

CS FOR HOUSE BILL NO. 350(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/18/02

Referred: Finance

Sponsor(s): REPRESENTATIVE MCGUIRE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to murder, conspiracy, criminal mischief, and terroristic threatening;**
2 **and providing for an effective date."**

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

4 *** Section 1.** AS 09.60.070(c) is amended to read:

5 (c) In this section, "serious criminal offense" means the following offenses:

- 6 (1) murder in any degree;
- 7 (2) manslaughter;
- 8 (3) criminally negligent homicide;
- 9 (4) assault in any degree;
- 10 (5) kidnapping;
- 11 (6) sexual assault in any degree;
- 12 (7) sexual abuse of a minor in any degree;
- 13 (8) robbery in any degree;
- 14 (9) coercion;

- 1 (10) extortion;
- 2 (11) arson in any degree;
- 3 (12) burglary in any degree;
- 4 (13) criminal mischief in the first, second, [OR] third, or fourth
- 5 degree;
- 6 (14) driving while intoxicated or another crime resulting from the
- 7 operation of a motor vehicle, boat, or airplane when the offender is intoxicated;
- 8 (15) a crime involving domestic violence, as defined in AS 18.66.990.

9 * **Sec. 2.** AS 11.31.120(i)(2) is amended to read:

10 (2) "serious felony offense" means an offense

11 (A) against the person under AS 11.41, punishable as an

12 unclassified or class A felony; [OR]

13 (B) involving controlled substances under AS 11.71,

14 punishable as an unclassified, class A, or class B felony;

15 **(C) that is criminal mischief in the first degree under**

16 **AS 11.46.475; or**

17 **(D) that is terroristic threatening in the first degree under**

18 **AS 11.56.807.**

19 * **Sec. 3.** AS 11.41.100(a) is amended to read:

20 (a) A person commits the crime of murder in the first degree if

21 (1) with intent to cause the death of another person, the person

22 (A) causes the death of any person; or

23 (B) compels or induces any person to commit suicide through

24 duress or deception;

25 (2) the person knowingly engages in conduct directed toward a child

26 under the age of 16 and the person with criminal negligence inflicts serious physical

27 injury on the child by at least two separate acts, and one of the acts results in the death

28 of the child; [OR]

29 (3) acting alone or with one or more persons, the person commits or

30 attempts to commit a sexual offense against or kidnapping of a child under 16 years of

31 age and, in the course of or in furtherance of the offense or in immediate flight from

1 that offense, any person causes the death of the child; in this paragraph, "sexual
2 offense" means an offense defined in AS 11.41.410 - 11.41.470;

3 **(4) acting alone or with one or more persons, the person commits**
4 **or attempts to commit criminal mischief in the first degree under AS 11.46.475**
5 **and, in the course of or in furtherance of the offense or in immediate flight from**
6 **that offense, any person causes the death of a person other than one of the**
7 **participants; or**

8 **(5) acting alone or with one or more persons, the person commits**
9 **terroristic threatening in the first degree under AS 11.56.807 and, in the course of**
10 **or in furtherance of the offense or in immediate flight from that offense, any**
11 **person causes the death of a person other than one of the participants.**

12 * **Sec. 4.** AS 11.41.260(a) is amended to read:

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

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

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

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

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

23 (5) the defendant has been previously convicted of a crime under this
24 section, AS 11.41.270, or AS 11.56.740, or a law or ordinance of this or another
25 jurisdiction with elements similar to a crime under this section, AS 11.41.270, or
26 AS 11.56.740; or

27 (6) the defendant has been previously convicted of a crime, or an
28 attempt or solicitation to commit a crime, under (A) AS 11.41.100 - 11.41.250,
29 11.41.300 - 11.41.460, **AS 11.56.807, 11.56.810** [AS 11.56.810], AS 11.61.120, or (B)
30 a law or an ordinance of this or another jurisdiction with elements similar to a crime,
31 or an attempt or solicitation to commit a crime, under AS 11.41.100 - 11.41.250,

1 11.41.300 - 11.41.460, AS 11.56.807, 11.56.810 [AS 11.56.810], or AS 11.61.120,
2 involving the same victim as the present offense.

3 * **Sec. 5.** AS 11.46 is amended by adding a new section to read:

4 **Sec. 11.46.475. Criminal mischief in the first degree.** (a) A person
5 commits the crime of criminal mischief in the first degree if, having no right to do so
6 or any reasonable ground to believe the person has such a right,

7 (1) the person intentionally damages an oil or gas pipeline or
8 supporting facility;

9 (2) with intent to cause a substantial interruption or impairment of a
10 service rendered to the public by a utility or by an organization that deals with
11 emergencies involving danger to life or property, the person damages or tampers with
12 property of that utility or organization and causes substantial interruption or
13 impairment of service to the public;

14 (3) with intent to damage property of another by the use of widely
15 dangerous means, the person damages property of another in an amount exceeding
16 \$100,000 by the use of widely dangerous means.

17 (b) Criminal mischief in the first degree is a class A felony.

18 * **Sec. 6.** AS 11.46.480(a) is amended to read:

19 (a) A person commits the crime of criminal mischief in the second [FIRST]
20 degree if, having no right to do so or any reasonable ground to believe the person has
21 such a right,

22 (1) [WITH INTENT TO CAUSE A SUBSTANTIAL
23 INTERRUPTION OR IMPAIRMENT OF A SERVICE RENDERED TO THE
24 PUBLIC BY A UTILITY OR BY AN ORGANIZATION WHICH DEALS WITH
25 EMERGENCIES INVOLVING DANGER TO LIFE OR PROPERTY, THE PERSON
26 DAMAGES OR TAMPERS WITH PROPERTY OF THAT UTILITY OR
27 ORGANIZATION AND CAUSES SUBSTANTIAL INTERRUPTION OR
28 IMPAIRMENT OF SERVICE TO THE PUBLIC;

29 (2) WITH INTENT TO DAMAGE PROPERTY OF ANOTHER BY
30 THE USE OF WIDELY DANGEROUS MEANS, THE PERSON DAMAGES
31 PROPERTY OF ANOTHER IN AN AMOUNT EXCEEDING \$100,000 BY THE

1 USE OF WIDELY DANGEROUS MEANS;

2 (3) the person **tampers with** [INTENTIONALLY DAMAGES] an oil
 3 or gas pipeline or supporting facility **or an airplane or helicopter, with reckless**
 4 **disregard for the risk of harm to or loss of the property;** or

5 **(2)** [(4)] with intent to cause physical injury to another person, the
 6 person [:]

7 (A) tampers with **food, air, water, or** an item that is a [FOOD,]
 8 drug [,] or cosmetic, or a container for **food, air, water, or** the item; or

9 (B) delivers, dispenses, or distributes **food, air, water, or** an
 10 item described in (A) of this paragraph knowing that a person has tampered
 11 with the **food, air, water, or item or a container for the food, air, water, or**
 12 item.

13 * **Sec. 7.** AS 11.46.480(b) is amended to read:

14 (b) Criminal mischief in the **second** [FIRST] degree is a class B felony.

15 * **Sec. 8.** AS 11.46.480(c) is amended to read:

16 (c) In **(a)(2)** [(a)(4)] of this section,

17 (1) "deliver" means the actual, constructive, or attempted transfer from
 18 one person to another of **food, air, water, or** an item;

19 (2) "dispense" means to deliver a drug to an ultimate user or research
 20 subject by or under the lawful order of a practitioner, including the prescribing,
 21 administering, packaging, labeling, or compounding necessary to prepare the drug for
 22 that delivery;

23 (3) "distribute" means to deliver **food, air, water, or** an item, whether
 24 or not there is any money or other item of value exchanged; it includes sale, gift, or
 25 exchange;

26 (4) "drug" has the meaning given in AS 11.71.900(9);

27 (5) "tamper" means to interfere with something improperly, meddle
 28 with it, or make unwarranted alterations to its existing condition.

29 * **Sec. 9.** AS 11.46.482(a) is amended to read:

30 (a) A person commits the crime of criminal mischief in the **third** [SECOND]
 31 degree if, having no right to do so or any reasonable ground to believe the person has

1 such a right,

2 (1) with intent to damage property of another, the person damages
3 property of another in an amount of \$500 or more;

4 (2) [THE PERSON TAMPERS WITH AN OIL OR GAS PIPELINE
5 OR SUPPORTING FACILITY OR AN AIRPLANE OR HELICOPTER WITH
6 RECKLESS DISREGARD FOR THE RISK OF HARM TO OR LOSS OF THE
7 PROPERTY;

8 (3)] the person recklessly creates a risk of damage in an amount
9 exceeding \$100,000 to property of another by the use of widely dangerous means; or

10 **(3)** [(4) REPEALED

11 (5) REPEALED

12 (6)] the person knowingly

13 (A) defaces, damages, or desecrates a cemetery or the contents
14 of a cemetery or a tomb, grave, or memorial regardless of whether the tomb,
15 grave, or memorial is in a cemetery or whether the cemetery, tomb, grave, or
16 memorial appears to be abandoned, lost, or neglected;

17 (B) removes human remains or associated burial artifacts from
18 a cemetery, tomb, grave, or memorial regardless of whether the cemetery,
19 tomb, grave, or memorial appears to be abandoned, lost, or neglected.

20 * **Sec. 10.** AS 11.46.482(b) is amended to read:

21 (b) It is an affirmative defense to a prosecution under **(a)(3)** [(a)(6)] of this
22 section that the defendant, at the time of the offense, was

23 (1) an employee of the cemetery and was engaged in an authorized
24 activity on behalf of the cemetery; or

25 (2) authorized by law or state permit to engage in the conduct.

26 * **Sec. 11.** AS 11.46.482(d) is amended to read:

27 (d) Criminal mischief in the **third** [SECOND] degree is a class C felony.

28 * **Sec. 12.** AS 11.46.484(a) is amended to read:

29 **Sec. 11.46.484. Criminal mischief in the fourth [THIRD] degree.** (a) A
30 person commits the crime of criminal mischief in the **fourth** [THIRD] degree if,
31 having no right to do so or any reasonable ground to believe the person has such a

1 right

2 (1) with intent to damage property of another, the person damages
3 property of another in an amount of \$50 or more but less than \$500;

4 (2) [REPEALED

5 (3) REPEALED

6 (4)] the person tampers with a fire protection device in a building that
7 is a public place;

8 **(3)** [(5)] the person knowingly accesses a computer, computer system,
9 computer program, computer network, or part of a computer system or network;

10 **(4)** [(6)] the person uses a device to descramble an electronic signal
11 that has been scrambled to prevent unauthorized receipt or viewing of the signal unless
12 the device is used only to descramble signals received directly from a satellite or
13 unless the person owned the device before September 18, 1984; or

14 **(5)** [(7)] the person knowingly removes, relocates, defaces, alters,
15 obscures, shoots at, destroys, or otherwise tampers with an official traffic control
16 device or damages the work upon a highway under construction.

17 * **Sec. 13.** AS 11.46.484(b) is amended to read:

18 (b) Criminal mischief in the **fourth** [THIRD] degree is a class A
19 misdemeanor.

20 * **Sec. 14.** AS 11.46.486 is amended to read:

21 **Sec. 11.46.486. Criminal mischief in the fifth [FOURTH] degree.** (a) A
22 person commits the crime of criminal mischief in the **fifth** [FOURTH] degree if,
23 having no right to do so or any reasonable ground to believe the person has such a
24 right,

25 (1) with reckless disregard for the risk of harm to or loss of the
26 property or with intent to cause substantial inconvenience to another, the person
27 tampers with property of another;

28 (2) with intent to damage property of another, the person damages
29 property of another in an amount less than \$50; or

30 (3) the person rides in a propelled vehicle knowing it has been stolen
31 or that it is being used in violation of AS 11.46.360 or 11.46.365(a)(1).

1 (b) Criminal mischief in the **fifth** [FOURTH] degree is a class B
2 misdemeanor.

3 * **Sec. 15.** AS 11.46.487 is amended to read:

4 **Sec. 11.46.487. Forfeiture of property upon conviction.** Firearms and other
5 personal property, except a motor vehicle, used in aid of a violation of AS 11.46.460,
6 11.46.462, or **11.46.484(a)(5)** [11.46.484(a)(7)] may be forfeited to the state upon
7 conviction of the offender for the crime.

8 * **Sec. 16.** AS 11.56.800(a) is amended to read:

9 (a) A person commits the crime of false information or report if the person
10 knowingly

11 (1) gives false information to a peace officer

12 (A) with the intent of implicating another in an offense; or

13 (B) concerning the person's identity while the person is

14 (i) under arrest, detention, or investigation for a crime;

15 or

16 (ii) being served with an arrest warrant or being issued a

17 citation;

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

20 (3) makes a false report or gives a false alarm, **under circumstances**
21 **not amounting to terroristic threatening in the second degree under**
22 **AS 11.56.810**, that a fire or other incident dangerous to life or property calling for an
23 emergency response has occurred or is about to occur; or

24 (4) makes a false report to the Department of Natural Resources under
25 AS 46.17 concerning the condition of a dam or reservoir.

26 * **Sec. 17.** AS 11.56 is amended by adding a new section to read:

27 **Sec. 11.56.807. Terroristic threatening in the first degree.** (a) A person
28 commits the crime of terroristic threatening in the first degree if the person sends,
29 delivers, or attempts to send or deliver a package or any other item containing a
30 biological or chemical substance or an imitation biological or chemical substance with
31 intent to

1 (1) place a person in fear of physical injury to any person;

2 (2) cause evacuation of a building, public place or area, business
3 premises, or mode of public transportation; or

4 (3) cause serious public inconvenience.

5 (b) In this section,

6 (1) "biological or chemical substance" means a material that is harmful
7 to the health of a person;

8 (2) "imitation biological or chemical substance" means a material that
9 by its appearance would lead a reasonable person to believe that it is harmful to the
10 health of a person.

11 (c) Terroristic threatening in the first degree is a class B felony.

12 * **Sec. 18.** AS 11.56.810 is amended to read:

13 **Sec. 11.56.810. Terroristic threatening in the second degree.** (a) A person
14 commits the crime of terroristic threatening **in the second degree** if the person
15 knowingly makes a false report that a circumstance

16 **(1)** dangerous to human life exists or is about to exist and

17 **(A)** [(1) PLACES] a person **is placed** in **reasonable** fear of
18 physical injury to any person;

19 **(B)** [(2)] causes evacuation of a building, **public place or area,**
20 **business premises, or mode of public transportation;** [OR]

21 **(C)** [(3)] causes serious public inconvenience;

22 **(D)** **the report claims that a biological or chemical**
23 **substance that is harmful to the health of a person has been sent or is**
24 **present in a building, public place or area, business premises, or mode of**
25 **public transportation; or**

26 **(E)** **substantially disrupts the schedule of an entity**
27 **providing transportation services for persons or property; or**

28 **(2)** **exists or is about to exist that is dangerous to the proper or safe**
29 **functioning of an oil or gas pipeline or supporting facility, utility, or**
30 **transportation or cargo facility; in this paragraph, "oil or gas pipeline and**
31 **supporting facility" and "utility" have the meanings given in AS 11.46.490.**

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

2 * **Sec. 19.** AS 12.61.120(b) is amended to read:

3 (b) If the defendant is proceeding without counsel in a case involving a
4 charged violation of AS 11.41, AS 11.46.300 - 11.46.330, AS 11.56.740, 11.56.807,
5 11.56.810, AS 11.61.190 - 11.61.210, or a crime involving domestic violence [,] and
6 the court finds that the defendant may pose a continuing threat to the victim of or
7 witness to the offense charged, the court shall protect the address and telephone
8 number of the victim or witness by providing the information only to a person
9 specified by the court or by imposing other restrictions that the court considers
10 necessary. When an address or telephone number is released to a person specified by
11 the court under this subsection, that person, who shall be ordered not to disclose the
12 information to the defendant, shall contact the victim or witness on behalf of the
13 defendant, and the defendant shall meet or speak with the victim or witness only in the
14 presence of that person.

15 * **Sec. 20.** AS 18.66.990(3) is amended to read:

16 (3) "domestic violence" and "crime involving domestic violence" mean
17 one or more of the following offenses or an offense under a law or ordinance of
18 another jurisdiction having elements similar to these offenses, or an attempt to commit
19 the offense, by a household member against another household member:

20 (A) a crime against the person under AS 11.41;

21 (B) burglary under AS 11.46.300 - 11.46.310;

22 (C) criminal trespass under AS 11.46.320 - 11.46.330;

23 (D) arson or criminally negligent burning under AS 11.46.400 -
24 11.46.430;

25 (E) criminal mischief under AS 11.46.475 - 11.46.486
26 [AS 11.46.480 - 11.46.486];

27 (F) terrorist threatening under AS 11.56.807 or 11.56.810
28 [AS 11.56.810];

29 (G) violating a domestic violence order under AS 11.56.740; or

30 (H) harassment under AS 11.61.120(a)(2) - (4);

31 * **Sec. 21.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 APPLICABILITY. This Act applied to offenses committed on or after the effective
3 date of this Act.

4 * **Sec. 22.** This Act takes effect immediately under AS 01.10.070(c).