute defining the

1 offense provides exemptions or defenses dealing with the justification  
2 of necessity in the specific situation involved; and

3 (2) a legislative intent to exclude the justification of  
4 necessity does not otherwise plainly appear.

5 Sec. 11.81.330. JUSTIFICATION: USE OF NONDEADLY FORCE IN DEFENSE  
6 OF SELF. (a) A person may use nondeadly force upon another person when  
7 and to the extent he reasonably believes it necessary to defend himself  
8 from what he reasonably believes to be the use of unlawful force by the  
9 other person, unless

10 (1) the force involved was the product of mutual combat not  
11 authorized by law;

12 (2) the person claiming the defense of justification provoked  
13 the other person's conduct with intent to cause physical injury to the  
14 other person; or

15 (3) the person claiming the defense of justification was the  
16 initial aggressor.

17 (b) In circumstances described in (1) - (3) of (a) of this sec-  
18 tion, the person claiming the defense of justification may use nondeadly  
19 force if he has withdrawn from the encounter and effectively communi-  
20 cated his withdrawal to the other person, but the other person persists  
21 in continuing the incident by the use of unlawful force.

22 Sec. 11.81.335. JUSTIFICATION: USE OF DEADLY FORCE IN DEFENSE OF  
23 SELF. (a) Except as provided in (b) of this section, a person may use  
24 deadly force upon another person when and to the extent

25 (1) the use of nondeadly force is justified under sec. 330 of  
26 this chapter; and

27 (2) the person reasonably believes the use of deadly force is  
28 necessary to defend himself from death, serious physical injury, kid-  
29 napping, sexual assault in the first degree under AS 11.41.410(a)(1) or

1 (2), sexual assault in the second degree, or robbery in any degree.

2 (b) A person may not use deadly force under this section if he  
3 knows that he can with complete safety as to himself and others avoid  
4 the necessity of so doing by retreating, except there is no duty to  
5 retreat if the person is

6 (1) on premises which he owns or which are leased to him and  
7 he is not the initial aggressor; or

8 (2) a peace officer acting within the scope and authority of  
9 his employment or a person assisting a peace officer under sec. 380 of  
10 this chapter.

11 Sec. 11.81.340. JUSTIFICATION: USE OF FORCE IN DEFENSE OF A THIRD  
12 PERSON. A person may use force upon another person when and to the  
13 extent he reasonably believes it necessary to defend a third person  
14 when, under the circumstances as the person claiming the defense of  
15 justification reasonably believes them to be, the third person would be  
16 justified under sec. 330 or 335 of this chapter in using that degree of  
17 force to defend himself.

18 Sec. 11.81.350. JUSTIFICATION: USE OF FORCE IN DEFENSE OF PRO-  
19 PERTY AND PREMISES. (a) A person may use nondeadly force upon another  
20 person when and to the extent he reasonably believes it necessary to  
21 terminate what he reasonably believes to be the commission or attempted  
22 commission by the other person of an unlawful taking or damaging of  
23 property or services.

24 (b) A person may use deadly force upon another when and to the extent  
25 he reasonably believes it necessary to terminate what he reasonably  
26 believes to be the commission or attempted commission of arson upon a  
27 dwelling or occupied building.

28 (c) A person in possession or control of any premises, or an  
29 express or implied agent of that person, may use

1 (1) nondeadly force upon another person when and to the  
2 extent he reasonably believes it necessary to terminate what he reason-  
3 ably believes to be the commission or attempted commission by the other  
4 person of criminal trespass in any degree upon the premises;

5 (2) deadly force upon another person when and to the extent  
6 he reasonably believes it necessary to terminate what he reasonably  
7 believes to be a burglary in any degree occurring in an occupied dwell-  
8 ing or building.

9 (d) A person may use deadly force under circumstances described in  
10 (a) or (c)(1) of this section only when and to the extent the use of  
11 deadly force is justified under other sections of this chapter.

12 Sec. 11.81.370. JUSTIFICATION: USE OF FORCE BY A PEACE OFFICER IN  
13 MAKING AN ARREST OR TERMINATING AN ESCAPE. (a) In addition to using  
14 force justified under other sections of this chapter, a peace officer  
15 may use nondeadly force and may threaten to use deadly force when and to  
16 the extent he reasonably believes it necessary to make an arrest, to  
17 terminate an escape or attempted escape from custody, or to make a  
18 lawful stop. He may use deadly force only when and to the extent he  
19 reasonably believes the use of deadly force is necessary to make the  
20 arrest or terminate the escape or attempted escape from custody of a  
21 person he reasonably believes

22 (1) has committed or attempted to commit a felony which in-  
23 volved the use of force against a person;

24 (2) has escaped or is attempting to escape from custody while  
25 in possession of a firearm on or about his person; or

26 (3) may otherwise endanger life or inflict serious physical  
27 injury unless arrested without delay.

28 (b) The use of force in making an arrest or stop is not justified  
29 under this section unless the peace officer reasonably believes the

1 arrest or stop is lawful.

2 (c) Nothing in this section prohibits or restricts a peace officer  
3 in preparing to use or threatening to use a dangerous instrument.

4 Sec. 11.81.380. JUSTIFICATION: USE OF FORCE BY PRIVATE PERSON  
5 ASSISTING AN ARREST OR TERMINATING AN ESCAPE. (a) Except as provided  
6 in (b) of this section, a person who has been directed by a person he  
7 reasonably believes to be a peace officer to assist him in making an  
8 arrest or terminating or preventing an escape may use nondeadly force  
9 when and to the extent he reasonably believes it necessary to carry out  
10 the peace officer's direction. A person may use deadly force under this  
11 section only when he reasonably believes it necessary to carry out the  
12 peace officer's direction to use deadly force.

13 (b) The use of force under (a) of this section is not justified if  
14 the person believes that the peace officer is not justified in using  
15 that degree of force under the circumstances.

16 Sec. 11.81.390. USE OF FORCE BY A PRIVATE PERSON IN MAKING ARREST  
17 OR TERMINATING AN ESCAPE. In addition to using force justified under  
18 other sections of this chapter, a person, acting on his own account, may  
19 use nondeadly force to make the arrest or terminate the escape or  
20 attempted escape from custody of a person who he reasonably believes has  
21 committed a misdemeanor in his presence or a felony when and to the  
22 extent he reasonably believes it necessary to make that arrest or ter-  
23 minate that escape or attempted escape from custody. He may use deadly  
24 force under this section only when and to the extent he reasonably  
25 believes the use of deadly force is necessary to make the arrest or  
26 terminate the escape or attempted escape from custody of a person he  
27 reasonably believes

28 (1) has committed or attempted to commit a felony which in-  
29 volved the use of force against a person; or

1 (2) has escaped or is attempting to escape from custody while  
2 in possession of a firearm on or about his person.

3 Sec. 11.81.400. JUSTIFICATION: USE OF FORCE IN RESISTING OR  
4 INTERFERING WITH ARREST. (a) A person may not use force to resist the  
5 arrest of himself or interfere with the arrest of another by a peace  
6 officer who is known by him, or reasonably appears, to be a peace offi-  
7 cer, whether the arrest is lawful or unlawful, unless

8 (1) the force used by the peace officer exceeds that allowed  
9 under sec. 370 of this chapter; or

10 (2) the person resisted the arrest of himself and

11 (A) the arrest was unlawful;

12 (B) the person knew the arrest to be unlawful; and

13 (C) the person did not use deadly force in resisting the  
14 arrest.

15 (b) The use of force justified under this section in resisting  
16 arrest or interfering with the arrest of another may not exceed the use  
17 of force justified under sec. 330 or 335 of this chapter.

18 Sec. 11.81.410. JUSTIFICATION: USE OF FORCE BY GUARDS. (a) In  
19 addition to using force justified under other sections of this chapter,  
20 a guard or peace officer employed in a correctional facility may, if  
21 authorized by regulations adopted by the Department of Health and Social  
22 Services, use nondeadly force upon another person when and to the extent  
23 reasonably necessary and appropriate to maintain order.

24 (b) Except as provided in (c) of this section, a guard or peace  
25 officer employed in a correctional facility or a peace officer in the  
26 immediate vicinity of a correctional facility at the time of an escape  
27 from the facility may use deadly force when and to the extent he reason-  
28 ably believes it necessary to terminate the escape or attempted escape  
29 of a prisoner from the correctional facility.

1 (c) The use of deadly force under (b) of this section is not  
2 justified if the guard or peace officer knows that the prisoner was  
3 under official detention in the correctional facility on a charge of a  
4 misdemeanor and does not believe that the prisoner is armed with a  
5 firearm, in which event only nondeadly force may be used.

6 Sec. 11.81.420. JUSTIFICATION: PERFORMANCE OF PUBLIC DUTY. (a)  
7 Unless inconsistent with secs. 320 - 410 of this chapter, conduct which  
8 would otherwise constitute an offense is justified when it is required  
9 or authorized by law or by a judicial decree, judgment, or order.

10 (b) The justification afforded by this section also applies when

11 (1) the person reasonably believes his conduct to be require  
12 or authorized by a decree, judgment, or order of a court of competent  
13 jurisdiction or in the lawful execution of legal process, notwithstand-  
14 ing lack of jurisdiction of the court or defect in the legal process; o

15 (2) the person reasonably believes his conduct to be require  
16 or authorized to assist a peace officer in the performance of his dutie  
17 notwithstanding that the officer exceeded his authority.

18 Sec. 11.81.430. JUSTIFICATION: USE OF FORCE, SPECIAL RELATION-  
19 SHIPS. (a) The use of force upon another person that would otherwise  
20 constitute an offense is justified under any of the following circum-  
21 stances:

22 (1) When and to the extent reasonably necessary and appro-  
23 priate to promote the welfare of the child or incompetent person, a  
24 parent, guardian, or other person entrusted with the care and super-  
25 vision of a child under 18 years of age or an incompetent person may u  
26 reasonable and appropriate nondeadly force upon that child or incom-  
27 petent person.

28 (2) When and to the extent reasonably necessary and appro-  
29 priate to maintain order and when the use of force is consistent with

1 the welfare of the students, a teacher may, if authorized by school  
2 regulations and the principal of the school, use reasonable and appro-  
3 priate nondeadly force upon a student. If authorized by school regula-  
4 tions and the principal of the school, a teacher may use nondeadly force  
5 under this paragraph in any situation in which he is responsible for the  
6 supervision of students. A teacher employed by a school board, in-  
7 cluding a regional educational attendance area school board, may use  
8 nondeadly force under this paragraph only if the school regulations  
9 authorizing the use of force have been adopted by the school board.

10 (3) When and to the extent reasonably necessary and appro-  
11 priate to maintain order, a person responsible for the maintenance of  
12 order in a common carrier of passengers, or a person acting under his  
13 direction, may use reasonable and appropriate nondeadly force.

14 (4) When and to the extent reasonably necessary to prevent a  
15 suicide, a person who reasonably believes that another is imminently  
16 about to commit suicide may use reasonable and appropriate nondeadly  
17 force upon that person.

18 (5) A licensed physician, paramedic, or registered nurse, or  
19 a person acting under his direction, or any person who renders emergency  
20 care at the scene of an emergency, may use reasonable and appropriate  
21 nondeadly force for the purpose of administering a recognized and lawful  
22 form of treatment which is reasonably adapted to promoting the physical  
23 or mental health of the patient if

24 (A) the treatment is administered with the consent of  
25 the patient or, if the patient is a child under 18 years of age or  
26 an incompetent person, with the consent of his parent, guardian, or  
27 other person entrusted with his care and supervision; or

28 (B) the treatment is administered in an emergency if the  
29 person administering the treatment reasonably believes that no one

1           competent to consent can be consulted under the circumstances and  
2           that a reasonable person, wishing to safeguard the welfare of the  
3           patient, would consent.

4           (b) A person who raises a defense under (a)(1) of this section and  
5           claims that the person upon whom force was used was an incompetent  
6           person has the burden of establishing by a preponderance of the evidence  
7           that, at the time force was used, the person upon whom the force was  
8           used was an incompetent person.

9           Sec. 11.81.440. DURESS. (a) In any prosecution for an offense,  
10          it is an affirmative defense that the defendant engaged in the pro-  
11          scribed conduct because he was coerced to do so by the use of unlawful  
12          force upon him or a third person, which force a reasonable person in his  
13          situation would have been unable to resist.

14          (b) The defense of duress is not available when a person reckless-  
15          ly places himself in a situation in which it is probable that he will  
16          be subject to duress.

17          Sec. 11.81.450. ENTRAPMENT. In any prosecution for an offense,  
18          it is an affirmative defense that, in order to obtain evidence of the  
19          commission of an offense, a public law enforcement official or a person  
20          working in cooperation with him induced the defendant to commit the  
21          offense by persuasion or inducement as would be effective to persuade  
22          an average person, other than one who is ready and willing, to commit the  
23          offense. Inducement or persuasion which would induce only a person  
24          engaged in an habitual course of unlawful conduct for gain or profit  
25          does not constitute entrapment.

26                   ARTICLE 5. GENERAL PRINCIPLES OF CRIMINAL LIABILITY.

27          Sec. 11.81.600. GENERAL REQUIREMENTS OF CULPABILITY. (a) The  
28          minimal requirement for criminal liability is the performance by a  
29          person of conduct which includes a voluntary act or the omission to p

1 form an act which he is capable of performing.

2 (b) A person is not guilty of an offense unless he acts with a  
3 culpable mental state with respect to each element of the offense,  
4 except that

5 (1) no culpable mental state must be proved with respect to  
6 any element of an offense if the description of the offense does not  
7 specify a culpable mental state and the offense is

8 (A) a violation; or

9 (B) designated as one of "strict liability";

0 (2) no culpable mental state must be proved with respect to a  
1 particular element of the offense if an intent to dispense with the  
2 culpable mental state requirement for that element clearly appears.

3 Sec. 11.81.610. CONSTRUCTION OF STATUTES WITH RESPECT TO CULPA-  
4 BILITY. (a) When only one culpable mental state appears in a provision  
5 of law defining an offense, it is rebuttably presumed to apply to every  
6 element of the offense unless an intent to limit its application clearly  
7 appears.

8 (b) Except as provided in sec. 600(b) of this chapter, if a pro-  
9 vision of law defining an offense does not prescribe a culpable mental  
0 state, the culpable mental state that must be proved with respect to

1 (1) conduct is "knowingly"; and

2 (2) a circumstance or a result is "recklessly".

3 (c) When a provision of law provides that criminal negligence  
4 suffices to establish an element of an offense, that element is also  
5 established if a person acts intentionally, knowingly, or recklessly.  
6 If acting recklessly suffices to establish an element, that element also  
7 is established if a person acts intentionally or knowingly. If acting  
8 knowingly suffices to establish an element, that element is also estab-  
9 lished if a person acts intentionally.

1           Sec. 11.81.615. OFFENSES DEFINED BY AGE OR VALUE. Whenever a  
2 provision of law defining an offense requires a determination of the age  
3 of the victim or the value of property or services, it is not a defense  
4 to the lowest class of offense established by the evidence that the age  
5 of the victim is less than the age which would make the offense a higher  
6 class of offense or that the value of the property or services exceeds  
7 the value which would make the offense a higher class of offense, and  
8 person may be charged and convicted accordingly.

9           Sec. 11.81.620. EFFECT OF IGNORANCE OR MISTAKE UPON LIABILITY.

10       (a) Knowledge, recklessness, or criminal negligence as to whether con-  
11 duct constitutes an offense, or knowledge, recklessness, or criminal  
12 negligence as to the existence, meaning, or application of the provisi-  
13 on of law defining an offense, is not an element of an offense unless the  
14 provision of law clearly so provides. Use of the phrase "intent to  
15 commit a crime", "intent to promote or facilitate the commission of a  
16 crime", or like terminology in a provision of law does not require that  
17 the defendant act with a culpable mental state as to the criminality of  
18 the conduct that is the object of his intent.

19       (b) A person is not relieved of criminal liability for conduct  
20 because he engages in the conduct under a mistaken belief of fact,  
21 unless

22           (1) the factual mistake negates the culpable mental state  
23 required for the commission of the offense;

24           (2) the provision of law defining the offense or a related  
25 provision of law expressly provides that the factual mistake constitutes  
26 a defense or exemption; or

27           (3) the factual mistake is of a kind that supports a defense  
28 of justification as provided in secs. 320 - 430 of this chapter.

29           Sec. 11.81.630. INTOXICATION AS A DEFENSE. Voluntary intoxicat

1 is not a defense to a prosecution for an offense, but evidence that the  
2 defendant was intoxicated may be offered whenever it is relevant to  
3 negate an element of the offense that requires that the defendant in-  
4 tentionally cause a result.

5 Sec. 11.81.640. APPLICATION OF SECS. 600 - 630. Sections 600 -  
6 630 of this chapter apply only to this title.

7 ARTICLE 6. DEFINITIONS.

8 Sec. 11.81.900. DEFINITIONS. (a) For purposes of this title,  
9 unless the context requires otherwise,

10 (1) a person acts "intentionally" with respect to a result  
11 described by a provision of law defining an offense when his conscious  
12 objective is to cause that result;

13 (2) a person acts "knowingly" with respect to conduct or to a  
14 circumstance described by a provision of law defining an offense when he  
15 is aware that his conduct is of that nature or that the circumstance  
16 exists; when knowledge of the existence of a particular fact is an  
17 element of an offense, that knowledge is established if a person is  
18 aware of a substantial probability of its existence, unless he actually  
19 believes it does not exist; a person who is unaware of conduct or a cir-  
20 cumstance of which he would have been aware had he not been intoxicated  
21 acts knowingly with respect to that conduct or circumstance;

22 (3) a person acts "recklessly" with respect to a result or to  
23 a circumstance described by a provision of law defining an offense when  
24 he is aware of and consciously disregards a substantial and unjusti-  
25 fiable risk that the result will occur or that the circumstance exists;  
26 the risk must be of such a nature and degree that disregard of it con-  
27 stitutes a gross deviation from the standard of conduct that a reason-  
28 able person would observe in the situation; a person who is unaware of a  
29 risk of which he would have been aware had he not been intoxicated acts

1 recklessly with respect to that risk;

2 (4) a person acts with "criminal negligence" with respect to  
3 a result or to a circumstance described by a provision of law defining  
4 an offense when he fails to perceive a substantial and unjustifiable  
5 risk that the result will occur or that the circumstance exists; the  
6 risk must be of such a nature and degree that the failure to perceive it  
7 constitutes a gross deviation from the standard of care that a reason-  
8 able person would observe in the situation.

9 (b) As used in this title, unless otherwise specified or unless  
10 the context requires otherwise,

11 (1) "affirmative defense" means that

12 (A) some evidence must be admitted which places in issue  
13 the defense; and

14 (B) the defendant has the burden of establishing the  
15 defense by a preponderance of the evidence;

16 (2) "benefit" means a present or future gain or advantage to  
17 the beneficiary or to a third person pursuant to the desire or consent  
18 of the beneficiary;

19 (3) "building", in addition to its usual meaning, includes  
20 any propelled vehicle or structure adapted for overnight accommodation  
21 of persons or for carrying on business; when a building consists of  
22 separate units, including apartment units, offices, or rented rooms,  
23 each unit is considered a separate building;

24 (4) "cannabis" has the meaning ascribed to it in AS 17.12.-  
25 150;

26 (5) "conduct" means an act or omission and its accompanying  
27 mental state;

28 (6) "controlled substance" means

29 (A) a narcotic drug as defined in AS 17.10.230; or

1 (B) a depressant, hallucinogenic, or stimulant drug,  
2 other than cannabis, as defined in AS 17.12.150;

3 (7) "correctional facility" means premises, or a portion of  
4 premises, used for the confinement of persons under official detention;

5 (8) "credit card" means any instrument or device, whether  
6 known as a credit card, credit plate, courtesy card, or identification  
7 card or by any other name, issued with or without fee by an issuer for  
8 the use of the cardholder in obtaining property or services on credit;

9 (9) "crime" means an offense for which a sentence of impri-  
10 sonment is authorized; a crime is either a felony or a misdemeanor;

11 (10) "culpable mental state" means "intentionally", "knowing-  
12 ly", "recklessly", or with "criminal negligence", as those terms are  
13 defined in (a) of this section;

14 (11) "dangerous instrument" means anything which, under the  
15 circumstances in which it is used, attempted to be used, or threatened  
16 to be used, is capable of causing death or serious physical injury;  
17 "dangerous instrument" includes "deadly weapon";

18 (12) "deadly force" means force which the person uses with the  
19 intent of causing, or uses under circumstances which he knows create a  
20 substantial risk of causing, death or serious physical injury; "deadly  
21 force" includes intentionally discharging a firearm in the direction of  
22 another person or in the direction in which another person is believed  
23 to be;

24 (13) "deadly weapon" means any firearm, or anything designed  
25 for and capable of causing death or serious physical injury, including a  
26 knife, an axe, a club, metal knuckles, or an explosive;

27 (14) "deception" means to knowingly

28 (A) create or confirm another's false impression which  
29 the defendant does not believe to be true, including false im-

1           pressions as to law or value and false impressions as to intention  
2           or other state of mind;

3                   (B) fail to correct another's false impression which the  
4           defendant previously has created or confirmed;

5                   (C) prevent another from acquiring information pertinent  
6           to the disposition of the property or service involved;

7                   (D) sell or otherwise transfer or encumber property and  
8           fail to disclose a lien, adverse claim, or other legal impediment  
9           to the enjoyment of the property, whether or not that impediment is  
10          a matter of official record; or

11                   (E) promise performance which the defendant does not in  
12          tend to perform or knows will not be performed;

13          (15) "defense", other than an affirmative defense, means that

14                   (A) some evidence must be admitted which places in issue  
15          the defense; and

16                   (B) the state then has the burden of disproving the  
17          existence of the defense beyond a reasonable doubt;

18          (16) "drug" means

19                   (A) a controlled substance; or

20                   (B) cannabis;

21          (17) "dwelling" means a building that is designed for use or  
22          is used as a person's permanent or temporary home or place of lodging;

23          (18) "explosive" means a chemical compound, mixture, or device  
24          that is commonly used or intended for the purpose of producing a chemi-  
25          cal reaction resulting in a substantially instantaneous release of gas  
26          and heat, including dynamite, blasting powder, nitroglycerin, blasting  
27          caps, and nitrojelly, but excluding salable fireworks as defined in AS  
28          18.72.050, black powder, smokeless powder, small arms ammunition, and  
29          small arms ammunition primers;

1 (19) "felony" means a crime for which a sentence of imprison-  
2 ment for a term of more than one year is authorized;

3 (20) "fiduciary" means a trustee, guardian, executor, adminis-  
4 trator, receiver, or any other person carrying on functions of trust on  
5 behalf of another person or organization;

6 (21) "firearm" means

7 (A) a loaded or unloaded pistol, revolver, rifle, or  
8 shotgun; or

9 (B) any weapon, whether loaded or unloaded, designed for  
10 discharging a shot capable of causing death or serious physical  
11 injury;

12 (22) "force" means any bodily impact, restraint, or confine-  
ment or the threat of imminent bodily impact, restraint, or confinement;  
"force" includes deadly and nondeadly force;

4 (23) "government" means the United States, any state or any  
5 municipality or other political subdivision within the United States or  
6 its territories; any department, agency, or subdivision of any of the  
7 foregoing; an agency carrying out the functions of government; or any  
8 corporation or agency formed under interstate compact or international  
9 treaty;

1 (24) "highway" means a public road, road right-of-way, street,  
2 alley, bridge, walk, trail, tunnel, path, or similar or related facility,  
3 as well as ferries and similar or related facilities;

(25) "includes" means "includes but is not limited to";

(26) "incompetent person" means a person who is impaired by  
reason of mental illness or mental deficiency to the extent that he  
lacks sufficient understanding or capacity to make or communicate re-  
sponsible decisions concerning his person;

(27) "intoxicated" means intoxicated from the use of a drug or

1 alcohol;

2 (28) "law" includes statutes and regulations;

3 (29) "leased" includes "rented";

4 (30) "metal knuckles" means a device that consists of finger  
5 rings or guards made of a hard substance and designed, made, or adapted  
6 for inflicting serious physical injury or death by striking a person;

7 (31) "misdemeanor" means a crime for which a sentence of im-  
8 prisonment for a term of more than one year may not be imposed;

9 (32) "nondeadly force" means force other than deadly force;

10 (33) "offense" means conduct for which a sentence of imprison-  
11 ment or fine is authorized; an offense is either a crime or a violation

12 (34) "official detention" means custody, arrest, surrender in  
13 lieu of arrest, or confinement under an order of a court in a criminal  
14 or juvenile proceeding, other than an order of conditional bail release

15 (35) "official proceeding" means a proceeding heard before a  
16 legislative, judicial, administrative, or other governmental body or  
17 official authorized to hear evidence under oath;

18 (36) "omission" means a failure to perform an act for which a  
19 duty of performance is imposed by law;

20 (37) "organization" means a legal entity, including a corpora-  
21 tion, company, association, firm, partnership, joint stock company,  
22 foundation, institution, society, union, club, church, or any other  
23 group of persons organized for any purpose;

24 (38) "peace officer" means a public servant vested by law with  
25 a duty to maintain public order or to make arrests, whether the duty  
26 extends to all offenses or is limited to a specific class of offenses  
27 offenders;

28 (39) "person" means a natural person and, when appropriate,  
29 organization, government, or governmental instrumentality;

1 (40) "physical injury" means physical pain or an impairment of  
2 physical condition;

3 (41) "possess" means having physical possession or the exer-  
4 cise of dominion or control over property;

5 (42) "premises" means real property and any building;

6 (43) "propelled vehicle" means a device upon which or by which  
7 a person or property is or may be transported, and which is self-pro-  
8 pelled, including automobiles, vessels, airplanes, motorcycles, snow  
9 machines, all-terrain vehicles, sailboats, and construction equipment;

10 (44) "property" means an article, substance, or thing of  
11 value, including money, tangible and intangible personal property, real  
12 property, a credit card, choses-in-action, and evidence of debt or of  
13 contract, a commodity of a public utility such as gas, electricity,  
14 steam, or water constitutes property but the supplying of such a com-  
15 modity to premises from an outside source by means of wires, pipes,  
16 conduits, or other equipment is considered a rendition of a service  
17 rather than a sale or delivery of property;

18 (45) "public place" means a place to which the public or a  
19 substantial group of persons has access and includes highways, transpor-  
20 tation facilities, schools, places of amusement or business, parks,  
21 playgrounds, prisons, and hallways, lobbies, and other portions of  
22 apartment houses and hotels not constituting rooms or apartments de-  
23 signed for actual residence;

24 (46) "public record" means a document, paper, book, letter,  
25 drawing, map, plat, photo, photographic file, motion picture, film,  
26 microfilm, microphotograph, exhibit, magnetic or paper tape, punched  
27 card or other document of any other material, regardless of physical  
28 form or characteristic, developed or received under law or in connection  
29 with the transaction of official business and preserved or appropriate

1 for preservation by an agency, municipality, or any body subject to the  
2 open meeting provision of AS 44.62.310, as evidence of the organization,  
3 function, policies, decisions, procedures, operations, or other activi-  
4 ties of the state or municipality or because of the informational value  
5 in it; it also includes staff manuals and instructions to staff that  
6 affect the public;

7 (47) "public servant" means each of the following, whether  
8 compensated or not, but does not include jurors or witnesses:

9 (A) an officer or employee of the state, a municipality  
10 or other political subdivision of the state, or a governmental  
11 instrumentality of the state, including legislators, members of the  
12 judiciary, and peace officers;

13 (B) a person who participates as an advisor, consultant  
14 or assistant at the request or direction of the state, a munici-  
15 pality or other political subdivision of the state, or a govern-  
16 mental instrumentality;

17 (C) a person who serves as a member of a board or com-  
18 mission created by statute or by legislative, judicial, or admini-  
19 strative action by the state, a municipality or other political  
20 subdivision of the state, or a governmental instrumentality;

21 (D) a person nominated, elected, appointed, employed, o  
22 designated to act in a capacity defined in (A) - (C) of this para-  
23 graph, but who does not occupy the position;

24 (48) a "renunciation" is not "voluntary and complete" if it i  
25 substantially motivated, in whole or in part, by

26 (A) a belief that circumstances exist which increase th  
27 probability of detection or apprehension of the defendant or  
28 another participant in the criminal enterprise, or which render  
29 more difficult the accomplishment of the criminal purpose; or

1 (B) a decision to postpone the criminal conduct until  
2 another time or to transfer the criminal effort to another victim  
3 or another but similar objective;

4 (49) "serious physical injury" means physical injury which  
5 creates a substantial risk of death or which causes serious and pro-  
6 tracted disfigurement, protracted impairment of health, or protracted  
7 loss or impairment of the function of a bodily organ, or physical injury  
8 which unlawfully terminates a pregnancy;

9 (50) "services" includes labor, professional services, trans-  
10 portation, telephone or other communications service, entertainment, the  
11 supplying of food, lodging, or other accommodations in hotels, restau-  
12 rants, or elsewhere, admission to exhibitions, and the supplying of  
13 equipment for use;

14 (51) "sexual contact" means

15 (A) the intentional touching, directly or through cloth-  
16 ing, by the defendant of the victim's genitals, anus, or female  
17 breast; or

18 (B) the defendant's intentionally causing the victim to  
19 touch, directly or through clothing, the defendant's or victim's  
20 genitals, anus, or female breast;

21 (52) "sexual penetration" means genital intercourse, cunnilin-  
22 gus, fellatio, anal intercourse, or an intrusion, however slight, of an  
23 object or any part of a person's body into the genital or anal opening  
24 of another person's body; each party to any of the acts defined as  
25 "sexual penetration" is considered to be engaged in sexual penetration;

26 (53) "solicits" includes "commands";

27 (54) "threat" means a menace, however communicated, to engage  
28 in conduct described in (1) - (7) of AS 11.41.520(a) but under (1) of  
29 that subsection includes all threats to inflict physical injury on

1 anyone;

2 (55) "violation" is a noncriminal offense punishable only by a  
3 fine, but not by imprisonment or other penalty; conviction of a vio-  
4 lation does not give rise to any disability or legal disadvantage based  
5 on conviction of a crime; a person charged with a violation is not  
6 entitled

7 (A) to a trial by jury; or

8 (B) to have a public defender or other counsel appointed  
9 at public expense to represent him;

10 (56) "voluntary act" means a bodily movement performed con-  
11 sciously as a result of effort and determination, and includes the  
12 possession of property if the defendant was aware of his physical pos-  
13 session or control for a sufficient period to have been able to termi-  
14 nate it.

15 \* Sec. 11. AS 12.25.030 is amended by adding new subsections to read:

16 (b) In addition to the authority granted under (a) of this sec-  
17 tion, a peace officer without a warrant may arrest a person when he has  
18 reasonable cause for believing that the person has committed assault in  
19 the third degree under AS 11.41.230(a)(1) against a member of the per-  
20 son's household.

21 (c) As used in this section "household" means the social unit  
22 comprised of those living together in the same dwelling.

23 \* Sec. 12. AS 12.55 is amended by adding new sections to read:

24 Sec. 12.55.005. DECLARATION OF PURPOSE. The purpose of this  
25 chapter is to provide the means for determining the appropriate senten-  
26 ce to be imposed upon conviction of an offense. The legislature finds th  
27 the elimination of unjustified disparity in sentences and the attainme  
28 of reasonable uniformity in sentences can best be achieved through a  
29 sentencing framework fixed by statute as provided in this chapter. Ir

1 imposing sentence, the court shall consider

2 (1) the seriousness of the defendant's present offense in  
3 relation to other offenses;

4 (2) the prior criminal history of the defendant and the  
5 likelihood of his rehabilitation;

6 (3) the need to confine the defendant to prevent further harm  
7 to the public;

8 (4) the circumstances of the offense and the extent to which  
9 the offense harmed the victim or endangered the public safety or order;

10 (5) the effect of the sentence to be imposed in deterring the  
11 defendant or other members of society from future criminal conduct; and

12 (6) the effect of the sentence to be imposed as a community  
13 condemnation of the criminal act and as a reaffirmation of societal  
14 norms.

15 Sec. 12.55.015. AUTHORIZED SENTENCES. (a) Except as limited by  
16 secs. 125 - 175 of this chapter, the court, in imposing sentence on a  
17 defendant convicted of an offense, may singly or in combination

18 (1) impose a fine when authorized by law and as provided in  
19 sec. 35 of this chapter;

20 (2) order the defendant to be placed on probation under  
21 conditions specified by the court which may include provision for active  
22 supervision;

23 (3) impose a definite term of periodic imprisonment;

24 (4) impose a definite term of continuous imprisonment;

25 (5) order the defendant to make restitution as provided in  
26 sec. 45 of this chapter;

27 (6) order the defendant to carry out a continuous or periodic  
28 program of community work as provided in sec. 55 of this chapter;

29 (7) suspend execution of all or a portion of the sentence

1 imposed as provided in sec. 80 of this chapter;

2 (8) suspend imposition of sentence as provided in sec. 85 of  
3 this chapter.

4 (b) The court, in exercising sentencing discretion as provided in  
5 this chapter, shall impose a sentence involving imprisonment when

6 (1) the defendant deserves to be imprisoned, considering the  
7 seriousness of his present offense and his prior criminal history, and  
8 imprisonment is equitable considering sentences imposed for other of-  
9 fenses and other defendants under similar circumstances;

10 (2) imprisonment is necessary to protect the public from  
11 further harm by the defendant; or

12 (3) a sentence of lesser severity has been imposed in the  
13 past and proven ineffective in deterring the defendant.

14 (c) In addition to the penalties authorized by this section, the  
15 court may invoke any authority conferred by law to order a forfeiture of  
16 property, suspend or revoke a license, remove a person from office, or  
17 impose any other civil penalty.

18 Sec. 12.55.025. SENTENCING PROCEDURES. (a) When imposing a sen-  
19 tence of imprisonment exceeding 180 days, the court shall prepare, as  
20 part of the record, a sentencing report which includes the following:

21 (1) a verbatim record of the sentencing hearing and any oth-  
22 er in-court sentencing procedures;

23 (2) findings on material issues of fact and on factual ques-  
24 tions required to be determined as a prerequisite to the selection of  
25 the sentence imposed;

26 (3) a clear statement of the terms of the sentence imposed;  
27 and

28 (4) recommendations as to the place of confinement or the  
29 manner of treatment.

1 (b) The sentencing report required under (a) of this section shall  
2 be furnished to the Department of Law, the defendant, the division of  
3 corrections, and, if the defendant will be eligible for parole, the  
4 state Board of Parole, within 30 days after imposition of sentence.

5 (c) Except as provided in (d) and (e) of this section, when a  
6 defendant is sentenced to imprisonment, his term of confinement com-  
7 mences on the date of imposition of sentence. A defendant shall receive  
8 credit for time spent in custody pending trial, sentencing, or appeal,  
9 if the detention was in connection with the offense for which sentence  
10 was imposed. A defendant may not receive credit for more than the  
11 actual time he spent in custody pending trial, sentencing, or appeal.  
12 The time during which a defendant is voluntarily absent from official  
13 detention after he has been sentenced may not be credited toward service  
14 of his sentence.

15 (d) A sentence of imprisonment shall be stayed if an appeal is  
16 taken and the defendant is admitted to bail. If an appeal is taken and  
17 the defendant is not admitted to bail, the Department of Health and  
18 Social Services shall designate the facility in which the defendant  
19 shall be detained pending appeal or admission to bail.

20 (e) If the defendant is convicted of two or more crimes before  
1 judgment on either has been entered, any sentences of imprisonment may  
2 run concurrently or consecutively, as the court provides. If the court  
3 does not specify, the sentences of imprisonment shall run concurrently.  
4 If the defendant is imprisoned upon a previous judgment of conviction  
5 for a crime, the judgment may provide that the imprisonment commences at  
6 the expiration of the term limited by the previous judgment or on the  
7 date of imposition of sentence.

8 (f) A sentence that the defendant pay money, either as a fine or  
9 in restitution or both, constitutes a lien in the same manner as a

1 judgment for money entered in a civil action. Nothing in this section  
2 limits the authority of the court to otherwise enforce payment of a fine  
3 or restitution.

4 Sec. 12.55.035. FINES. (a) Upon conviction of an offense, a  
5 defendant may be sentenced to pay a fine as authorized in this section  
6 or as otherwise authorized by law. In determining the amount and method  
7 of payment of a fine, the court shall take into account the financial  
8 resources of the defendant and the nature of the burden its payment will  
9 impose. No defendant may be imprisoned solely because of inability to  
10 pay a fine.

11 (b) Upon conviction of an offense, a defendant who is not an  
12 organization may be sentenced to pay, unless otherwise specified in the  
13 provision of law defining the offense, a fine of no more than

14 (1) \$75,000 for murder in the first or second degree or  
15 kidnapping;

16 (2) \$50,000 for a class A, B, or C felony;

17 (3) \$5,000 for a class A misdemeanor;

18 (4) \$1,000 for a class B misdemeanor;

19 (5) \$300 for a violation.

20 (c) Upon conviction of an offense, a defendant that is an organi-  
21 zation may be sentenced to pay a fine not exceeding the greater of

22 (1) \$100,000; or

23 (2) an amount which is three times the pecuniary gain real-  
24 ized by the defendant as a result of the offense.

25 (d) If a defendant is sentenced to pay a fine, the court may grant  
26 permission for the payment to be made within a specified period of time  
27 or in specified installments.

28 Sec. 12.55.045. RESTITUTION. (a) The court may order a defendant  
29 convicted of an offense to make restitution as provided in this section.

1 or as otherwise authorized by law. In determining the amount and method  
2 of payment of restitution, the court shall take into account the finan-  
3 cial resources of the defendant and the nature of the burden its payment  
4 will impose.

5 (b) Before the court may sentence a defendant to a program of re-  
6 stitution, the victim must be given notice that restitution may be  
7 ordered. An order of restitution under this section does not limit any  
8 civil liability of the defendant arising from his conduct.

9 (c) If a defendant is sentenced to pay restitution, the court may  
10 grant permission for the payment to be made within a specified period of  
11 time or in specified installments.

12 Sec. 12.55.051. ENFORCEMENT OF FINES AND RESTITUTION. (a) If the  
13 defendant defaults in the payment of a fine or any installment or of  
14 restitution or any installment, the court may order the defendant to  
15 show cause why he should not be sentenced to imprisonment for nonpay-  
16 ment. If the court finds by a preponderance of the evidence that the  
17 default was attributable to an intentional refusal or failure to make a  
18 good faith effort to pay the fine or restitution, the court may order  
19 the defendant imprisoned until the order of the court is satisfied. A  
20 term of imprisonment imposed under this section may not exceed one day  
21 for each \$50 of the unpaid portion of the fine or restitution or one  
22 year, whichever is shorter. Credit shall be given toward satisfaction  
23 of the order of the court for every day a person is incarcerated for  
24 nonpayment of a fine or restitution.

25 (b) When a fine or restitution is imposed on an organization, the  
26 person authorized to make disbursements from the assets of the organi-  
27 zation shall pay the fine or restitution from those assets. A person  
28 required to pay a fine or restitution under this subsection who inten-  
29 tionally refuses or fails to make a good faith effort to pay is punish-

1           able under (a) of this section.

2           (c) Pursuant to a petition filed by a defendant who has been  
3 sentenced to pay a fine or restitution or an installment, the court,  
4 upon a finding of inability to pay, may order modification of the fine  
5 or restitution, subject to conditions the court finds appropriate.

6           Sec. 12.55.055. COMMUNITY WORK. (a) The court may order a de-  
7 fendant convicted of an offense to perform community work as a condition  
8 of a suspended sentence or suspended imposition of sentence, or in  
9 addition to any fine or restitution ordered. If the defendant is also  
10 sentenced to imprisonment, the court may recommend to the Department of  
11 Health and Social Services that the defendant perform community work.

12           (b) Community work includes work on projects designed to reduce or  
13 eliminate environmental damage, protect the public health, or improve  
14 public lands, forests, parks, roads, highways, facilities, or education  
15 Community work may not confer a private benefit on a person except as  
16 may be incidental to the public benefit.

17           Sec. 12.55.088. MODIFICATION OF SENTENCE. (a) The court may  
18 modify or reduce a sentence at any time during a term of imprisonment if  
19 it finds that conditions or circumstances have changed since the original  
20 sentencing hearing such that the purpose of the original sentence is  
21 not being fulfilled.

22           (b) The sentencing court may not be required to entertain a second  
23 or successive motion for similar relief brought under (a) of this section  
24 on behalf of the same prisoner.

25           (c) No sentence may be reduced or modified so as to result in a  
26 term of imprisonment which is less than the minimum or presumptive  
27 sentence required by law for the original sentence.

28           Sec. 12.55.125. SENTENCES OF IMPRISONMENT FOR FELONIES. (a) A  
29 defendant convicted of murder in the first degree shall be sentenced to

1 a definite term of imprisonment of at least 20 years but not more than  
2 99 years.

3 (b) A defendant convicted of murder in the second degree or kid-  
4 napping shall be sentenced to a definite term of imprisonment of at  
5 least five years but not more than 99 years.

6 (c) A defendant convicted of a class A felony may be sentenced to  
7 a definite term of imprisonment of not more than 20 years, and shall be  
8 sentenced to the following presumptive terms, subject to adjustment as  
9 provided in secs. 155 - 175 of this chapter:

10 (1) if the offense is a first felony conviction, other than  
11 for manslaughter, and the defendant possessed or used a firearm or  
12 caused serious physical injury during the commission of the offense, six  
13 years;

14 (2) if the offense is a second felony conviction, 10 years;

15 (3) if the offense is a third felony conviction, 15 years.

16 (d) A defendant convicted of a class B felony may be sentenced to  
17 a definite term of imprisonment of not more than 10 years, and shall be  
18 sentenced to the following presumptive terms, subject to adjustment as  
19 provided in secs. 155 - 175 of this chapter:

20 (1) if the offense is a second felony conviction, four years;

21 (2) if the offense is a third felony conviction, six years.

2 (e) A defendant convicted of a class C felony may be sentenced to  
3 a definite term of imprisonment of not more than five years, and shall  
4 be sentenced to the following presumptive terms, subject to adjustment  
5 as provided in secs. 155 - 175 of this chapter:

6 (1) if the offense is a second felony conviction, two years;

7 (2) if the offense is a third felony conviction, three years.

8 (f) If a defendant is sentenced under (a) or (b) of this section,

9 (1) imprisonment for the prescribed minimum term may not be  
2

1 suspended under sec. 80 of this chapter;

2 (2) imposition of sentence may not be suspended under sec. 8  
3 of this chapter;

4 (3) imprisonment for the prescribed minimum term may not be  
5 otherwise reduced.

6 (g) If a defendant is sentenced under (c)(1), (c)(2), (c)(3),  
7 (d)(1), (d)(2), (e)(1), or (e)(2) of this section, except to the extent  
8 permitted under secs. 155 - 175 of this chapter,

9 (1) imprisonment may not be suspended under sec. 80 of this  
10 chapter;

11 (2) imposition of sentence may not be suspended under sec. 80  
12 of this chapter;

13 (3) terms of imprisonment may not be otherwise reduced.

14 (h) Nothing in this section or sec. 135 of this chapter limits the  
15 discretion of the sentencing judge except as specifically provided.

16 Sec. 12.55.135. SENTENCES OF IMPRISONMENT FOR MISDEMEANORS. (a)  
17 A defendant convicted of a class A misdemeanor may be sentenced to a  
18 definite term of imprisonment of not more than one year.

19 (b) A defendant convicted of a class B misdemeanor may be sen-  
20 tenced to a definite term of imprisonment of not more than 90 days  
21 unless otherwise specified in the provision of law defining the offense.

22 Sec. 12.55.140. SENTENCES FOR VIOLATIONS. A defendant convicted  
23 of a violation may be sentenced to pay a fine of not more than \$300.

24 Sec. 12.55.145. PRIOR CONVICTIONS. (a) For purposes of consid-  
25 ing prior convictions in imposing sentence under this chapter

26 (1) a prior conviction may not be considered if a period of  
27 seven or more years has elapsed between the date of the defendant's un-  
28 conditional discharge on the immediately preceding offense and commis-  
29 sion of the present offense;

1 (2) a conviction in this or another jurisdiction of an of-  
2 fense having elements substantially identical to those of a felony  
3 defined as such under Alaska law is considered a prior felony convic-  
4 tion;

5 (3) two or more convictions arising out of a single, con-  
6 tinuous criminal episode during which there was no substantial change in  
7 the nature of the criminal objective are considered a single conviction,  
8 except that offenses committed while attempting to escape or avoid  
9 detection or apprehension after the commission of another offense are  
10 not part of the same criminal episode or objective.

11 (b) When sentence is imposed under this chapter, prior convictions  
12 not expressly admitted by the defendant must be proved by authenticated  
13 copies of court records served on the defendant or his counsel at least  
14 10 days before the date set for imposition of sentence.

15 (c) If the defendant denies the authenticity of a prior judgment  
16 of conviction, that he is the person named in the judgment, that the  
17 elements of a prior offense committed in another jurisdiction are sub-  
18 stantially identical to those of a felony defined as such under Alaska  
19 law, or that a prior conviction occurred within the period specified in  
20 (a)(1) of this section or if he alleges that two or more purportedly  
21 separate prior convictions should be considered a single conviction  
22 under (a)(3) of this section, the defendant shall file with the court  
23 and serve on the prosecuting attorney notice of denial no later than  
24 five days before the date set for imposition of sentence. The notice of  
25 denial shall include a concise statement of the grounds relied upon and  
26 may be supported by affidavit or other documentary evidence.

27 (d) Matters alleged in a notice of denial shall be heard by the  
28 court sitting without a jury. If the defendant introduces substantial  
29 evidence that he is not the person named in a prior judgment of convic-

1 tion, that the judgment is not authentic, that the conviction did not  
2 occur within the period specified in (a)(1) of this section, or that a  
3 conviction should not be considered a prior felony conviction under  
4 (a)(2) of this section, then the burden is on the state to prove the  
5 contrary beyond a reasonable doubt. The burden of proof that two or  
6 more convictions should be considered a single conviction under (a)(3)  
7 of this section is on the defendant by clear and convincing evidence.

8 (e) The authenticated judgments of courts of record of the United  
9 States, the District of Columbia, or of any state, territory, or poli-  
10 tical subdivision of the United States are prima facie evidence of  
11 conviction.

12 Sec. 12.55.155. FACTORS IN AGGRAVATION AND MITIGATION. (a) If  
13 defendant is convicted of an offense and is subject to sentencing unde  
14 sec. 125(c)(1), (c)(2), (c)(3), (d)(1), (d)(2), (e)(1), or (e)(2) of  
15 this chapter and

16 (1) the presumptive term is four years or less, the court m  
17 decrease the presumptive term by an amount as great as the presumptive  
18 term for factors in mitigation or may increase the presumptive term up  
19 to the maximum term of imprisonment for factors in aggravation;

20 (2) the presumptive term of imprisonment is more than four  
21 years, the court may decrease the presumptive term by an amount as gre  
22 as 50 per cent of the presumptive term for factors in mitigation or ma  
23 increase the presumptive term up to the maximum term of imprisonment f  
24 factors in aggravation.

25 (b) Sentence increments and decrements under this section shall  
26 based on the totality of the aggravating and mitigating factors set o  
27 in (c) and (d) of this section.

28 (c) The following factors shall be considered by the sentencing  
29 court and may aggravate the presumptive terms set out in sec. 125 of

1 this chapter:

2 (1) a person, other than an accomplice, sustained physical  
3 injury as a direct result of the defendant's conduct;

4 (2) the defendant's conduct during the commission of the  
5 offense manifested deliberate cruelty to another person;

6 (3) the defendant was the leader of a group of three or more  
7 persons who participated in the offense;

8 (4) the defendant employed a dangerous instrument in fur-  
9 therance of the offense;

10 (5) the defendant knew or reasonably should have known that  
11 the victim of the offense was particularly vulnerable or incapable of  
12 resistance due to advanced age, disability, ill health, or extreme youth  
13 or was for any other reason substantially incapable of exercising normal  
14 physical or mental powers of resistance;

15 (6) the defendant's conduct created a risk of imminent physi-  
16 cal injury to three or more persons, other than accomplices;

17 (7) a prior felony conviction considered for the purpose of  
18 invoking the presumptive terms of this chapter was of a more serious  
19 class of offense than the present offense;

20 (8) the defendant has a criminal history consisting of one or  
21 more convictions for misdemeanors having assault as a necessary element;

22 (9) the defendant knew that the offense involved more than  
23 one victim;

24 (10) the conduct constituting the offense was among the most  
25 serious conduct included in the definition of the offense;

26 (11) the defendant committed the offense pursuant to an agree-  
27 ment that he either pay or be paid for the commission of the offense,  
28 and the pecuniary incentive was beyond that inherent in the offense it-  
29 self;

1 (12) the defendant was on release under AS 12.30.020 or 12.-  
2 30.040 for another felony charge or conviction or for a misdemeanor  
3 charge or conviction having assault as a necessary element;

4 (13) the defendant knowingly directed the conduct constituting  
5 the offense at an active officer of the court or at an active or former  
6 judicial officer, prosecuting attorney, law enforcement officer, correc-  
7 tional employee, or fireman during or because of the exercise of his  
8 official duties;

9 (14) the defendant was a member of an organized group of five  
10 or more persons, and the offense was committed to further the criminal  
11 objectives of the group.

12 (d) The following factors shall be considered by the sentencing  
13 court and may mitigate the presumptive terms set out in sec. 125 of this  
14 chapter:

15 (1) the offense was principally accomplished by another  
16 person, and the defendant manifested extreme caution or sincere concern  
17 for the safety or well-being of the victim;

18 (2) the defendant, although an accomplice, played only a  
19 minor role in the commission of the offense;

20 (3) the defendant committed the offense under some degree of  
21 duress, coercion, threat, or compulsion insufficient to constitute a  
22 complete defense, but which significantly affected his conduct;

23 (4) the conduct of a youthful defendant was substantially  
24 influenced by another person more mature than the defendant;

25 (5) the conduct of an aged defendant was substantially a  
26 product of physical or mental infirmities resulting from his age;

27 (6) in a conviction for assault under AS 11.41.200 - 11.41.  
28 230, the defendant acted with serious provocation from the victim;

29 (7) except in the case of a crime defined by AS 11.41.410

1 11.41.470, the victim provoked the crime to a significant degree;

2 (8) a prior felony conviction considered for the purpose of  
3 invoking the presumptive terms of this chapter was of a less serious  
4 class of offense than the present offense;

5 (9) the conduct constituting the offense was among the least  
6 serious conduct included in the definition of the offense;

7 (10) before the defendant knew that his criminal conduct had  
8 been discovered, he fully compensated or made a good faith effort to  
9 fully compensate the victim of his criminal conduct for any damage or  
0 injury sustained;

1 (11) the defendant was motivated to commit the offense solely  
2 by an overwhelming compulsion to provide for emergency necessities for  
3 his immediate family;

4 (12) the defendant assisted authorities to detect or apprehend  
5 other persons who committed the offense with him.

6 (e) If a factor in aggravation is a necessary element of the  
7 present offense, that factor may not be used to aggravate the presump-  
8 tive term. If a factor in mitigation is raised at trial as a defense  
9 reducing the offense charged to a lesser included offense, that factor  
0 may not be used to mitigate the presumptive term.

1 (f) If the state seeks to establish a factor in aggravation at  
2 sentencing or if the defendant seeks to establish a factor in mitigation  
3 at sentencing, written notice must be served on the opposing party and  
4 filed with the court not later than 10 days before the date set for  
5 imposition of sentence. Factors in aggravation and factors in mitiga-  
6 tion must be established by clear and convincing evidence before the  
7 court sitting without a jury. All findings must be set out with speci-  
8 ficity.

9 (g) Voluntary alcohol or other drug intoxication or chronic al-

1       coholism or other drug addiction may not be considered an aggravating or  
2       mitigating factor.

3               (h) As used in this section, "serious provocation" has the meaning  
4       ascribed to it in AS 11.41.115(f).

5               Sec. 12.55.165. EXTRAORDINARY CIRCUMSTANCES. If the defendant is  
6       subject to sentencing under sec. 125(c)(1), (c)(2), (c)(3), (d)(1),  
7       (d)(2), (e)(1), or (e)(2) of this chapter and the court finds by clear  
8       and convincing evidence that manifest injustice would result from fail-  
9       ure to consider relevant aggravating or mitigating factors not specifi-  
10      cally included in sec. 155 of this chapter or from imposition of the  
11      presumptive term, whether or not adjusted for aggravating or mitigating  
12      factors, the court shall enter findings and conclusions and cause a  
13      record of the proceedings to be transmitted to a three-judge panel for  
14      sentencing under sec. 175 of this chapter.

15              Sec. 12.55.175. THREE-JUDGE SENTENCING PANEL. (a) There is  
16      created within the superior court a panel of five superior court judges  
17      to be appointed by the chief justice in accordance with rules and for  
18      terms as may be prescribed by the supreme court. Three judges of the  
19      panel shall be designated by the chief justice as members. The remain-  
20      ing two judges shall be designated by the chief justice as first and  
21      second alternates to sit as members in the event of disqualification or  
22      disability in accordance with rules as may be prescribed by the supreme  
23      court.

24              (b) Upon receipt of a record of proceedings under sec. 165 of this  
25      chapter, the three-judge panel shall consider all pertinent files,  
26      records, and transcripts, including the findings and conclusions of the  
27      judge who originally heard the matter. The panel may hear oral testi-  
28      mony to supplement the record before it. If the panel finds that mani-  
29      fest injustice would result from failure to consider relevant aggra-

1 vating or mitigating factors not specifically included in sec. 155 of  
2 this chapter or from imposition of the presumptive term, whether or not  
3 adjusted for aggravating or mitigating factors, it shall sentence the  
4 defendant in accordance with this section. If the panel does not find  
5 that manifest injustice would result, it shall remand the case to the  
6 sentencing court, with a written statement of its findings and conclu-  
7 sions, for sentencing under sec. 125 of this chapter.

8 (c) The three-judge panel may in the interest of justice sentence  
9 the defendant to any definite term of imprisonment up to the maximum  
10 term provided for the offense or to any sentence authorized under sec.  
11 15 of this chapter.

12 (d) Sentencing of a defendant or remanding of a case under this  
13 section shall be by a majority of the three-judge panel.

14 Sec. 12.55.185. DEFINITIONS. As used in this chapter, unless the  
15 context requires otherwise,

16 (1) "dangerous instrument" has the meaning ascribed to it in  
17 AS 11.81.900;

18 (2) "division of corrections" means the division of correc-  
19 tions within the Department of Health and Social Services;

20 (3) "firearm" has the meaning ascribed to it in AS 11.81.900;

21 (4) "judicial officer" has the meaning ascribed to it in AS  
22 11.56.900;

23 (5) "pecuniary gain" means the amount of money or value of  
24 property at the time of commission of the offense derived by the defen-  
25 dant from the commission of the offense, less the amount of money or  
26 value of property returned to the victim of the offense or seized by or  
27 surrendered to lawful authority before sentence is imposed;

28 (6) "first felony conviction" means that the defendant has  
29 not been previously convicted of a felony;

1 (7) "second felony conviction" means that the defendant  
2 previously has been convicted of a felony;

3 (8) "third felony conviction" means that the defendant has  
4 been at least twice previously convicted of a felony;

5 (9) "serious physical injury" has the meaning ascribed to it  
6 in AS 11.81.900;

7 (10) "unconditional discharge" means that a defendant is  
8 released from all disability arising under a sentence, including pro-  
9 bation and parole.

10 \* Sec. 13. AS 12.55.100 is amended by adding a new paragraph to read:

11 (4) to perform community work.

12 \* Sec. 14. AS 33.15.080 is amended to read:

13 Sec. 33.15.080. GRANTING OF PAROLE. If it appears to the board  
14 from a review that a prisoner eligible for parole will, in reasonable  
15 probability, live and remain at liberty without violating the laws, or  
16 without violating the conditions imposed by the board, and if the board  
17 determines that his release on parole is not incompatible with the  
18 welfare of society, the board may authorize the release of the prisoner  
19 on parole. However, no prisoner may be released on parole who has not  
20 served at least one-third of the period of confinement to which he has  
21 been sentenced [, OR IN THE CASE OF A LIFE SENTENCE, HAS NOT SERVED AT  
22 LEAST 15 YEARS].

23 \* Sec. 15. AS 33.15.180 is amended to read:

24 Sec. 33.15.180. PERSONS ELIGIBLE FOR PAROLE. A state prisoner  
25 other than a juvenile delinquent, wherever confined and serving a defi-  
26 nite term of over 180 days or a term the minimum of which is at least  
27 181 days, and who is not imprisoned in accordance with AS 12.55.125(c)  
28 (1), (c)(2), (c)(3), (d)(1), (d)(2), (e)(1), or (e)(2), whose record  
29 shows that he has observed the rules of the institution in which he is

1 confined, may, in the discretion of the board, be released on parole,  
2 subject to the limitation prescribed in secs. 80 and 230(a)(1) of this  
3 chapter.

4 \* Sec. 16. AS 33.15.180 is amended by adding new subsections to read:

5 (b) A state prisoner who has been imprisoned in accordance with AS  
6 12.55.125(a) or (b) may not be released on parole until he has served at  
7 least the prescribed minimum term of imprisonment.

8 (c) A state prisoner imprisoned in accordance with AS 12.55.-  
9 125(c)(1), (c)(2), (c)(3), (d)(1), (d)(2), (e)(1), or (e)(2) who is  
10 released under AS 33.20.030 shall be placed on parole for the period  
11 specified in the certificate of deduction, subject to written rules and  
2 conditions imposed by the board or his parole officer.

3 \* Sec. 17. AS 33.20.010 is repealed and re-enacted to read:

4 Sec. 33.20.010. COMPUTATION OF GOOD TIME. Notwithstanding AS  
5 12.55.125(f)(3) and (g)(3), each prisoner convicted of an offense  
6 against the state and sentenced to imprisonment, whose record of conduct  
7 shows that he has faithfully observed the rules of the institution in  
8 which he is confined, is entitled to a deduction from his term of im-  
9 prisonment of one day for every three days of good conduct served.

10 \* Sec. 18. AS 12.45.045(a) is amended to read:

11 (a) In prosecutions for the crime of sexual assault in any degree  
or an attempt to commit sexual assault in any degree [RAPE AND ASSAULT  
WITH INTENT TO COMMIT RAPE], evidence of the complaining witness' pre-  
vious sexual conduct shall not be admitted nor reference made to it in  
the presence of the jury except as provided in this section. When the  
defendant seeks to admit the evidence for any purpose, he may apply for  
an order of the court at any time before or during the trial or preli-  
minary hearing. After the application is made, the court shall conduct  
a hearing in camera to determine the admissibility of the evidence. If

1 the court finds that evidence offered by the defendant regarding the  
2 sexual conduct of the complaining witness is relevant, and that the  
3 probative value of the evidence offered is not outweighed by the pro-  
4 bability that its admission will create undue prejudice, confusion of  
5 the issues, or unwarranted invasion of the privacy of the complaining  
6 witness, the court shall make an order stating what evidence may be  
7 introduced and the nature of the questions which shall be permitted.  
8 The defendant may then offer evidence under the order of the court.

9 \* Sec. 19. AS 12.60.180 is amended to read:

10 Sec. 12.60.180. UNLAWFUL OR RIOTOUS ASSEMBLY. Where six [THREE]  
11 or more persons, whether armed or not, are [UNLAWFULLY OR] riotously  
12 assembled, a district judge, magistrate, peace officer, or the chief  
13 executive officer of a city, town, village, or settlement shall go among  
14 the persons assembled, or as near to them as he can with safety, and  
15 command them in the name of the state to disperse.

16 \* Sec. 20. AS 18.70.090 is amended to read:

17 Sec. 18.70.090. ENFORCEMENT OF REGULATIONS. The Department of  
18 Public Safety and the chief of each city fire department and their  
19 authorized representatives in their respective areas may enforce the  
20 [RULES AND] regulations adopted by the Department of Public Safety for  
21 the prevention of fire or for the protection of life and property  
22 against fire or panic. All state peace officers may assist the Depart-  
23 ment of Public Safety in the enforcement of secs. 10 - 100 of this  
24 chapter and the [RULES AND] regulations adopted under it. The author-  
25 conferred in secs. 10 - 100 of this chapter extends to the enforcement  
26 of the provisions of AS 11.46.400 - 11.46.430 [11.20.010 - 11.20.050,  
27 AND 11.20.070].

28 \* Sec. 21. The following laws are repealed: AS 02.30.020; AS 03.35.06  
29 AS 03.40.100; AS 06.05.515; AS 06.30.875; AS 11.05.010 - 11.05.060, 11.-

1 05.100, 11.05.140 - 11.05.150; AS 11.10; AS 11.15.010 - 11.15.050, 11.15.-  
2 070 - 11.15.340; AS 11.20.010 - 11.20.650, 11.20.670 - 11.20.690; AS 11.22;  
3 AS 11.25; AS 11.30; AS 11.35; AS 11.36; AS 11.40; AS 11.45; AS 11.50; AS  
4 11.55; AS 11.60.010 - 11.60.220, 11.60.340, 11.60.350; AS 11.65.030; AS  
5 11.70.010 - 11.70.030; AS 11.75; AS 12.15.010 - 12.15.040; AS 12.25.130; AS  
6 12.45.030, 12.45.040; AS 12.55.010, 12.55.020, 12.55.040 - 12.55.075; AS  
7 12.60.010, 12.60.030, 12.60.200; AS 18.65.070; AS 23.10.005; 23.10.010; AS  
8 27.05.100 - 27.05.130; AS 28.35.010, 28.35.020; AS 33.20.020; AS 33.30.055;  
9 AS 34.05.030; AS 35.10.140, 35.10.150; AS 38.05.360; AS 39.51.010; AS 45.-  
10 50.471(d), 45.50.551(c); and AS 45.75.370.

11 \* Sec. 22. The revisor of statutes shall renumber the following laws, so  
12 as to remove them from AS 11 and place them in other appropriate titles of  
13 the Alaska Statutes: AS 11.05.070 - 11.05.090, 11.05.110 - 11.05.130; AS  
14 11.15.060; AS 11.20.660; AS 11.60.225, 11.60.250 - 11.60.320; AS 11.65.010,  
15 11.65.020; and AS 11.70.050.

16 \* Sec. 23. (a) Except as otherwise provided, secs. 1 - 10 of this Act  
17 govern the construction of any offense committed on or after the effective  
18 date of this Act, as well as the construction and application of any defense  
19 to a prosecution for an offense.

20 (b) Except as provided in (c) of this section, sec. 12 of this Act  
1 governs the punishment for any offense committed on or after the effective  
2 date of this Act.

3 (c) AS 12.55.125 - 12.55.185, enacted in sec. 12 of this Act, apply  
4 only upon conviction of the crime of murder in the first or second degree,  
5 kidnapping, or any crime classified as a class A, B, or C felony or a class A  
6 or B misdemeanor. For purposes of AS 12.55.125, 12.55.145, and 12.55.155,  
7 the court shall consider prior convictions whether committed before, on, or  
8 after the effective date of this Act.

(d) AS 33.15.180, as amended in secs. 15 and 16 of this Act, applies

1 only to persons imprisoned for crimes committed on or after the effective  
2 date of this Act.

3 (e) AS 33.20.010, as re-enacted in sec. 17 of this Act, applies to all  
4 persons serving terms of imprisonment in state correctional institutions on  
5 or after the effective date of this Act, but is not retroactive in applica-  
6 tion.

7 (f) Sections 1 - 12 of this Act do not apply to or govern the con-  
8 struction of and punishment for any offense committed before the effective  
9 date of this Act or the construction or application of any defense to a  
10 prosecution for the offense. An offense shall be construed and punished  
11 according to the law existing at the time of the commission of the offense in  
12 the same manner as if this Act had not become law.

13 \* Sec. 24. AS 12.55.088, enacted in sec. 12 of this Act, changes  
14 Rule 35 of the Alaska Rules of Criminal Procedure by defining additional  
15 circumstances without regard to time limit wherein a defendant's sentence  
16 may be modified or reduced.

17 \* Sec. 25. This Act takes effect January 1, 1980.