

CS FOR SENATE BILL NO. 240(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 2/13/02

Referred: Resources, Judiciary

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the crimes of murder, conspiracy, criminal mischief, and terroristic**
2 **threatening; making conforming amendments; 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 11.46.480; 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**
5 **AS 11.46.480(a)(3) and, in the course of or in furtherance of the offense or in**
6 **immediate flight from that offense, any person causes the death of a person other**
7 **than one of the 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 11.46.480(a) is amended to read:

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

7 (1) with intent to cause a substantial interruption or impairment of a
8 service rendered to the public by a utility or by an organization **that** [WHICH] deals
9 with emergencies involving danger to life or property, the person damages or tampers
10 with property of that utility or organization and causes substantial interruption or
11 impairment of service to the public;

12 (2) with intent to damage property of another by the use of widely
13 dangerous means, the person damages property of another in an amount exceeding
14 \$100,000 by the use of widely dangerous means;

15 (3) the person intentionally damages an oil or gas pipeline or
16 supporting facility; or

17 (4) with intent to cause physical injury to another person, the person [:]

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

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

23 * **Sec. 6.** AS 11.46.480(b) is amended to read:

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

25 * **Sec. 7.** AS 11.46.480(c)(1) is amended to read:

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

28 * **Sec. 8.** AS 11.46.480(c)(3) is amended to read:

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

1 * **Sec. 9.** AS 11.46 is amended by adding a new section to read:

2 **Sec. 11.46.481. Criminal mischief in the second degree.** (a) A person
3 commits the crime of criminal mischief in the second degree if, having no right to do
4 do so or any reasonable ground to believe the person has such a right, the person tampers
5 with an oil or gas pipeline or supporting facility or an airplane or helicopter with
6 reckless disregard for the risk of harm to or loss of the property;

7 (b) Criminal mischief in the second degree is a class B felony.

8 * **Sec. 10.** AS 11.46.482(a) is amended to read:

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

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

14 (2) [THE PERSON TAMPERS WITH AN OIL OR GAS PIPELINE
15 OR SUPPORTING FACILITY OR AN AIRPLANE OR HELICOPTER WITH
16 RECKLESS DISREGARD FOR THE RISK OF HARM TO OR LOSS OF THE
17 PROPERTY;

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

20 **(3)** [(4) REPEALED

21 (5) REPEALED

22 (6)] the person knowingly

23 (A) defaces, damages, or desecrates a cemetery or the contents
24 of a cemetery or a tomb, grave, or memorial regardless of whether the tomb,
25 grave, or memorial is in a cemetery or whether the cemetery, tomb, grave, or
26 memorial appears to be abandoned, lost, or neglected;

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

30 * **Sec. 11.** AS 11.46.482(b) is amended to read:

31 (b) It is an affirmative defense to a prosecution under **(a)(3)** [(a)(6)] of this

1 section that the defendant, at the time of the offense, was

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

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

5 * **Sec. 12.** AS 11.46.482(d) is amended to read:

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

7 * **Sec. 13.** AS 11.46.484 is amended to read:

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

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

14 (2) [REPEALED

15 (3) REPEALED

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

18 **(3)** [(5)] the person knowingly accesses a computer, computer system,
19 computer program, computer network, or part of a computer system or network;

20 **(4)** [(6)] the person uses a device to descramble an electronic signal
21 that has been scrambled to prevent unauthorized receipt or viewing of the signal unless
22 the device is used only to descramble signals received directly from a satellite or
23 unless the person owned the device before September 18, 1984; or

24 **(5)** [(7)] the person knowingly removes, relocates, defaces, alters,
25 obscures, shoots at, destroys, or otherwise tampers with an official traffic control
26 device or damages the work upon a highway under construction.

27 * **Sec. 14.** AS 11.46.484(b) is amended to read:

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

30 * **Sec. 15.** AS 11.46.486 is amended to read:

31 **Sec. 11.46.486. Criminal mischief in the fifth [FOURTH] degree.** (a) A

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

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

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

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

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

13 * **Sec. 16.** AS 11.46.487 is amended to read:

14 **Sec. 11.46.487. Forfeiture of property upon conviction.** Firearms and other
 15 personal property, except a motor vehicle, used in aid of a violation of AS 11.46.460,
 16 11.46.462, or **11.46.484(a)(5)** [11.46.484(a)(7)] may be forfeited to the state upon
 17 conviction of the offender for the crime.

18 * **Sec. 17.** AS 11.56.800(a) is amended to read:

19 (a) A person commits the crime of false information or report if the person
 20 knowingly

21 (1) gives false information to a peace officer

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

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

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

25 or

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

27 citation;

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

30 (3) makes a false report or gives a false alarm, **under circumstances**
 31 **not amounting to terroristic threatening in the second degree under**

1 **AS 11.56.810**, that a fire or other incident dangerous to life or property calling for an
2 emergency response has occurred or is about to occur; or

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

5 * **Sec. 18.** AS 11.56 is amended by adding a new section to read:

6 **Sec. 11.56.807. Terroristic threatening in the first degree.** (a) A person
7 commits the crime of terroristic threatening in the first degree if the person sends,
8 delivers, attempts to send or deliver, or solicits the sending or delivery of an envelope,
9 package, or any other item containing a biological or chemical substance or an
10 imitation biological or chemical substance with intent

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

12 (2) to cause evacuation of a building, public place, business premises,
13 or means of public transportation; or

14 (3) to cause serious public inconvenience.

15 (b) In this section,

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

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

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

22 * **Sec. 19.** AS 11.56.810 is amended to read

23 **Sec. 11.56.810. Terroristic threatening in the second degree.** (a) A person
24 commits the crime of terroristic threatening **in the second degree** if the person
25 knowingly makes a false report

26 **(1)** that a circumstance dangerous to human life exists or is about to
27 exist and

28 **(A)** [(1)] places a person in fear of physical injury to any
29 person;

30 **(B)** [(2)] causes evacuation of a building, **public place,**
31 **business premises, or means of public transportation;** [OR]

1 (C) [(3)] causes serious public inconvenience;

2 (D) that claims that a biological or chemical substance that
3 is harmful to the health of a person has been sent or is present in a
4 building, public place, business premises, or means of public
5 transportation; or

6 (2) that threatens damage to an oil or gas pipeline or supporting
7 facility.

8 (b) Terroristic threatening in the second degree is a class C felony.

9 * **Sec. 20.** AS 11.56.810 is amended by adding a new subsection to read:

10 (c) In this section, "oil or gas pipeline or supporting facility" has the meaning
11 given in AS 11.46.490.

12 * **Sec. 21.** AS 12.61.120(b) is amended to read:

13 (b) If the defendant is proceeding without counsel in a case involving a
14 charged violation of AS 11.41, AS 11.46.300 - 11.46.330, AS 11.56.740, 11.56.807,
15 11.56.810, AS 11.61.190 - 11.61.210, or a crime involving domestic violence [,] and
16 the court finds that the defendant may pose a continuing threat to the victim of or
17 witness to the offense charged, the court shall protect the address and telephone
18 number of the victim or witness by providing the information only to a person
19 specified by the court or by imposing other restrictions that the court considers
20 necessary. When an address or telephone number is released to a person specified by
21 the court under this subsection, that person, who shall be ordered not to disclose the
22 information to the defendant, shall contact the victim or witness on behalf of the
23 defendant, and the defendant shall meet or speak with the victim or witness only in the
24 presence of that person.

25 * **Sec. 22.** AS 18.66.990(3) is amended to read:

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

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

31 (B) burglary under AS 11.46.300 - 11.46.310;

- 1 (C) criminal trespass under AS 11.46.320 - 11.46.330;
- 2 (D) arson or criminally negligent burning under AS 11.46.400 -
- 3 11.46.430;
- 4 (E) criminal mischief under AS 11.46.480 - 11.46.486;
- 5 (F) terroristic threatening under AS 11.56.807 or 11.56.810
- 6 [AS 11.56.810];
- 7 (G) violating a domestic violence order under AS 11.56.740;
- 8 or
- 9 (H) harassment under AS 11.61.120(a)(2) - (4);

10 * **Sec. 23.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 APPLICABILITY. This Act applies to offenses committed on or after the effective
13 date of this Act.

14 * **Sec. 24.** This Act takes effect immediately under AS 01.10.070(c).