

1 IN THE SENATE

BY THE RULES COMMITTEE BY REQUEST
OF THE LEGISLATIVE COUNCIL

2 SENATE BILL NO. 119

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SECOND LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act to codify and revise the law relating
7 to criminal proceedings; to provide a compre-
8 hensive code of criminal proceedings; and to
9 provide for an effective date."

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

11 ARTICLE I. GENERAL PROVISIONS

12 Section 1.01. APPLICABILITY OF CODE. The provisions of this
13 Code apply to all criminal actions and proceedings in all courts
14 except where specific provision is otherwise made.

15 Sec., 1.02. GENERAL TIME LIMITATION. A prosecution for
16 murder may be commenced at any time. A prosecution for any other
17 felony may be commenced only within three years after it is com-
18 mitted. A prosecution for a misdemeanor may be commenced only
19 within one year after it is committed.

20 Sec. 1.03. SPECIFIC TIME LIMITATION. a. Even if the general
21 time limitation has expired, a prosecution for any offense which
22 includes a material element of fraud or breach of fiduciary obli-
23 gation may be commenced within one year after the discovery of the
24 offense by an aggrieved party or by a person who has legal capacity
25 to represent an aggrieved party or a legal duty to report the
26 offense and who is himself not a party to the offense, but in no
27 case shall this provision extend the period of limitation other-
28 wise applicable by more than three years.

29 b. Even if the general time limitation has expired, a prose-

1 cution for any offense based upon misconduct in office by a pub-
2 lic officer or employee may be commenced within one year after
3 discovery of the offense by a person having a duty to report such
4 offense, but in no case shall this provision extend the period of
5 limitation otherwise applicable by more than three years.

6 Sec. 1.04. DEFINITIONS. a. An offense is committed either
7 when every element occurs, or, if a legislative purpose to pro-
8 hibit a continuing course of conduct plainly appears, at the time
9 when the course of conduct or the defendant's complicity therein
10 is terminated. Time starts to run on the day after the offense is
11 committed.

12 b. A prosecution is commenced either when an indictment is
13 found or when a warrant is issued, provided that such warrant is
14 executed without unreasonable delay.

15 Sec. 1.05. WHEN PERIOD OF LIMITATION DOES NOT RUN. a. The
16 period of limitation does not run during any time when the accused
17 with a purpose to avoid detection, apprehension or prosecution, is
18 outside the state or is absent from his usual place of abode with-
19 in the state, but in no case shall this provision extend the
20 period of limitation otherwise applicable by more than three
21 years.

22 b. The period of limitation does not run during any time
23 when a prosecution against the accused for the same conduct is
24 pending in this state.

25 Sec. 1.06. CRIME COMMENCED OUTSIDE STATE BUT CONSUMMATED
26 INSIDE. When the commission of a crime commenced outside the
27 state is consummated inside the state, the defendant is liable to
28 punishment in this state though he was out of the state at the
29 time of the commission of the crime charged, if he consummated

1 the crime through the intervention of an innocent or guilty agent,
2 or by other means proceeding directly from himself.

3 Sec. 1.07. ABROGATION OF DISTINCTIONS BETWEEN ACCESSORIES
4 AND PRINCIPALS. The distinction between an accessory before the
5 fact and a principal, and between principals in the first and
6 second degree, is abrogated; and all persons concerned in the
7 commission of a felony, whether they directly commit the act con-
8 stituting the crime or, though not present, aid and abet in its
9 commission, shall be prosecuted, tried, and punished as principals

10 Sec. 1.08. PROSECUTION OF ACCESSORY. An accessory after
11 the fact to the commission of a felony may be prosecuted, tried,
12 and punished, though the principal felon is neither prosecuted
13 nor tried.

14 Sec. 1.09. PROSECUTION OF ONE COMPOUNDING OR CONCEALING
15 CRIME. A person may be prosecuted for having, with the knowledge
16 of a commission of a crime, taken money or property of another,
17 or a gratuity or a reward, or an engagement or promise of money,
18 property, gratuity or reward, upon an agreement or understanding,
19 express or implied, to compound or conceal the crime, or to ab-
20 stain from a prosecution of the crime, or to withhold any evidence
21 of the crime, though the person guilty of the original crime is
22 neither prosecuted nor tried.

23 Sec. 1.10. CONVICTION OR ACQUITTAL ELSEWHERE AS BAR. When
24 an act charged as a crime is within the jurisdiction of the United
25 States, another state or a territory, as well as of this state, a
26 conviction or acquittal in the former is a bar to the prosecution
27 for it in this state.

28 Sec. 1.11. WHEN ACQUITTAL OR DISMISSAL IS NO BAR. If the
29 defendant is acquitted on the ground of a variance between the

1 charge and the proof, or the charge is dismissed upon an objection
2 to its form or substance, it is not an acquittal of the crime and
3 does not bar a subsequent prosecution for the same crime.

4 Sec. 1.12. WHEN ACQUITTAL IS A BAR. When the defendant is
5 acquitted on the merits, he is acquitted of the same crime, not-
6 withstanding any defect in form or substance in the charge, in-
7 formation or complaint on which the trial was had.

8 Sec. 1.13. WHEN CONVICTION OR ACQUITTAL IS A BAR TO OTHER
9 OFFENSES. When the defendant is convicted or acquitted of a crime
10 consisting of different degrees, the conviction or acquittal is a
11 bar to another prosecution for the crime charged in the former or
12 for any inferior degree of that crime, or for an attempt to commit
13 that crime, or for an offense necessarily included in the crime,
14 of which he might have been convicted under the information, in-
15 dictment or complaint.

16 Sec. 1.14. DISMISSAL AS BAR. a. It is a bar to another
17 prosecution for the same crime, if the crime is a misdemeanor, but
18 it is not a bar if the crime charged is a felony when a person is:

19 (1) held to answer to the grand jury and the court dis-
20 misses the charge before the case is presented to the Grand Jury
21 upon the motion of the prosecuting attorney; or

22 (2) held to answer to the grand jury and the court dis-
23 misses the charge because the indictment is not found against him
24 at the next session of the grand jury; or

25 (3) indicted for a crime, and the indictment is dis-
26 missed because the trial is not held within a reasonable period of
27 time, and the delay is not the result of a postponement at the
28 request of the defendant or with his consent and there is not good
29 cause for the delay.

1 b. Unless the court directs a judgment of acquittal to be
2 entered, it is not a bar to another action for the same crime if
3 the court orders an indictment to be discharged because the prose-
4 cuting attorney is not prepared to go to trial when the indictment
5 is called for trial and does not show sufficient cause for post-
6 poning the trial.

7 Sec. 1.15. DISCHARGE OF CODEFENDANT AS BAR. It is an
8 acquittal of the defendant discharged and a bar to another prose-
9 cution for the same crime when two or more persons are charged in
10 the same indictment, and the court dismisses the indictment against
11 any defendant either:

12 (1) before the defendant has gone into his defense and
13 on the application of the prosecuting attorney so that he may be a
14 witness for the state; or

15 (2) before the evidence is closed and on the application
16 of another defendant on trial so that he may be a witness for a
17 codefendant, and when in the opinion of the court there is not
18 sufficient evidence to put that defendant on his defense.

19 Sec. 1.16. CONTEMPT. The provisions of the Code of Civil
20 Actions and Proceedings relating to contempt shall apply in
21 criminal actions.

22 ARTICLE II. ARREST

23 Sec. 2.01. "ARREST" DEFINED. Arrest is the taking of a per-
24 son into custody in order that he may be held to answer for the
25 commission of a crime.

26 Sec. 2.02. PERSONS AUTHORIZED TO ARREST. An arrest may be
27 made by a peace officer or by a private person.

28 Sec. 2.03. MAGISTRATE MAY ORDER ARREST. When a crime is com-
29 mitted in the presence of a magistrate, he may, by an oral or

1 written order, command any person to arrest the offender, and may
2 immediately proceed as though the offender had been brought before
3 him on a warrant of arrest.

4 Sec. 2.04. GROUNDS FOR ARREST BY PEACE OFFICERS WITHOUT
5 WARRANT. A peace officer may, without a warrant, arrest a person:

6 (1) for a crime committed or attempted in his presence;

7 (2) when the person has committed a felony, although
8 not in his presence;

9 (3) when a felony has in fact been committed, and he
10 has reasonable cause for believing the person to have committed it.

11 Sec. 2.05. GROUNDS FOR ARREST BY PRIVATE PERSON. A private
12 person may arrest another:

13 (1) for a crime committed or attempted in his presence;

14 (2) when the person has committed a felony, although not
15 in his presence;

16 (3) when a felony has in fact been committed, and he
17 has reasonable cause for believing the person to have committed it.

18 Sec. 2.06. METHOD OF MAKING ARREST. An arrest is made by an
19 actual restraint of the person to be arrested, or by his submis-
20 sion to the custody of the person making the arrest.

21 Sec. 2.07. METHOD OF ARREST BY OFFICER WITHOUT WARRANT.
22 When making an arrest without a warrant, the peace officer shall
23 inform the person to be arrested of his authority and the cause of
24 the arrest, unless the person to be arrested is then engaged in the
25 commission of a crime, or is pursued immediately after its com-
26 mission or after an escape.

27 Sec. 2.08. LIMITATION ON RESTRAINT IN ARREST. No peace
28 officer or private person may subject a person arrested to greater
29 restraint than is necessary and proper for his arrest and

1 detention.

2 Sec. 2.09. MEANS TO EFFECT RESISTED ARREST. If the person
3 being arrested either flees or forcibly resists after notice of
4 intention to make the arrest, the peace officer may use all the
5 necessary and proper means to effect the arrest.

6 Sec. 2.10. AUTHORITY TO SUMMON AID TO MAKE ARREST. Any
7 peace officer making an arrest may orally summon as many persons
8 as he considers necessary to aid him in making the arrest. Every
9 person when required by an officer shall aid him in making the
10 arrest.

11 Sec. 2.11. BREAKING DOORS OR WINDOWS TO EFFECT ARREST. A
12 peace officer may break into a building or vessel in which the
13 person to be arrested is or is believed to be, if the officer is
14 refused admittance after he has announced his authority and
15 purpose.

16 Sec. 2.12. BREAKING DOORS OR WINDOWS TO LIBERATE. A peace
17 officer may break open a door or window of any building to liber-
18 ate a person who entered to make an arrest and is detained,
19 or to liberate himself when necessary.

20 Sec. 2.13. RETAKING ESCAPED PRISONER. If a person arrested
21 escapes or is rescued, the person from whose custody he escaped
22 or was rescued may immediately pursue and retake him at any time
23 and in any place in the state.

24 Sec. 2.14. MEANS USABLE TO RETAKE PRISONER. To retake the
25 person escaping or rescued, the person pursuing may use the same
26 means and do any act necessary and proper in making an original
27 arrest.

28 Sec. 2.15. PROPERTY TAKEN FROM DEFENDANT ON ARREST. When
29 money or other property is taken from a person arrested upon a

1 charge of a crime, the officer taking it shall immediately make
2 duplicate receipts for the property, specifying particularly the
3 amount of money or kind of property taken. The officer shall
4 deliver one receipt to the person arrested and the other to the
5 magistrate who examines the charge. or if the arrest is after the
6 information or indictment, to the clerk of the court where the
7 action is pending.

8 Sec. 2.16. PENALTY FOR FAILURE TO PERMIT VISITATION. a. No
9 officer having custody of a person arrested may wilfully refuse or
10 neglect to allow an attorney entitled to practice law in this
11 state to visit the person without delay. The violation of this
12 provision is a misdemeanor and is punishable by a fine of not more
13 than \$100.00 or imprisonment for not more than 30 days, or by both
14 the fine and imprisonment.

15 b. An officer having custody of a person arrested shall
16 allow an attorney to visit the prisoner when proper application is
17 made. If an officer violates his duty under this provision, the
18 aggrieved party may recover \$500.00 from the officer in a civil
19 action.

20 ARTICLE III. BAIL

21 Sec. 3.01. ADMISSION TO BAIL DEFINED. Admission to bail is
22 the order of a competent court or magistrate that the defendant be
23 discharged from actual custody on bail.

24 Sec. 3.02. TAKING OF BAIL DEFINED. The taking of bail con-
25 sists of the acceptance, by a competent court or magistrate, of the
26 undertaking of sufficient bail for the appearance of defendant,
27 according to the terms of the undertaking, or that the bail will
28 pay to the state a specified sum.

29 Sec. 3.03. BAIL BEFORE CONVICTION IS MATTER OF RIGHT. The
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1 defendant is entitled to be admitted to bail before conviction, as
2 a matter of right.

3 Sec. 3.04. AUTHORITY OF MAGISTRATE TO ADMIT TO BAIL BEFORE
4 INDICTMENT. When the defendant has been held to answer upon an
5 examination for a crime, the magistrate holding the defendant, or
6 any other magistrate, may admit him to bail.

7 Sec. 3.05. ADMISSION TO BAIL AFTER INDICTMENT AND BEFORE
8 CONVICTION. After an indictment is found and before conviction, a
9 defendant cannot be admitted to bail except by the court where the
10 action is pending.

11 Sec. 3.06. ARREST BY BAIL OR DEPOSITOR FOR PURPOSE OF SUR-
12 RENDER. For the purpose of surrendering the defendant, the bail,
13 or any person who has deposited money to secure the release of the
14 defendant, at any time before they are finally discharged and at
15 any place within the state, may themselves arrest him, or by a
16 written authority, endorsed on a certified copy of the undertaking,
17 or a certified copy of the deposit, may empower any other person
18 to do so.

19 ARTICLE IV. SEARCH AND SEIZURE

20 Sec. 4.01. DEFINITION AND AUTHORITY TO ISSUE SEARCH WARRANTS.

21 A search warrant is an order, in writing, signed by a judge or
22 magistrate, directed to a peace officer, commanding him to search
23 for personal property and bring it before the magistrate. Any
24 judge or magistrate may issue a search warrant.

25 Sec. 4.02. GROUNDS FOR ISSUANCE. A search warrant may be
26 issued upon any of the following grounds:

27 (1) If the property was stolen or embezzled, it may be
28 taken on the warrant from any house or other place in which it is
29 concealed or may be found, or from the possession of the person by

1 whom it was stolen or embezzled, or from any person who is in
2 possession of the property.

3 (2) When the property is used as a means of committing
4 a felony, it may be taken on the warrant from any house or other
5 place in which it is concealed or may be found, or from the pos-
6 session of the person by whom it was used in the commission of the
7 crime, or from any person who is in possession of the property.

8 (3) When the property is in the possession of a person
9 who intends to use it as the means of committing a crime, or in
10 possession of another to whom he may have delivered it for the
11 purpose of concealing it or preventing its being discovered, it may
12 be taken on the warrant from the possession of that person, or from
13 possession of the person to whom he may have delivered it, or from
14 any house or other place occupied by them or under their control,
15 or either of them.

16 Sec. 4.03. SHOWING OF PROBABLE CAUSE. A search warrant shall
17 not issue except upon probable cause, supported by oath or affir-
18 mation, and particularly describing the place to be searched and
19 the things to be seized.

20 Sec. 4.04. AUTHORITY OF OFFICER EXECUTING WARRANT. In the
21 execution or service of a search warrant, the officer has the same
22 power and authority, in all respects, to break open any door or
23 window, to use the necessary and proper means to overcome any
24 forcible resistance made to him, or to call any other person to
25 his aid, as he has in the execution or service of a warrant of
26 arrest.

27 Sec. 4.05. DISPOSITION OF PROPERTY TAKEN. When the property
28 is delivered to the judge or magistrate, he shall, if it was
29 stolen or embezzled, dispose of it as provided in Secs. 4.09 and

1 4.10. If it was taken on a warrant issued on the grounds stated
2 in Sec. 4.02(2) and Sec. 4.02(3), he shall retain it in his pos-
3 session, subject to the order of the court to which he is required
4 to return the proceedings before him, or any other court in which
5 the crime in respect to which the property was taken is triable.

6 Sec. 4.06. MALICIOUS PROCUREMENT OF SEARCH WARRANT. Any
7 person who maliciously and without probable cause causes a search
8 warrant to be issued and executed is guilty of a misdemeanor.

9 Sec. 4.07. SEARCH OF DEFENDANT IN PRESENCE OF JUDGE OR
10 MAGISTRATE. When a person charged with a crime is believed by the
11 judge or magistrate before whom he is brought to have on his per-
12 son a dangerous weapon, or anything which may be used as evidence
13 of the commission of the crime, the judge or magistrate may direct
14 the accused to be searched in his presence, and the weapon or
15 other thing retained, subject to his order or the order of the
16 court in which the defendant may be tried.

17 Sec. 4.08. MAGISTRATE OR OFFICER TO HOLD PROPERTY ALLEGEDLY
18 STOLEN OR EMBEZZLED. When property alleged to have been stolen or
19 embezzled comes into the custody of a magistrate or peace officer,
20 he shall hold it subject to the order of the magistrate who
21 examines the charge against the person accused of stealing or
22 embezzling the property.

23 Sec. 4.09. DELIVERY OF PROPERTY TO OWNER. On satisfactory
24 proof of ownership of the property, the magistrate who examines
25 the charge against the person accused of stealing or embezzling it
26 shall order it to be delivered to the owner, on his paying the
27 reasonable and necessary expenses incurred in its preservation, to
28 be certified by the magistrate. The order entitles the owner to
29 demand and receive the possession of the property but does not

1 affect the rights of third persons.

2 Sec. 4.10. PROPERTY NOT DELIVERED TO OWNER. If the property
3 stolen or embezzled has not been delivered to the owner, the court
4 before which the trial is had for the theft or embezzlement of the
5 property may order its delivery to the owner under the conditions
6 of Sec. 4.09.

7 Sec. 4.11. DISPOSAL OF UNCLAIMED PROPERTY. If property
8 stolen or embezzled is not claimed by the owner within 60 days
9 after the conviction of the person for stealing or embezzling it,
10 the magistrate or other officer having it in custody shall, if it
11 is money, deposit it in court, or if it is other property, sell it
12 in the same manner as a sale upon an execution. After paying the
13 expenses of the sale and preservation of the property, as certi-
14 fied by the court, the proceeds shall be disposed of in the same
15 manner as monies collected upon judgments in favor of the state.

16 ARTICLE V. GRAND JURY

17 Sec. 5.01. QUALIFICATIONS AND MANNER OF DRAWING GRAND JURORS.
18 Grand jurors shall have the qualifications and be drawn as are
19 trial jurors under Art. II of the Code of Civil Actions and Pro-
20 ceedings.

21 Sec. 5.02. NUMBER OF JURORS. The grand jury consists of not
22 less than 12 nor more than 18 members.

23 Sec. 5.03. DUTY OF INQUIRY INTO CRIMES. The grand jury shall
24 inquire into all crimes committed or triable within the juris-
25 diction of the court, which are presented to them by the prosecut-
26 ing attorney or otherwise come to their knowledge, and present
27 them to the court.

28 Sec. 5.04. DUTY OF INQUIRY INTO JAILS AND COURT OFFICES.
29 The grand jury shall inquire into the condition and management of

1 the public prisons and jails within the judicial district and of
2 the offices pertaining to the courts of justice in the state.

3 Sec. 5.05. ACCESS TO PUBLIC JAILS AND PRISONS AND PUBLIC
4 RECORDS. The grand jury is entitled to free access, at all reason-
5 able time, to the public jails and prisons, to offices pertaining
6 to the courts of justice in the state, and to the examination,
7 without charge, of all public records in the state.

8 Sec. 5.06. PROSECUTING ATTORNEY'S DUTY. The prosecuting
9 attorney (1) shall submit an indictment to the grand jury and
10 cause the evidence in support of the indictment to be brought be-
11 fore them in every case when a person is held to answer a criminal
12 charge in the court where the jury is formed; (2) may submit an
13 indictment in any case when he has good reason to believe a crime
14 has been committed which is triable by the court; and (3) shall,
15 when required by the grand jury, prepare indictments or presentments
16 for them and attend their sittings to advise them in relation to
17 their duties or to examine witnesses in their presence.

18 Sec. 5.07. EFFECT OF FAILURE TO RETURN INDICTMENT; RE-
19 EXAMINATION BY JURY. When a grand jury does not return an in-
20 dictment, the charge is dismissed, and it may not be again submitted
21 to or inquired into by the grand jury, unless the court so orders.

22 ARTICLE VI. TRIAL

23 Sec. 6.01. FORMATION OF TRIAL JURY. The qualification,
24 disqualification, and exemption of jurors, the preparation of jury
25 lists, composition of jury panel, and the impaneling of the trial
26 jury, in criminal actions are the same as provided in civil actions.

27 Sec. 6.02. CONVICTION ON TESTIMONY OF ACCOMPLICE; CORROBORA-
28 TION. A conviction shall not be had on the testimony of an ac-
29 complice unless it is corroborated by other evidence which tends

1 to connect the defendant with the commission of the crime; and the
2 corroboration is not sufficient if it merely shows the commission
3 or the crime or the circumstances of the commission.

4 Sec. 6.03. NECESSARY EVIDENCE FOR FALSE PRETENSES. Upon a
5 trial for having, by any false pretense, obtained the signature of
6 a person to a written instrument, or obtained from a person a
7 valuable thing, the defendant cannot be convicted if the false pre-
8 tense was expressed in language unaccompanied by a false token or
9 writing, unless the pretense, or some note or memorandum of it, is
10 in writing, subscribed by or in the handwriting of the defendant.
11 This section does not apply to a prosecution for falsely represent-
12 ing or personating another, and in that assumed character receiving
13 a valuable thing.

14 Sec. 6.04. NECESSARY EVIDENCE FOR PROSTITUTION OR SEDUCTION.
15 Upon a trial for inveigling, enticing, or taking away an unmarried
16 female for the purposes of prostitution, or for seducing and having
17 an illicit connection with an unmarried female, the defendant shall
18 not be convicted upon the testimony of the injured female unless
19 it is corroborated by some other evidence tending to connect the
20 defendant with the commission of the crime.

21 Sec. 6.05. LIMITATION ON DISCOVERY OF STATEMENT OF GOVERN-
22 MENT WITNESS. In any criminal prosecution, no statement or report
23 in the possession of the state which was made by a government wit-
24 ness or prospective government witness (other than the defendant)
25 to an agent of the government may be the subject of subpoena,
26 discovery, or inspection until the witness has testified on direct
27 examination in the trial of the case.

28 Sec. 6.06. DISCOVERY AFTER DIRECT EXAMINATION OF WITNESS.
29 After a witness called by the state has testified on direct

1 examination, the court shall, on motion of the defendant, order the
2 state to produce any statement of the witness in the possession of
3 the state which relates to the subject matter as to which the wit-
4 ness has testified. If the entire contents of the statement re-
5 late to the subject matter of the testimony of the witness, the
6 court shall order it to be delivered directly to the defendant for
7 his examination and use.

8 Sec. 6.07. DISCOVERY OF PORTIONS OF STATEMENT. If the state
9 claims that any statement ordered to be produced under Sec. 6.06
10 contains matter which does not relate to the subject matter of the
11 testimony of the witness, the court shall order the state to de-
12 liver the statement for the inspection of the court in chambers.
13 Upon delivery the court shall excise the portions of the statement
14 which do not relate to the subject matter of the testimony of the
15 witness. With the material excised, the court shall then direct
16 delivery of the statement to the defendant for his use. If,
17 pursuant to this procedure, any portion of the statement is with-
18 held from the defendant and the defendant objects to the withhold-
19 ing, and the trial is continued to an adjudication of the guilt of
20 the defendant, the entire text of the statement shall be preserved
21 by the state and, in the event the defendant appeals, shall be
22 made available to the appellate court for the purpose of determin-
23 ing the correctness of the ruling of the trial judge. Whenever
24 any statement is delivered to a defendant, the court may recess the
25 trial for the examination of the statement by the defendant and
26 his preparation for its use in the trial.

27 Sec. 6.08. DISPOSITION OF PROCEEDING UPON FAILURE OF STATE
28 TO COMPLY WITH ORDER. If the state elects not to comply with an
29 order of the court to deliver to the defendant any statement, or a

1 portion of any statement as the court may direct, the court shall
2 strike from the record the testimony of the witness, and the trial
3 shall proceed unless the court in its discretion shall determine
4 that the interests of justice require that a mistrial be declared.

5 Sec. 6.09. DEFINITIONS. The term "statement" as used in
6 Secs. 6.06, 6.07, and 6.08, in relation to any witness called by
7 the state, means:

8 (1) a written statement made by the witness and signed
9 or otherwise adopted or approved by him; or

10 (2) a stenographic, mechanical, electrical, or other
11 recording, or a transcription of the statement, which is a sub-
12 stantially verbatim recital of an oral statement made by the wit-
13 ness to an agent of the government and recorded contemporaneously
14 with the making of the oral statement.

15 Sec. 6.10. COMMITMENT OF DEFENDANT ON GROUND OF INSANITY.
16 If the jury finds the defendant not guilty on the ground of in-
17 sanity and the court considers his being at large dangerous to the
18 public peace or safety, the court shall order him to be committed
19 to an institution authorized by the commissioner of health and
20 welfare to receive that person and held in custody until he becomes
21 sane or is otherwise discharged therefrom by authority of law.

22 Sec. 6.11. DETERMINATION OF INSANITY DURING TRIAL OR PROBA-
23 TION. Whenever, after arrest and prior to the imposition of
24 sentence or prior to the expiration of any period of probation, the
25 attorney general or the district attorney has reasonable cause to
26 believe that a person charged with an offense may be presently in-
27 sane or otherwise so mentally incompetent as to be unable to under-
28 stand the proceedings against him or properly to assist in his own
29 defense, he may file a motion for a judicial determination of the

1 mental competency of the accused. Upon that motion or upon a
2 similar motion in behalf of the accused, or upon its own motion,
3 the court shall have the accused, whether or not previously ad-
4 mitted to bail, examined as to his mental condition by at least one
5 qualified psychiatrist, who shall report to the court. For the
6 purpose of the examination the court may order the accused com-
7 mitted for a reasonable period as the court may determine to a
8 suitable hospital or other facility to be designated by the court.
9 If the report of the psychiatrist indicates a state of present in-
10 sanity or of mental incompetency in the accused, the court shall
11 hold a hearing, upon due notice, at which evidence as to the mental
12 condition of the accused may be submitted, including that of the
13 reporting psychiatrist, and make a finding with respect thereto.
14 No statement made by the accused in the course of any examination
15 into his sanity or mental competency provided for by this section,
16 whether the examination is with or without the consent of the
17 accused, may be admitted in evidence against the accused on the
18 issue of guilt in any criminal proceeding. A finding by the judge
19 that the accused is mentally competent to stand trial in no way
20 prejudices the accused in a plea of insanity as a defense to the
21 crime charged; the finding may not be introduced in evidence on
22 that issue nor otherwise be brought to the notice of the jury.

23 Sec. 6.12. COMMITMENT ON FINDING OF INSANITY. Whenever the
24 trial court determines, in accordance with Sec. 6.11, that an
25 accused is or was mentally incompetent, the court may commit the
26 accused to the custody of the commissioner of health and welfare
27 or his authorized representative until the accused shall be
28 mentally competent to stand trial or until the pending charges
29 against him are disposed of according to law.

1 Sec. 6.13. AUTHORITY TO COMPROMISE MISDEMEANORS FOR WHICH
2 VICTIM HAS CIVIL ACTION. When a defendant is held to answer on a
3 charge of misdemeanor, for which the person injured by the act
4 constituting the crime has a remedy by a civil action, the crime
5 may be compromised, except when it was committed:

6 (1) by or upon a peace officer while in the execution of
7 the duties of his office;

8 (2) riotously;

9 (3) with an intent to commit a felony;

10 (4) larcenously.

11 Sec. 6.14. ACKNOWLEDGMENT OF SATISFACTION BY INJURED PARTY.
12 If the party injured appears before the court in which the de-
13 fendant is bound to appear, at any time before trial, and acknow-
14 ledges in writing that he has received satisfaction for the injury,
15 the court may, on payment of the costs incurred, order the prose-
16 cution dismissed and the defendant discharged. The order is a bar
17 to another prosecution for the same crime.

18 Sec. 6.15. COMPROMISE OR STAY UPON COMPROMISE BY OTHER MEANS
19 PROHIBITED. No crime may be compromised or the prosecution or
20 punishment upon a compromise dismissed or stayed except as pro-
21 vided by law.

22 Sec. 6.16. ORDER FOR COMPLAINANT TO PAY COSTS FOR MALICIOUS
23 PROSECUTION WITHOUT PROBABLE CAUSE. If, pursuant to a proceeding
24 upon a complaint, the defendant is acquitted, and the court certi-
25 fies that the prosecution was malicious and without probable cause,
26 it may order the complainant to pay the costs of the action, or to
27 give satisfactory security by written undertaking with one or more
28 sureties, to pay the same. If the complainant does not pay the
29 costs, or give security for them, the court may enter judgment

1 against him for the amount of the costs, which may be enforced in
2 all respects in the same manner as a judgment rendered in a civil
3 action.

4 ARTICLE VII. WITNESSES

5 Sec. 7.01. UNDERTAKING FOR MATERIAL WITNESSES. On holding
6 the defendant to answer, the magistrate may take from each of the
7 material witnesses examined before him, on behalf of the state, an
8 undertaking to the effect that he will appear and testify at the
9 court in which the defendant is held to answer, or that he will
10 forfeit to the state the sum of \$100.00.

11 Sec. 7.02. COMMITMENT ON FAILURE TO COMPLY WITH ORDER. If a
12 witness required to enter into an undertaking to appear and testi-
13 fy, either with or without sureties, refuses compliance with the
14 order for that purpose, the magistrate shall commit him to the
15 custody of a peace officer until he complies or is legally dis-
16 charged.

17 Sec. 7.03. DEFINITIONS. As used in Secs. 7.03 through 7.10:

18 (1) "witness" includes a person whose testimony is
19 desired in any proceeding or investigation by a grand jury or in a
20 criminal action, prosecution or proceeding;

21 (2) "state" means any state, territory of the United
22 States, and the District of Columbia;

23 (3) "subpoena" includes a summons, in any state where a
24 summons is used in lieu of subpoena, order or other notice requir-
25 ing the appearance of a witness. The word subpoena also includes
26 a subpoena duces tecum.

27 Sec. 7.04. SUBPOENAING WITNESS IN THIS STATE TO TESTIFY IN
28 ANOTHER STATE. a. If a judge of a court of record in any state,
29 which by its laws has made provision for commanding persons within

1 the state to attend and testify in this state, certifies under the
2 seal of the court that there is a criminal prosecution pending in
3 the court or that a grand jury investigation has commenced or is
4 about to commence, that a person within this state is a material
5 witness in that prosecution or grand jury investigation, and that
6 his presence will be required for a specified number of days, then,
7 upon presentation of the certificate to a judge of a court of
8 record in the judicial district in which the person is, the judge
9 shall fix a time and place for a hearing and shall make an order
10 directing the witness to appear at a time and place certain for the
11 hearing.

12 b. If at a hearing the judge determines that the witness is
13 material and necessary, that it will not cause undue hardship to
14 the witness to be compelled to attend and testify in the prosecu-
15 tion or grand jury investigation in the other state, and that the
16 laws of the state in which the prosecution is pending or grand
17 jury investigation has commenced or is about to commence will give
18 to the witness protection from arrest and the service of civil and
19 criminal process, he shall issue a subpoena, with a copy of the
20 certificate attached, directing the witness to attend and testify
21 in the court where the prosecution is pending or where a grand
22 jury investigation has commenced or is about to commence at a time
23 and place specified in the subpoena. In any such hearing the
24 certificate shall be prima facie evidence of all of the facts
25 stated therein.

26 c. If the certificate recommends that the witness be taken
27 into immediate custody and delivered to an officer of the request-
28 ing state to assure his attendance in the requesting state, the
29 judge may, in lieu of notification of the hearing, direct that the

1 witness be forthwith brought before him for said hearing; and if
2 the judge at the hearing is satisfied of the desirability of the
3 custody and delivery, for which determination the certificate shall
4 be prima facie proof of this desirability, he may, in lieu of
5 issuing subpoena, order that the witness be forthwith taken into
6 custody and delivered to an officer of the requesting state.

7 d. If the witness who is subpoenaed as above provided, after
8 being paid or tendered by a properly authorized person a sum
9 equivalent to the cost of air fare round trip passage on a certi-
10 ficated carrier or such prepaid passage and reasonable incidental
11 travel allowance for going to and from airports, plus \$20.00 per
12 day for each day that he is required to travel and attend as a
13 witness, fails without good cause to attend and testify as directed
14 in the subpoena, he shall be punished in the manner provided for
15 the punishment of any witness who disobeys a subpoena issued from
16 a court of record in this state.

17 Sec. 7.05. WITNESS FROM ANOTHER STATE SUBPOENAED TO TESTIFY
18 IN THIS STATE. a. If a person in any state which by its laws has
19 made provision for commanding persons within its borders to attend
20 and testify in criminal prosecutions or grand jury investigations
21 commenced or about to commence in this state as a material witness
22 in a criminal action pending in a court of record of this state or
23 in a grand jury investigation which has commenced or is about to
24 commence, a judge of the court may issue a certificate under the
25 seal of the court stating these facts and specifying the number of
26 days the witness will be required. The certificate may include a
27 recommendation that the witness be taken into immediate custody and
28 delivered to an officer of this state to assure his attendance in
29 this state. This certificate shall be presented to a judge of a

1 court of record in the county or judicial district in which the
2 witness is found. This order of a court in the other state deliver-
3 ing custody of a witness to an officer of this state shall be suf-
4 ficient authority to an officer of this state to take the witness
5 into custody and hold him until discharged by a court of this
6 state.

7 b. If the witness is subpoenaed to attend and testify in
8 this state he shall be tendered a sum equivalent to the cost of air
9 fare round trip passage on a certificated carrier or such prepaid
10 passage and reasonable incidental travel allowance for going to and
11 from airports, plus \$20.00 per day for each day that he is required
12 to travel and attend as a witness. A witness who has appeared in
13 accordance with the provisions of the subpoena shall not be re-
14 quired to remain within the state a longer period of time than the
15 period mentioned in the certificate, unless otherwise ordered by
16 the court. If the witness, after coming into this state, fails
17 without good cause to attend and testify as directed in the sub-
18 poena, he shall be punished in the manner provided for the punish-
19 ment of any witness who disobeys a subpoena issued from a court of
20 record in this state.

21 Sec. 7.06. IMMUNITY OF WITNESS FROM ARREST OR SERVICE OF
22 PROCESS. If a person comes into this state in obedience to a sub-
23 poena directing him to attend and testify in this state, he shall
24 not, while in this state pursuant to the subpoena, be subject to
25 arrest or the service of process, civil or criminal, in connection
26 with matters which arose before his entrance into this state under
27 the subpoena.

28 Sec. 7.07. IMMUNITY OF FOREIGN WITNESS PASSING THROUGH STATE
29 FROM ARREST OR PROCESS. If a person passes through this state

1 while going to another state in obedience to a subpoena to attend
2 and testify in that state or while returning therefrom, he shall
3 not, while so passing through this state, be subject to arrest or
4 the service of process, civil or criminal, in connection with
5 matters which arose before his entrance into this state under the
6 subpoena.

7 Sec. 7.08. UNIFORMITY OF INTERPRETATION. Secs. 7.03 through
8 7.10 shall be so interpreted and construed as to effectuate the
9 general purpose to make uniform the laws of the state which enact
10 similar legislation.

11 Sec. 7.09. PARTY SEEKING WITNESS. The right to obtain wit-
12 nesses under Secs. 7.03 through 7.10 in criminal proceedings shall
13 extend to the state or a defendant.

14 Sec. 7.10. SHORT TITLE. Secs. 7.03 through 7.09 may be cited
15 as the "Uniform Act to Secure Attendance of Witnesses in Criminal
16 Proceedings."

17 ARTICLE VIII. SENTENCING AND PROBATION

18 Sec. 8.01. IMPRISONMENT AS JUDGMENT FOR PAYMENT OF FINE. A
19 judgment that the defendant pay a fine, with or without other
20 punishment shall also direct that he be imprisoned until the fine
21 is satisfied. The judgment shall specify the extent of the im-
22 prisonment, which shall not exceed one day for each \$2.00 of the
23 fine. If the judgment omits to direct the imprisonment and the
24 extent of it, the judgment to pay the fine operates to authorize
25 and require the imprisonment of the defendant until the fine is
26 satisfied at the rate specified.

27 Sec. 8.02. ENFORCING JUDGMENT TO PAY MONEY. A judgment that
28 a defendant pay a fine constitutes a lien in the same manner as a
29 judgment for money rendered in a civil action. Execution may issue

1 on it as on a judgment in a civil action.

2 Sec. 8.03. DISCHARGE OF INDIGENTS IMPRISONED FOR NONPAYMENT
3 OF FINE. When an indigent defendant has been confined in prison
4 30 days solely for the nonpayment of a fine, he may make applica-
5 tion in writing to the court pronouncing sentence, setting forth
6 his inability to pay the fine, and, after notice to the prosecuting
7 attorney, the court shall hold a hearing. If on examination it
8 appears to the satisfaction of the court that the defendant is un-
9 able to pay the fine and that he does not have property exceeding
10 \$20.00 in value, except property which is exempt by law from
11 being taken on execution for debt, the court shall administer
12 the following oath: "I do solemnly swear that I do not have any
13 property, real or personal, to the amount of \$20.00, except pro-
14 perty which is exempt by law from being taken on civil process
15 for debt, and that I have no property in any way conveyed or
16 concealed or disposed of, for my future use or benefit. So help
17 me God." Upon taking the oath, the court shall discharge the
18 defendant.

19 Sec. 8.04. INCREASED PUNISHMENT FOR HABITUAL CRIMINAL AFTER
20 CONVICTION OF PETTY LARCENY OR MISDEMEANOR INVOLVING FRAUD.
21 Every person convicted of petty larceny or a misdemeanor in which
22 fraud or intent to defraud is an element, who, subsequent to
23 March 9, 1939, has been three times convicted in this state, or
24 elsewhere, of an offense which would come within the provisions
25 of Secs. 65-5-32, 65-5-33, 65-5-41 through 65-5-43, 65-5-46
26 through 65-5-49, 65-5-61 and 65-5-81, ACLA 1949 shall be adjudged
27 an habitual criminal and shall be sentenced to imprisonment in
28 the penitentiary for a term of not less than three nor more than
29 10 years.

1 Sec. 8.05. INCREASED PUNISHMENT FOR PERSONS CONVICTED OF
2 MORE THAN ONE FELONY. Every person convicted of a felony in this
3 state who has been previously convicted of a felony in this state
4 or elsewhere shall be punished as follows:

5 (1) If that person is convicted of a felony which
6 would be punishable by imprisonment for any term less than his
7 natural life, and that person had previously been convicted of
8 one felony, then that person shall be sentenced to imprisonment
9 in the penitentiary for not more than twice the longest term
10 prescribed for the felony of which that person is convicted;

11 (2) If that person has previously been convicted of
12 two felonies, then that person shall be sentenced to imprisonment
13 in the penitentiary for not more than twice the longest term
14 prescribed herein for a second conviction of felony;

15 (3) If that person has previously been convicted of
16 three or more felonies, then on the fourth conviction that person
17 shall be adjudged an habitual criminal and sentenced to imprison-
18 ment in the penitentiary for the term of his natural life.

19 Sec. 8.06. PROCEDURE UPON DISCOVERY OF PRIOR CONVICTIONS.
20 Before conviction or while sentence is effective, if it appears
21 that a person convicted of a crime in this state has previously
22 been convicted and has not been charged under Secs. 8.04 and
23 8.05, the district attorney may file an information in the super-
24 ior court accusing that person of the previous conviction or
25 convictions. The court shall cause that person, whether confined
26 in prison or otherwise, to be brought before it and shall in-
27 form him of the allegations contained in the information and of
28 his right to be tried as to the truth of the allegations, and
29 shall require the accused person to plead to the information. If

1 the accused acknowledges or confesses in open court, after being
2 cautioned as to his rights, that he was previously convicted of
3 the offenses charged, or any of them, the court shall sentence him
4 as provided in Sec. 8.04, of Sec. 8.05, and shall vacate the
5 previous sentence, deducting from the new sentence all time ac-
6 tually served on the sentence so vacated. If the accused says
7 he is not the same person, or refuses to answer, or remains silent,
8 or pleads not guilty, the court shall examine the charge of pre-
9 vious conviction, which shall be the only matter in issue. If
10 it appears from the examination that there is sufficient cause
11 to believe the accused has been previously convicted as charged
12 in the information, the accused shall be committed to await the
13 action of the grand jury, which shall consider only the fact of
14 previous conviction of the accused. If the grand jury indicts
15 the accused and he pleads not guilty, he shall be tried by jury
16 in the superior court, and the only issue before the jury shall
17 be whether the accused was previously convicted as charged. If
18 the jury finds that the accused has been previously convicted as
19 charged, or if, after being cautioned as to his rights, the
20 accused acknowledges or confesses in open court that he was pre-
21 viously convicted as charged, the court shall sentence him as
22 provided in Sec. 8.04 or Sec. 8.05, and shall vacate the previous
23 sentence, deducting from the new sentence all time served on the
24 vacated sentence. The accused may be admitted to bail either
25 while awaiting examination, action of the grand jury, or trial.

26 Sec. 8.07. NOTIFICATION OF PROSECUTING ATTORNEY OF DISCOVERY
27 OF PRIOR CONVICTIONS. Whenever it shall become known to a prison,
28 probation, parole or police officer that a person charged with or
29 convicted of an offense has been previously convicted of another

1 offense, he shall immediately report the fact to the district
2 attorney.

3 Sec. 8.08. SUSPENSION OF SENTENCE AND PROBATION. a. Upon
4 entering a judgment of conviction of an offense not punishable
5 by life imprisonment, or at any time within 60 days from the date
6 of entry of the judgment of conviction, the magistrate or superior
7 court, when satisfied that the ends of justice and the best in-
8 terest of the public as well as the defendant will be served
9 thereby, may suspend the imposition or execution or balance of
10 the sentence and place the defendant on probation for that period
11 and upon the terms and conditions the court considers best.

12 b. Upon entering a judgment of conviction of an offense not
13 punishable by life imprisonment, if the maximum punishment pro-
14 vided for that offense is more than six months, the magistrate or
15 superior court, when satisfied that the ends of justice and the
16 best interest of the public as well as the defendant will be
17 served thereby, may impose a sentence in excess of six months
18 and provide that the defendant be confined in a jail-type insti-
19 tution or a treatment institution for a period not exceeding six
20 months and that the execution of the remainder of the sentence be
21 suspended and the defendant placed on probation for that period
22 and upon the terms and conditions the court considers best.

23 Sec. 8.09. GRANTING OF PROBATION. a. Probation may be
24 granted whether the offense is punishable by fine or imprisonment
25 or both. If an offense is punishable by both fine and imprison-
26 ment, the court may impose a fine and place the defendant on
27 probation as to imprisonment. Probation may be limited to one or
28 more counts or indictments, but in the absence of express limi-
29 tation, shall extend to the entire sentence and judgment.

1 b. The court may revoke or modify any condition of proba-
2 tion, or may change the period of probation.

3 c. The period of probation, together with any extension,
4 shall not exceed five years.

5 Sec. 8.10. CONDITIONS OF PROBATION. a. While on probation
6 and among the conditions of probation, the defendant may be re-
7 quired:

8 (1) to pay a fine in one or several sums;

9 (2) to make restitution or reparation to aggrieved
10 parties for actual damages or loss caused by the offense for
11 which conviction was had; and

12 (3) to provide for the support of any persons for
13 whose support he is legally responsible.

14 b. The defendant's liability for any fine or other punish-
15 ment imposed as to which probation is granted shall be fully
16 discharged by the fulfillment of the terms and conditions of
17 probation.

18 Sec. 8.11. NOTICE AND GROUNDS FOR REVOCATION OF SUSPENSION.
19 When sentence has been suspended, it shall not be revoked except
20 for good cause shown. In all proceedings for the revocation of
21 a suspended sentence, the defendant is entitled to reasonable
22 notice and the right to be represented by counsel.

23 ARTICLE IX. PREVENTION OF CRIMES

24 Sec. 9.01. RESISTANCE TO COMMISSION OF CRIME. Lawful
25 resistance to the commission of crime may be made by the party
26 about to be injured, or by any other person in aid or defense of
27 the person about to be injured:

28 (1) To prevent a crime against his person or his
29 family;

1 (2) To prevent an illegal attempt by force to take or
2 injure property in his possession.

3 Sec. 9.02. MANNER OF PREVENTING CRIME. Crimes may be pre-
4 vented by the intervention of the peace officers:

5 (1) By requiring security to keep the peace;

6 (2) By forming a police in cities, towns, villages,
7 and settlements and by requiring their attendance at exposed
8 places;

9 (3) By suppressing riots.

10 Sec. 9.03. JUSTIFICATION OF PERSONS AIDING OFFICERS IN
11 PREVENTING CRIME. When peace officers act in the prevention of
12 crime, other persons who, by their command, act in their aid are
13 justified in doing so.

14 Sec. 9.04. ACTION ON THREATENED CRIME. Any person may
15 bring an action in the magistrate court against a person who has
16 threatened to commit a crime against the person or property of
17 another.

18 Sec. 9.05. EXAMINATION OF INFORMER AND WITNESSES. When
19 the action is brought, the magistrate shall examine the informer.
20 and any witnesses he produces and shall take their depositions.

21 Sec. 9.06. ARREST. If it appears that there is good reason
22 to fear the commission of the crime threatened by the person in-
23 formed against, the magistrate shall by either summons or arrest
24 have the person informed against immediately brought before him.

25 Sec. 9.07. EXAMINATION OF CHARGE. When the person informed
26 against appears or is brought before the magistrate, if the
27 charge is controverted, the magistrate may subpoena witnesses,
28 hear any statement to the charges made by the person informed
29 against, and all other testimony and determine it.

1 Sec. 9.08. ADJOURNMENT OF EXAMINATION. If the examination
2 is adjourned, the magistrate may commit the defendant for exam-
3 ination or admit him to bail as security for his appearance at
4 the time to which the examination is adjourned.

5 Sec. 9.09. DISCHARGE FOR LACK OF GROUNDS. If it appears
6 that there is no good reason to fear the commission of the crime
7 alleged to have been threatened, the person informed of shall be
8 discharged.

9 Sec. 9.10. REQUIREMENT OF UNDERTAKING. If there is good
10 reason to fear the commission of the crime, the person informed
11 of may be required to enter into an undertaking in a sum, not
12 exceeding \$2,000.00, as the magistrate may direct, with one or
13 more sufficient sureties, to keep the peace toward the people of
14 the state, and particularly toward the informer. The undertaking
15 is valid and binding for six months and may, upon the renewal of
16 the action, be extended for a longer period, or a new undertaking
17 required.

18 Sec. 9.11. DISCHARGE UPON GIVING UNDERTAKING. If the under-
19 taking is given, the party informed of shall be discharged. If
20 he does not give it, the magistrate shall commit him to the
21 custody of a peace officer.

22 Sec. 9.12. SECURITY WHERE CRIME COMMITTED OR THREATENED
23 BEFORE COURT OR MAGISTRATE. A person who, in the presence of a
24 court or magistrate, assaults or threatens to assault another,
25 or to commit an offense against his property, or who contends with
26 another with angry words to the disturbance of the peace, may be
27 ordered by the court or magistrate, without warrant or other
28 proof, to give security as provided in this article and if he
29 omits to do so, may be committed.

1 Sec. 9.13. DISCHARGE UPON GIVING UNDERTAKING AFTER COMMIT-
2 MENT. If the person informed of is committed for not giving the
3 undertaking required, he may be discharged by any magistrate upon
4 giving the undertaking.

5 Sec. 9.14. FORFEITURE OF UNDERTAKING. The undertaking is
6 forfeited upon the conviction of the person informed against of a
7 breach of the peace.

8 Sec. 9.15. REQUIRING SECURITY OF CONVICTED PERSON. The
9 court before whom any person is convicted of a crime, which by
10 the judgment of the court is punished otherwise than by imprison-
11 ment in the penitentiary, may require that person to enter into
12 an undertaking as provided in Sec. 9.10 for a period not exceeding
13 two years. If he does not provide the undertaking, the court may
14 commit him until the undertaking is given or the period expired.

15 Sec. 9.16. SECURITY TO KEEP PEACE. An undertaking to keep
16 the peace shall also be considered an undertaking to be of good
17 behaviour, and cannot be required except as prescribed in this
18 article.

19 Sec. 9.17. UNLAWFUL OR RIOTOUS ASSEMBLY; COMMAND TO DISPERSE
20 Where three or more persons, whether armed or not, are unlawfully
21 or riotously assembled, any magistrate, peace officer or the
22 chief executive officer of a city, town, village, or settlement,
23 shall go among the persons assembled, or as near to them as they
24 can with safety, and command them in the name of the people of
25 the state to disperse.

26 Sec. 9.18. ARREST ON FAILURE TO DISPERSE; COMMANDING AID
27 OF PERSONS. If the persons assembled do not immediately disperse,
28 the magistrates and officers shall arrest them. Any two of the
29 magistrates or officers mentioned in Sec. 9.17 may command the

1 aid of a sufficient number of persons, armed or otherwise, as
2 may be necessary, and may proceed in the manner as in their judg-
3 ment may be most expedient to disperse the assembly and arrest
4 the offenders.

5 Sec. 9.19. PERSON REFUSING TO AID OFFICERS AS RIOTER. If
6 a person is commanded to aid the magistrate or officers, or any
7 of them, mentioned in Sec. 9.18, and neglects to do so, he is con-
8 sidered one of the rioters, and may be treated and is punishable
9 accordingly.

10 Sec. 9.20. OFFICER FAILING TO ACT IS GUILTY OF MISDEMEANOR.
11 If a magistrate or officer having notice of an unlawful or riotous
12 assembly, mentioned in Sec. 9.17, neglects to proceed to the place
13 of assembly, or as near as he can with safety, and to exercise
14 the authority with which he is invested for suppressing the same
15 and arresting the offenders, he is guilty of a misdemeanor.

16 Sec. 9.21. GUILT WHERE DEATH ENSUES. If, in the effort to
17 suppress or disperse any unlawful or riotous assembly, or to
18 arrest or detain any of the persons engaged in the assembly, any
19 of the rioters or other persons then present as spectators or
20 otherwise are killed or wounded, the magistrate and officers and
21 persons acting in their aid are guiltless of the killing or
22 wounding. However, if any magistrate or officer or person acting
23 in their aid is killed or wounded, all the persons engaged in
24 the assembly are guilty of the killing or wounding.

25 Sec. 9.22. REWARD FOR INFORMATION LEADING TO CONVICTION OF
26 CERTAIN PERSONS. A reward of \$100.00 shall be paid to any per-
27 son not a peace officer who lodges information that leads to the
28 arrest and conviction of any person, or persons, maliciously
29 breaking into and entering any cache, cabin, house or warehouse,

1 whether occupied or unoccupied, located outside the boundaries
2 of any incorporated town in the state.

3 Sec. 9.23. PAYMENT OF REWARD. The Department of Revenue
4 shall pay all claims for rewards upon certificate by a magistrate
5 or clerk of the superior court, showing that the claimant has
6 lodged information that resulted in an arrest and conviction
7 under the provisions of Sec. 9.22.

8 ARTICLE X. CORONER'S INQUEST

9 Sec. 10.01. APPOINTMENT OF MEDICAL EXAMINER. The commis-
10 sioner of health and welfare may appoint medical examiners in
11 each of the judicial districts. He may appoint any number and
12 designate them to serve in those areas as, in his opinion, the
13 administration of justice requires. To be eligible for medical
14 examiner, a person shall be a physician licensed to practice in
15 this state or a physician employed by the state, or by any agency
16 of the United States government within the state, if he is
17 licensed in a state other than Alaska. Appointments shall be
18 for a term not to exceed one year.

19 Sec. 10.02. DUTIES. Whenever any person dies unattended
20 by a physician, or whenever no physician is prepared to execute
21 the certificate of death prescribed by the Vital Statistics Act,
22 the district magistrate or deputy magistrate assigned to serve
23 the place where death occurs may, by written order, direct a
24 medical examiner to view the remains of the deceased person and
25 to perform the post mortem examination, including an autopsy, as
26 is, in the opinion of the medical examiner, necessary to make
27 a proper determination of the cause of death and to execute the
28 prescribed death certificate. Upon the completion of the examin-
29 ation, the examiner shall, without delay, submit a report of his

1 findings and conclusions to the district magistrate or deputy
2 magistrate. The magistrate shall order an inquest under this
3 article if the findings and conclusions of the medical examiner,
4 together with other information available to the magistrate,
5 warrant the inquest. Otherwise he shall enter an order dispensing
6 with the inquest and shall record the certificate of death as
7 prescribed by law.

8 Sec. 10.03. MAGISTRATE AS CORONER. District magistrates
9 and deputy magistrates shall serve as ex officio coroners and
10 shall perform the duties and exercise the authority of that
11 office.

12 Sec. 10.04. INVESTIGATION OF CAUSES OF DEATH. The coroner
13 shall determine the cause of death of a person who is reported
14 to the coroner as having been killed, or who has committed suicide,
15 or who has suddenly died under circumstances which afford reason-
16 able ground to suspect that the death was occasioned by the act
17 of another by criminal means. In order to make that determination
18 he may in his discretion take possession of and inspect the body
19 of the decedent, which shall include the power to exhume the body,
20 make or cause to be made a post mortem examination or autopsy
21 of the body, and make or cause to be made an analysis of the
22 contents, organs, or tissues of the body, and secure professional
23 opinions as to the result of the post mortem examination. He
24 shall cause the information secured to be reduced to writing and
25 immediately file it in his records of the death of the individual.
26 He may also in his discretion, if the circumstances warrant it,
27 hold an inquest. He shall have the right to retain only those
28 contents of the body removed at the time of autopsy as may, in
29 his opinion, be necessary or advisable to the investigation of

1 the case, or for the verification of his findings.

2 Sec. 10.05. SUMMONING JURORS FOR INQUEST. If an inquest
3 is warranted, the coroner shall immediately summon six persons
4 qualified by law to serve as jurors to appear before him at a
5 specified place, to inquire into the cause of the death.

6 Sec. 10.06. OATH OF INQUEST JURORS. When six jurors attend,
7 they shall be sworn by the coroner to inquire who the person was
8 and when, where, and by what means he came to his death, and to
9 inquire into the circumstances attending his death, and to give a
10 true verdict according to the evidence offered them or arising
11 from the inspection of the body.

12 Sec. 10.07. SUBPOENA AND EXAMINATION OF WITNESSES. The
13 magistrate or deputy magistrate may subpoena and examine as
14 witnesses persons who, in his opinion, have knowledge of the
15 material facts, and also an appointed medical examiner when
16 available, or otherwise a physician, who shall examine the body
17 and give professional opinion as to the cause of the death. The
18 testimony shall be reduced to writing.

19 Sec. 10.08. VERDICT OF INQUEST JURY. After hearing the
20 testimony, the jury or two-thirds of their number shall give its
21 written verdict, signed by them and setting forth:

22 (1) the name of the person killed and when, where,
23 and by what means he came to his death; and

24 (2) if he was killed or his death was occasioned by
25 the act of another by criminal means, who is guilty.

26 Sec. 10.09. WARRANT FOR ARREST OF PERSON CAUSING DEATH. If
27 the jury finds that the person was killed by another under cir-
28 cumstances not excusable or justifiable by law or that his death
29 was occasioned by the act of another by criminal means and the

1 party committing the act is ascertained by the inquest and is not
2 in custody, the coroner shall issue a warrant for the arrest of
3 the person charged.

4 Sec. 10.10. BURIAL OF BODY. When a coroner holds an in-
5 quest upon the body of a stranger or pauper, and no friend or
6 relative appears to claim the body for burial, the coroner shall
7 notify the Department of Health and Welfare which shall cause the
8 body to be plainly and decently buried.

9 Sec. 10.11. PROPERTY ON BODY. If money or other property
10 is found on the body, the magistrate shall make an inventory of
11 it for his records and take it into his possession. He shall,
12 within 30 days after the inquest, transmit a certified copy of the
13 inventory and the money or property to the clerk of the superior
14 court. The clerk shall cause the property to be sold as upon
15 execution and shall deduct the expenses of the sale from the
16 proceeds. He shall deposit the remainder of the proceeds of the
17 sale and any moneys delivered to him by the magistrate in the
18 same manner as moneys collected on judgments in favor of the
19 state.

20 ARTICLE XI. EXTRADITIONS

21 Sec. 11.01. DEFINITIONS. Where appearing in this article:

22 (1) "Governor" includes any person performing the
23 functions of governor by authority of the law of this state;

24 (2) "Executive authority" includes the governor and
25 any person performing the functions of governor in a state other
26 than this state;

27 (3) "State ", referring to a state other than this state,
28 includes any other state or possession of the United States of
29 America.

1 Sec. 11.02. FUGITIVES FROM OTHER STATES; DUTY OF GOVERNOR.
2 Subject to the provisions of Secs.11.01 to 11.29 inclusive, the
3 provisions of the Constitution of the United States controlling,
4 and any and all acts of Congress enacted in pursuance thereof, it
5 is the duty of the governor of this state to have arrested and
6 delivered up to the executive authority of any other state any
7 person charged in that state with treason, felony, or other crime,
8 who has fled from justice and is found in this state.

9 Sec. 11.03. FORM OF DEMAND. a. No demand for the extra-
10 dition of a person accused but not yet convicted of a crime in
11 another state shall be recognized by the governor of this state
12 unless made in writing and containing the following:

13 (1) An allegation that the accused was present in the
14 demanding state at the time of the commission of the alleged crime
15 and that thereafter he fled the demanding state; except that the
16 allegation contained in this paragraph a(1) shall not be required
17 in a proceeding based on Sec. 11.06.

18 (2) A copy of an indictment found or an information
19 supported by affidavit in the state having jurisdiction of the
20 crime or by a copy of a complaint, affidavit or other equivalent
21 accusation made before a magistrate there. The indictment, in-
22 formation, or complaint, affidavit or other equivalent accusation
23 must substantially charge the person demanded with having com-
24 mitted a crime under the law of that state, and the copy must be
25 authenticated by the executive authority making the demand.

26 b. No demand for the extradition of a person convicted of
27 a crime in another state shall be recognized by the governor of
28 this state unless made in writing and containing the following:

29 (1) A statement by the executive authority of the

1 demanding state that the person claimed has escaped from confine-
2 ment or has broken the terms of bail, probation or parole;

3 (2) A copy of the judgment of conviction or of a
4 sentence imposed in execution thereof. The copy must be authen-
5 ticated by the executive authority making the demand.

6 Sec. 11.04. INVESTIGATION OF DEMAND AND REPORT. When a
7 demand is made upon the governor of this state by the executive
8 authority of another state for a surrender of a person so charged
9 with crime, the governor shall investigate the demand.

10 Sec. 11.05. EXTRADITION OF PERSONS IMPRISONED OR AWAITING
11 TRIAL IN ANOTHER STATE OR WHO HAVE LEFT THE DEMANDING STATE UNDER
12 COMPULSION. a. When it is desired to have returned to this
13 state a person charged in this state with a crime, and that person
14 is imprisoned or is held under criminal proceedings then pending
15 against him in another state, the governor of this state may
16 agree with the executive authority of the other state for the
17 extradition of that person before the conclusion of the proceedings
18 or his term of sentence in the other state, upon condition that
19 the person be returned to the other state at the expense of this
20 state as soon as the prosecution in this state is terminated.

21 b. The governor of this state may also surrender on demand
22 of the executive authority of any other state any person in this
23 state who is charged in the manner provided in Sec. 11,23 with
24 having violated the laws of the state whose executive authority
25 is making the demand, even though that person left the demanding
26 state involuntarily.

27 Sec. 11.06. EXTRADITION OF PERSON NOT PRESENT IN DEMANDING
28 STATE AT TIME OF COMMISSION OF CRIME. The governor of this state
29 may also surrender, on demand of the executive authority of any

1 other state, any person in this state charged in the other state
2 in the manner provided in Sec. 11.03 with committing an act in
3 this state, or a third state, intentionally resulting in a crime
4 in the state whose executive authority is making the demand, and
5 the provisions of Secs. 11.01 to 11.29, inclusive, not otherwise
6 inconsistent shall apply to those cases, even though the accused
7 was not in that state at the time of the commission of the crime,
8 and has not fled from that state.

9 Sec. 11.07. ISSUE OF GOVERNOR'S WARRANT OF ARREST; RECITALS.

10 If the governor decides that the demand should be complied with,
11 he shall sign a warrant of arrest, which shall be sealed with the
12 state seal, and be directed to any peace officer or other person
13 whom he may think fit to entrust with the execution of the warrant
14 The warrant must substantially recite the facts necessary to the
15 validity of its issuance.

16 Sec. 11.08. MANNER AND PLACE OF EXECUTION OF THE WARRANT.

17 The warrant shall authorize the peace officer or other person
18 to whom directed to arrest the accused at any time and any place
19 where he may be found within the state and to command the aid of
20 all peace officers or other persons in the execution of the war-
21 rant, and to deliver the accused, subject to the provisions of
22 Secs. 11.01 to 11.29, inclusive, to the duly authorized agent of
23 the demanding state.

24 Sec. 11.09. AUTHORITY OF ARRESTING OFFICER TO COMMAND

25 ASSISTANCE. Every officer or other person empowered to make the
26 arrest has the same authority, in arresting the accused, to com-
27 mand assistance therein, as peace officers have by law in the
28 execution of any criminal process directed to them, with like
29 penalties against those who refuse their assistance.

1 Sec. 11.10. RIGHTS OF ACCUSED PERSON; APPLICATION FOR WRIT
2 OF HABEAS CORPUS. No person arrested upon a warrant shall be
3 delivered over to the agent whom the executive authority demanding
4 him shall have appointed to receive him unless he is first taken
5 forthwith before a judge of the superior court or a district
6 magistrate of this state, who shall inform him of the demand made
7 for his surrender, and of the crime with which he is charged, and
8 that he has the right to demand and procure legal counsel. If
9 the prisoner or his counsel shall state that he or they desire
10 to test the legality of the arrest, the judge of the superior court
11 or the district magistrate shall fix a reasonable time to be
12 allowed him within which to apply for a writ of habeas corpus.
13 When that writ is applied for, notice thereof, and of the time and
14 place of hearing thereon, shall be given to the prosecuting
15 attorney of the judicial district in which the arrest is made and
16 in which the accused is in custody, and to the agent of the
17 demanding state.

18 Sec. 11.11. PENALTY FOR NON-COMPLIANCE WITH PRECEDING
19 SECTION. Any officer or other person who delivers to the agent
20 for extradition of the demanding state a person in his custody
21 under the governor's warrant, in wilful disobedience to the last
22 section, is guilty of a misdemeanor and, on conviction, shall be
23 fined not more than \$1,000.00 or be imprisoned not more than six
24 months, or both.

25 Sec. 11.12. CONFINEMENT IN JAIL WHEN NECESSARY. a. The
26 officer or person executing the governor's warrant of arrest, or
27 the agent of the demanding state to whom the prisoner may have
28 been delivered, may, when necessary, confine the prisoner in a
29 jail in any political subdivision, judicial district or city of

1 this state, through which he may pass. The keeper of the jail
2 shall receive and safely keep the prisoner until the officer or
3 person having charge of him is ready to proceed on his route.
4 The officer or person is chargeable with the expense of keeping.

5 b. The officer or agent of a demanding state to whom a
6 prisoner may have been delivered following extradition proceedings
7 in another state, or to whom a prisoner may have been delivered
8 after waiving extradition in the other state, and who is passing
9 through this state with a prisoner for the purpose of immediately
10 returning that prisoner to the demanding state may, when necessary,
11 confine the prisoner in a jail in any political subdivision,
12 judicial district or city of this state through which he may pass.
13 The keeper of the jail shall receive and safely keep the prisoner
14 until the officer or agent having charge of him is ready to
15 proceed on his route. The officer or agent is chargeable with
16 the expense of keeping. The officer or agent shall produce and
17 show to the keeper of the jail satisfactory written evidence of
18 the fact that he is actually transporting the prisoner to the
19 demanding state after a requisition by the executive authority
20 of the demanding state. The prisoner shall not be entitled to
21 demand a new requisition while in this state.

22 Sec. 11.13. ARREST PRIOR TO REQUISITION. Whenever any per-
23 son within this state is charged on the oath of any credible
24 person before any judge of the superior court or district magis-
25 trate of this state with the commission of any crime in any
26 other state and, except in cases arising under Sec. 11.06, with
27 having fled from justice, or with having been convicted of a
28 crime in that state and having escaped from confinement, or having
29 broken the terms of his bail, probation or parole; or whenever

1 complaint is made before any judge of the superior court or
2 district magistrate in this state setting forth on the affidavit
3 of any credible person in another state that a crime has been
4 committed in the other state and that the accused has been
5 charged in that state with the commission of the crime, and ex-
6 cept in cases arising under Sec. 11.06, has fled from justice, or
7 with having been convicted of a crime in that state and having
8 escaped from confinement, or having broken the terms of this bail,
9 probation or parole and is believed to be in this state; the
10 judge of the superior court or district magistrate shall issue
11 a warrant directed to any peace officer commanding him to appre-
12 hend the person named in the warrant, wherever he may be found
13 in this state, and to bring him before the same or any other
14 judge of the superior court or district magistrate, who is avail-
15 able in or convenient of access to the place where the arrest may
16 be made, to answer the charge or complaint and affidavit. A
17 certified copy of the sworn charge or complaint or affidavit
18 upon which the warrant is issued shall be attached to the warrant.

19 Sec. 11.14. ARREST WITHOUT WARRANT. The arrest of a person
20 may also be lawfully made by any peace officer or a private
21 person without a warrant upon reasonable information that the
22 accused stands charged in the courts of another state with a
23 crime punishable by death or imprisonment for a term exceeding
24 one year, but when so arrested the accused must be taken before
25 a superior court judge or district magistrate without unnecessary
26 delay and, in any event, within 24 hours after his arrest, in-
27 cluding Sundays and holidays. and complaint shall be made against
28 him under oath setting forth the ground for the arrest as in the
29 preceding section. Thereafter his answer shall be heard as if he

1 had been arrested on a warrant.

2 Sec. 11.15. COMMITMENT TO AWAIT REQUISITION; BAIL. If at
3 the examination before the superior court judge or district
4 magistrate it appears that the person held is the person charged
5 with having committed the crime alleged and, except in cases
6 arising under Sec. 11.06, that he has fled from justice, the
7 superior court judge or district magistrate shall commit him to
8 jail for a time, not exceeding 30 days, as will enable the arrest
9 of the accused to be made under a warrant of the governor on a
10 requisition of the executive authority of the state having juris-
11 diction of the offense, unless the accused gives bail as provided
12 in Sec. 11.16, or until he is legally discharged. The commitment
13 by the judge of the superior court or by the district magistrate
14 shall be by a warrant which shall recite the following:

15 (1) the accusation against him;

16 (2) the fact that the commitment is for a time as
17 will enable the arrest of the accused to be made under a warrant
18 of the governor of this state; and

19 (3) that in any event the commitment shall be for a
20 period not to exceed 30 days.

21 Sec. 11.16. BAIL. Unless the offense with which the
22 prisoner is charged is shown to be an offense punishable by
23 death under the laws of the state in which it was committed, a
24 superior court judge or district magistrate in this state shall
25 admit the person arrested to bail by bond or undertaking, with
26 sufficient sureties, and in such sum as he considers proper,
27 conditioned upon his appearance before him at a time specified
28 in the bond or undertaking and for his surrender, to be arrested
29 upon the warrant of the governor of this state.

1 Sec. 11.17. EXTENSION OF TIME OF COMMITMENT; ADJOURNMENT.
2 If the accused is not arrested under warrant of the governor by
3 the expiration of the time specified in the warrant, bond or
4 undertaking, a judge of the superior court or district magistrate
5 may discharge him or may recommit him for a further period not
6 to exceed 60 days, or a judge of the superior court or district
7 magistrate may again take bail for his appearance and surrender,
8 as provided in Sec. 11.16, but within a period not to exceed 60
9 days after the date of the new bond or undertaking.

10 Sec. 11.18. FORFEITURE OF BAIL. If the prisoner is admitted
11 to bail, and fails to appear and surrender himself according to
12 the conditions of his bond or undertaking, the superior court
13 judge or district magistrate, by proper order, shall declare the
14 bond or undertaking forfeited, and order his immediate arrest if
15 he is within this state. Recovery may be had on the bond or
16 undertaking in the name of the state as in the case of other
17 bonds or undertakings given by the accused in criminal proceedings
18 within this state.

19 Sec. 11.19. PERSONS UNDER CRIMINAL PROSECUTION IN THIS
20 STATE AT TIME OF REQUISITION. If a criminal prosecution has been
21 instituted against the person under the laws of this state and
22 is still pending, the governor, in his discretion, either may
23 surrender him on demand of the executive authority of another state
24 or may hold him until he has been tried and discharged, or con-
25 victed and punished in this state.

26 Sec. 11.20. GUILT OR INNOCENCE OF ACCUSED; WHEN INQUIRED
27 INTO. The guilt or innocence of the accused as to the crime of
28 which he is charged may not be inquired into by the governor in
29 any proceeding after the demand for extradition, accompanied by

1 a charge of crime in legal form as above provided, has been pre-
2 sented to the governor, except as it may be involved in identi-
3 fying the person held as the person charged with the crime.

4 Sec. 11.21. GOVERNOR'S WARRANT; RECALL; REISSUE. The
5 governor may recall his warrant of arrest or may issue another
6 warrant whenever he deems proper.

7 Sec. 11.22. FUGITIVES FROM THIS STATE; DUTY OF GOVERNORS.
8 Whenever the governor of this state demands a person charged
9 with crime or with escaping from confinement or breaking the terms
10 of his bail, probation or parole in this state, from the executive
11 authority of any other state, or from a judge of the District
12 Court of the United States for the District of Columbia authorized
13 to receive the demand under the laws of the United States, he
14 shall issue a warrant under the seal of this state to an agent,
15 commanding him to receive the person so charged if delivered to
16 him and convey him to the proper officer of the judicial district
17 in this state in which the offense was committed.

18 Sec. 11.23. APPLICATION FOR ISSUANCE OF REQUISITION; BY
19 WHOM MADE; CONTENTS. a. When the return to this state of a per-
20 son charged with a crime in this state is required, the prose-
21 cuting attorney of the judicial district in which the offense is
22 committed, or the attorney general, shall present to the governor
23 his written application for a requisition for the return of the
24 person charged. In the application there shall be stated the
25 name of the person so charged, the crime charged against him, the
26 approximate time, place and circumstances of its commission, the
27 state in which he is believed to be, including the location of
28 the accused therein at the time the application is made, and
29 certifying that in the opinion of the said prosecuting attorney,

1 or the attorney general , the ends of justice require the arrest
2 and return of the accused to this state for trial, and that the
3 proceeding is not instituted to enforce a private claim.

4 b. When the return to this state is required of a person
5 who has been convicted of a crime in this state and has escaped
6 from confinement or broken the terms of his bail, probation or
7 parole, the prosecuting attorney of the judicial district in
8 which the offense was committed, or the attorney general, the
9 parole or probation authority having jurisdiction over him, or
10 the commissioner of the Department of Health and Welfare, shall
11 present to the governor a written application for a requisition
12 for the return of that person. In the application there shall
13 be stated the name of the person, the crime for which he was
14 convicted, the circumstances of his escape from confinement or
15 of the breach of the terms of his bail, probation or parole, and
16 the state in which he is believed to be, including the location
17 of the person therein at the time the application is made.

18 c. The application shall be verified by affidavit, shall
19 be executed in duplicate and shall be accompanied by two cer-
20 tified copies of the indictment returned, or information and
21 affidavit filed, or the complaint made to the superior court
22 judge or district magistrate, stating the offense with which the
23 accused is charged, or of the judgment of conviction or of the
24 sentence. The attorney general or the prosecuting attorney, the
25 parole or probation authority, or the commissioner of the Depart-
26 ment of Health and Welfare may also attach further affidavits
27 and other documents in duplicate as he deems proper to be sub-
28 mitted with the application. One copy of the application, with
29 the action of the governor indicated by endorsement on the

1 application, and one of the certified copies of the indictment,
2 complaint, information and affidavits, or judgment of conviction or
3 sentence shall be filed in the office of the governor to remain
4 of record in that office. The other copies of all papers shall
5 be forwarded with the governor's requisition.

6 Sec. 11.24. IMMUNITY FROM SERVICE OF PROCESS IN CERTAIN
7 CIVIL ACTION. A person brought into this state by, or after
8 waiver of, extradition based on a criminal charge shall not be
9 subject to service of personal process in civil actions arising
10 out of the same facts as the criminal proceeding to answer which
11 he is being or has been returned, until he has been convicted
12 in the criminal proceedings, or, if acquitted, until he has had
13 reasonable opportunity to return to the state from which he was
14 extradited.

15 Sec. 11.25. WRITTEN WAIVER OF EXTRADITION PROCEEDINGS. a.
16 Any person arrested in this state charged with having committed
17 any crime in another state or alleged to have escaped from con-
18 finement, or broken the terms of his bail, probation or parole
19 may waive the issuance and service of the warrant provided for in
20 Secs. 11.07 and 11.08 and all other procedure incidental to ex-
21 tradition proceedings, by executing or subscribing in the presence
22 of any superior court judge or district magistrate within this
23 state a writing which states that he consents to return to the
24 demanding state; provided, however, that before the waiver is
25 executed or subscribed by that person, the judge or district
26 magistrate shall inform that person of his right to the issuance
27 and service of a warrant of extradition and of his right to
28 apply for a writ of habeas corpus as provided for in Sec. 11.10.

29 b. If and when that consent is executed, it shall forthwith

1 be forwarded to the office of the governor of this state and
2 filed therein. The judge or district magistrate shall direct
3 the officer having the person in custody to deliver forthwith
4 that person to the duly accredited agent or agents of the demand-
5 ing state, and shall deliver or cause to be delivered to such
6 agent or agents a copy of the consent.

7 c. Nothing in this section shall be deemed to limit the
8 rights of the accused person to return voluntarily and without
9 formality to the demanding state, nor shall this waiver procedure
10 be deemed to be an exclusive procedure or to limit the powers,
11 rights or duties of the officers of the demanding state or of
12 this state.

13 Sec. 11.26. NONWAIVER BY THIS STATE. Nothing in Secs. 11.01
14 to 11.29, inclusive, shall be deemed to constitute a waiver by
15 this state of its right, power or privilege to try the demanded
16 person for crime committed within this state, or of its right,
17 power or privilege to regain custody of that person by extradition
18 proceedings or otherwise for the purpose of trial, sentence or
19 punishment for any crime committed within this state, nor shall
20 any proceedings had under these sections which result in, or
21 fail to result in, extradition be deemed a waiver by this state
22 of any of its rights, privileges or jurisdiction in any way
23 whatsoever.

24 Sec. 11.27. NO RIGHT OF ASYLUM; NO IMMUNITY FROM OTHER
25 CRIMINAL PROSECUTIONS WHILE IN THIS STATE. After a person has
26 been brought back to this state through extradition proceedings,
27 or after waiver of extradition proceedings by that person, he may
28 be tried in this state for other crimes which he may be charged
29 with having committed here as well as that specified in the

1 requisition for his extradition.

2 Sec. 11.28. INTERPRETATION. The provisions of Secs. 11.01
3 to 11.29, inclusive, shall be so interpreted and construed as to
4 effectuate the general purposes to make uniform the law of those
5 states which enact it.

6 Sec. 11.29. SHORT TITLE. Secs. 11.01 to 11.29, inclusive,
7 may be cited as the "Uniform Criminal Extradition Act."

8 ARTICLE XII. HABEAS CORPUS

9 Sec. 12.01. PERSONS ENTITLED TO PROSECUTE WRIT. Every
10 person imprisoned or otherwise restrained of his liberty under any
11 pretense whatsoever, except in the cases specified in the next
12 section, may prosecute a writ of habeas corpus to inquire into the
13 cause of the imprisonment or restraint, and if illegal to be
14 delivered therefrom.

15 Sec. 12.02. PERSONS NOT ENTITLED TO PROSECUTE WRIT. Persons
16 properly imprisoned or restrained by virtue of the legal judgment
17 of a competent tribunal of civil or criminal jurisdiction, or by
18 virtue of an execution regularly and lawfully issued upon that
19 judgment or decree, shall not be allowed to prosecute the writ.

20 Sec. 12.03. PRODUCTION OF BODY. The person on whom the writ
21 is served shall bring the body of the person in his custody or
22 under his restraint, according to the command of the writ, except
23 in the cases provided in the next section.

24 Sec. 12.04. HEARING WITHOUT PRODUCTION OF PERSON. Whenever,
25 from the sickness or infirmity of the person directed to be pro-
26 duced, he cannot without danger be brought before the court, the
27 person in whose custody or power he is may state that fact in
28 his return to the writ. If the court is satisfied of the truth
29 of the return and the return is otherwise sufficient, the court

1 shall proceed to decide on the return and to dispose of the
2 matter as if the party had been produced.

3 Sec. 12.05. PROCEEDINGS ON DISOBEDIENCE OF WRIT. If the
4 person upon whom the writ is served refuses or neglects to obey
5 it within the time required, and no sufficient excuse is shown,
6 it is the duty of the court before whom the writ is returnable,
7 upon due proof of service, to immediately issue a warrant against
8 that person, directed to a peace officer commanding him to imme-
9 diately apprehend and bring the person before the court. Upon
10 that person being brought before the court, the court shall
11 commit him to custody until he makes return to the writ and
12 complies with any order that may be made.

13 Sec. 12.06. PRECEPT TO PEACE OFFICER. The court which
14 issues a writ without requiring the production of the person or
15 a warrant may also, at any time before final decision, issue a
16 precept to the peace officer to whom the writ or warrant is
17 directed commanding him to immediately bring the person for whose
18 benefit the writ was allowed before the court. That person shall
19 remain in the custody of the peace officer until discharged or
20 remanded.

21 Sec. 12.07. DISCHARGE OF PARTY. If no legal cause is shown
22 for the imprisonment or restraint, or for its continuation, the
23 court shall discharge the party from the custody or restraint
24 under which he is held.

25 Sec. 12.08. REMAND OF PARTY LEGALLY DETAINED. The court
26 shall remand the party if it appears that he is legally detained
27 in custody.

28 Sec. 12.09. DISCHARGE OF PERSON IN CUSTODY BY VIRTUE OF
29 CIVIL PROCESS. If it appears on the return of the writ that the

1 prisoner is in custody by virtue of an order or civil process of
2 any court legally constituted, or issued by an officer in the
3 course of judicial proceedings before him, authorized by law, the
4 prisoner shall be discharged in either of the following cases:

5 (1) When the jurisdiction of the court or officer has
6 been exceeded, either as to matter, place, sum, or person;

7 (2) When, though the original imprisonment was lawful,
8 yet by some act, omission, or event which has taken place after-
9 wards, the party has become entitled to a discharge;

10 (3) When the order or process is defective in some
11 matter of substance required by law, rendering the process void;

12 (4) When the order or process, though in proper form,
13 has been issued in a case not allowed by law;

14 (5) When the person having the custody of the prisoner
15 under the order or process is not the person empowered by law to
16 detain him; or

17 (6) When the order or process is not authorized by
18 any judgment of any court or by any provision of law.

19 Sec. 12.10. LIMITATION ON SCOPE OF COURT'S INQUIRY. No
20 court or judge, on the return of a writ of habeas corpus, may
21 inquire into the legality or justice of any order, judgment, or
22 process specified in Sec. 12.02, or into the justice, propriety,
23 or legality of any commitment for a contempt made by a court,
24 officer, or body, according to law, and charged in the commitment,
25 as provided by law.

26 Sec. 12.11. PROCEEDINGS WHERE COMMITMENT IRREGULAR. If
27 it appears by the testimony offered with the return, or upon the
28 hearing that the party is probably guilty of a criminal offense,
29 the court, although the commitment is irregular, shall immediately

1 remand him to the custody of the proper person.

2 Sec. 12.12. CUSTODY OF PARTY PENDING JUDGMENT. Until
3 judgment is given upon the return, the party may either be com-
4 mitted to the custody of a peace officer or placed in his care
5 or under his custody as his age or circumstances requires.

6 Sec. 12.13. ADMISSION TO BAIL. Any person prosecuting a
7 writ of habeas corpus may, at any time after the writ is allowed,
8 be admitted to bail by the court allowing the writ, or by any
9 other magistrate designated by that court or judge, pending the
10 hearing upon the writ and the final order of the court and, in
11 case of appeal, during the pendency of the appeal and until the
12 final order of the appellate court. The bail shall be by written
13 undertaking and executed as bail upon arrest, and the undertaking
14 shall be conditioned that the person so admitted to bail shall
15 appear in the designated court or before the designated judge
16 whenever required, and shall at all times render himself amenable
17 to the order or process of that court or judge, and that if he
18 fails to perform either of those conditions, the surety or sureties
19 on the undertaking will pay to the state the sum in which that
20 person is so admitted to bail.

21 Sec. 12.14. EFFECT OF ADMITTING TO BAIL. The admitting to
22 bail of a person prosecuting a writ of habeas corpus does not
23 in any manner affect the writ or other proceedings or the full
24 right of that person to have the cause and legality of his im-
25 prisonment inquired into and determined both in the trial court
26 and upon appeal.

27 Sec. 12.15. ENFORCING JUDGMENT OF DISCHARGE. Obedience
28 to a judgment for the discharge of a person imprisoned or re-
29 strained, pursuant to the provisions of this article, may be

1 enforced by the court by proceedings for a contempt. No peace
2 officer or other person is liable to any action or proceeding
3 for obeying the judgment of discharge.

4 Sec. 12.16. DISCHARGE AS BAR TO SUBSEQUENT RESTRAINT. No
5 person who has been discharged by the order of a court upon
6 habeas corpus shall again be imprisoned, restrained, or kept in
7 custody for the same cause except in the following cases:

8 (1) If he has been discharged from a commitment on a
9 criminal charge and is afterwards committed for the same offense
10 by legal order or process;

11 (2) If, after a judgment or discharge for a defect of
12 proof, or for a material defect in the commitment, in a criminal
13 case, the party is again arrested on sufficient proof and com-
14 mitted by legal process for the same offense;

15 (3) If, after a civil action, the party has been dis-
16 charged for any illegality in the judgment, decree, or process
17 specified in Sec. 12.09, and is afterwards imprisoned for the
18 same cause of action;

19 (4) If, in a civil action, he has been discharged
20 from commitment on an order of arrest, and is afterwards committed
21 on execution, in the same action, or on order of arrest in another
22 action, after the dismissal of the first action.

23 Sec. 12.17. GROUNDS FOR WARRANT IN LIEU OF WRIT. Whenever
24 it appears, to any court authorized to issue the writ of habeas
25 corpus, that any person is illegally imprisoned or restrained,
26 and that there is good reason to believe that he will be carried
27 out of the state or suffer some irreparable injury before he can
28 be relieved by the issuing of a writ of habeas corpus, any court
29 or judge authorized to issue the writ may issue a warrant reciting

1 the facts, and directed to a peace officer commanding him to
2 immediately bring the person before the court to be dealt with
3 according to law.

4 Sec. 12.18. WARRANT MAY INCLUDE COMMAND FOR ARREST OF
5 DEFENDANT. When the proof mentioned in Sec. 12.17 shall also
6 be sufficient to justify an arrest of the person having the
7 party in his custody, as for a criminal offense, committed in
8 the taking or detaining of the party, the warrant may also contain
9 an order for the arrest of the person for that offense.

10 Sec. 12.19. WARRANT IN LIEU OF WRIT. The peace officer to
11 whom the warrant is directed shall execute it by bringing the
12 party named and the person who detains him, if so commanded by
13 the warrant, before the judge issuing the warrant. The person
14 detaining the party shall make a return to the warrant as in the
15 case of a writ of habeas corpus, and a proceeding shall be had
16 as if a writ of habeas corpus had been issued in the first in-
17 stance.

18 Sec. 12.20. PROCEEDINGS AS TO PERSON HAVING PARTY IN CUSTODY.
19 If the person having the party in his custody is brought before
20 the court as for a criminal offense, he shall be examined, committed,
21 bailed, or discharged by the court in like manner as in other
22 criminal cases of like nature.

23 Sec. 12.21. PENALTY FOR REFUSING TO DELIVER COPY OF OR OBEY
24 AUTHORITY TO DETAIN PARTY. If any peace officer or other person
25 refuses to deliver a copy of any order, warrant, process or other
26 authority by which he detains any person to anyone who demands a
27 copy and tenders the fees therefor, he shall forfeit and pay to
28 the person detained a sum not to exceed \$200.00.

29 Sec. 12.22. APPEAL. Any party to a proceeding by habeas

1 corpus may appeal from the judgment of the court refusing to
2 allow the writ or any final judgment therein in like manner and
3 with like effect as in an action. No question once finally
4 determined upon a proceeding by habeas corpus shall be re-
5 examined upon another or subsequent proceeding of the same kind.

6 ARTICLE XIII. FORMAL PROVISIONS

7 Sec. 13.01. SHORT TITLE. This Act may be cited as the Code
8 of Criminal Proceedings.

9 Sec. 13.02. REPEALS. The following laws and parts of laws
10 are repealed: Secs. 56-1-1 through 66-26-46, ACLA 1949, inclusive,
11 as amended by Ch. 7, SLA 1949, Ch. 11, SLA 1955, Ch. 45, SLA 1955,
12 Ch. 195, SLA 1955, Ch. 37, SLA 1957, Ch. 93, SLA 1957, Ch. 128,
13 SLA 1957, Ch. 132, SLA 1957, Ch. 8, SLA 1960, Ch. 71, SLA 1960 and
14 Ch. 105, SLA 1960; Secs. 69-1-1 through 69-6-11, ACLA 1949, in-
15 clusive, as amended by Ch. 47, SLA 1957; Ch. 121, SLA 1957; Ch. 30,
16 SLA 1960; Ch. 103, SLA 1960; Ch. 104, SLA 1960; and Ch. 153, 1960.

17 Sec. 13.03. HOW CODE TO TAKE EFFECT. This Act takes effect
18 on March 1, 1962. It governs all proceedings in actions brought
19 after that date and all further proceedings in actions then pending,
20 except to the extent that, in the opinion of the court, their
21 application in a particular action pending when the rules take effect
22 would not be feasible, or would work injustice, in which event, the
23 laws repealed by this Act apply.