

AMENDMENTS TO SENATE BILL NO. 119 --- Adopted by the Senate
March 29, 1961

Page 2, line 6: Delete the word "DEFINITIONS" and insert in lieu thereof the words "WHEN PERIOD OF LIMITATION RUNS"

Page 3, line 7: Delete the word "felony" and insert the word "crime"

Page 3, line 10: Add a new section 1.08 and renumber accordingly
The new section 1.08 will read as follows:

"Sec. 1.08. ACCESSORIES. All persons who, after the commission of any felony, conceal or aid the offender, with knowledge that he has committed a felony and with intent that he may avoid or escape from arrest, trial, conviction or punishment, are accessories. There are no accessories in misdemeanors."

Page 4, line 2: After the word "substance," insert "or discharged for want of prosecution, without a judgment of acquittal or in bar of another prosecution,"

Page 4, lines 25-29: Delete all material and insert:

"(3) indicted for a crime, and the indictment is dismissed because the trial is not held within a reasonable period of time and there is not good cause shown for the delay and the delay was not upon the application of the defendant or with his consent."

Page 5, line 22: Before "ARTICLE II" insert a new section 1.17 to read as follows:

"Sec. 1.17. RIGHT TO INDICTMENT. No person shall be held to answer for an infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the armed forces in time of war or public danger. Indictment may be waived by the accused. In that case the prosecution shall be by information."

Page 6, lines 4-17: Delete all material and insert the following:

"Sec. 2.04. GROUNDS FOR ARREST BY PRIVATE PERSON OR PEACE OFFICER WITHOUT WARRANT. A private person or a peace officer without a warrant may arrest a person:

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

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

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

Page 6, lines 18-20: Delete all material and insert the following:

"Sec. 2.05. METHOD OF MAKING ARREST. An arrest is made by the actual restraint of a person or by his submission to the custody of the person making the arrest."

Page 6, line 21: Renumber Sec. 2.07 to "2.06"

Page 6, line 27: Renumber Sec. 2.08 to "2.07"

Page 7, line 2: Renumber Sec. 2.09 to "2.08"

Page 7, line 6: Renumber Sec. 2.10 to "2.09"

Page 7, line 11: Delete all material and insert the following:

"Sec. 2.10. BREAKING INTO BUILDING OR VESSEL TO EFFECT ARREST. A"

Page 7, lines 16-19: Delete all material and insert the following:

"Sec. 2.11. BREAKING INTO BUILDING OR VESSEL TO LIBERATE. A peace officer may break open a building or vessel to liberate a person who entered to make an arrest and is detained, or to liberate himself when necessary."

Page 7, line 20: Renumber Sec. 2.13 to "2.12"

Page 7, line 24: Renumber Sec. 2.14 to "2.13"

Page 7, line 28: Renumber Sec. 2.15 to "2.14"

Page 8, lines 8-19: Delete all material and insert the following:

"Sec. 2.16. RIGHTS OF PRISONER AFTER ARREST. a. The person arrested shall be taken before the magistrate without unnecessary delay, and in any event within 24 hours after his arrest, including Sundays and holidays. This requirement shall apply to municipal police officers to the same extent as it does to state police officers.

b. Immediately after an arrest, a prisoner shall have the right to telephone or otherwise communicate with his attorney or any relative or friend, and any attorney at law entitled to practice in the courts of Alaska shall, at the request of the prisoner, or any relative or friends of the prisoner, have the right to immediately visit the person so arrested.

c. It shall be unlawful for any officer having custody of a person so arrested to wilfully refuse or neglect to grant any prisoner the rights provided by this section. Any

violation of this section shall be a misdemeanor, and upon conviction of the offender, he shall be punished by a fine of not more than \$100.00 or imprisonment for not more than 30 days, or by both fine and imprisonment.

d. In addition to the criminal liability in Subsec c., any officer having a prisoner in custody who refuses to allow an attorney to visit the prisoner when proper application is made therefor, shall forfeit and pay to the party aggrieved the sum of \$500.00, recoverable in any court of competent jurisdiction."

Page 9, lines 3-10: Delete all material.

Page 9, line 11: Renumber Sec. 3.06 to "3.04"

Page 11, line 15: After the words "other thing" insert the word "be"

Page 11, line 26: After the word "owner," insert the words "or his duly authorized agent,"

Page 12, line 5: After the word "owner" insert the words "or his agent"

Page 13, line 22: Before "ARTICLE VI" insert two new sections, Sec. 5.08 and Sec. 5.09, to read as follows:

"Sec. 5.08. QUESTIONING JUROR FOR CONDUCT. A grand juror cannot be questioned for anything he may say, or any vote he may give, while acting as a grand juror, in relation to any matter legally pending before the grand jury, except for a perjury, of which he may have been guilty in giving testimony before that jury.

"Sec. 5.09. CONTENTS OF INDICTMENT: a. The indictment shall be direct and certain as it regards:

(1) the party charged;
(2) the crime charged; and
(3) the particular circumstances of the crime charged when they are necessary to constitute a complete crime.

b. The statement of the facts constituting the offense shall be in ordinary and concise language, without repetition, and in a manner which will enable a person of common understanding to know what is intended."

Page 14, lines 4-13: Delete all material and insert the following:

"Sec. 6.03. NECESSARY EVIDENCE FOR FALSE PRETENSES. Upon a trial for having, by any false pretense, obtained the

signature of any person to any written instrument, or obtained from any person any valuable thing, no evidence can be admitted of a false pretense expressed orally and unaccompanied by a false token or writing. The pretense, or some note or memorandum of it, shall be in writing, and either subscribed by or in the handwriting of the defendant. This section does not apply to an action for falsely representing or personating another, and in that assumed character receiving any valuable thing."

Page 14, line 19: Delete the word "it" and insert the words "her testimony"

Page 18, line 6: After the words "peace officer" insert the words "or magistrate"

Page 18, lines 22-29 and
Page 19, lines 1-3): Delete all material and insert the following:

"Sec. 6.16. ORDER FOR PRIVATE PROSECUTOR TO PAY COSTS FOR MALICIOUS PROSECUTION WITHOUT PROBABLE CAUSE. The name of every person who voluntarily appears before any magistrate or grand jury to prosecute any person in a criminal action, either for a misdemeanor or felony, shall be indorsed upon the complaint, information, or indictment as a private prosecutor. If it is found by any magistrate, or court trying that action or hearing that proceeding that the prosecution is malicious or without probable cause, those facts shall be entered upon the record in the action or proceeding by the magistrate, or court. Upon making the entry, the magistrate, or court shall immediately render judgment against the private prosecutor for the costs and disbursements of the action or proceeding, which may be enforced by execution in the same manner as a judgment in a civil action."

Page 19, line 5: Re-number Sec. 7.01 as 7.02 and re-number sections
Enter new Sec. 7.01 as follows:

"Sec. 7.01. PRIVILEGED COMMUNICATIONS. The following are deemed confidential communications and:

(1) A husband shall not be examined for or against his wife, without her consent, nor a wife for or against her husband, without his consent; nor can either, during the marriage or afterward be, without the consent of the other, examined as to any communications made by one to the other during marriage, except in a civil action or proceeding by one against the other, or in a criminal action for a crime committed by one against the other.

(2) An attorney shall not, without the consent of his client, be examined as to any communication made by his client to him, or his advise given, in the course of his professional employment.

(3) A priest or clergyman shall not, without the consent of the person making the confession, be examined as to any confession made to him in his professional capacity, in the course of discipline enjoined by the church to which he belongs."

Page 23, line 12: Change number 7.03 to 7.04
Change number 7.10 to 7.11

Page 23, line 13: After the period insert two new sentences as follows: "Witness fees shall be paid by the party calling the witness except as provided in Rule 17(b), Rules of Criminal Procedure, State of Alaska. If the time estimate in the certificate of the requesting court is exceeded, the non-indigent defendent shall be required to tender additional per diem or post bond to insure payment of total witness fees."

Page 23, line 14: Change number 7.03 to 7.04
Change number 7.09 to 7.10

Page 23, lines 18-26: Delete all material and insert the following:

"Sec. 8.01. IMPRISONMENT ON JUDGMENT FOR PAYMENT OF FINE. A judgment that the defendant pay a fine shall also direct that he be imprisoned until the fine is satisfied, specifying the extent of the imprisonment, which can not exceed one day for every \$5.00 of the fine. In case the entry of judgment should omit to direct the imprisonment and the extent thereof, the judgment to pay the fine shall operate to authorize and require the imprisonment of the defendant until the fine is satisfied at the rate above mentioned. If the defendant chooses to work during the imprisonment, he may be granted an additional reduction of \$5.00 of fine for each day worked. Prisoners may be employed only in undertakings that do not put them in competition with the product of free labor."

Page 23, line 28: Delete all material and insert "a defendant pay money, whether the same be a fine or costs and disbursements or both, constitutes a lien in the same manner as a"

Page 24, lines 2-18: Delete all material and insert the following:

"Sec. 8.03. DISCHARGE OF INDIGENTS IMPRISONED FOR NON-PAYMENT OF FINE. When an indigent defendant, sentenced to be imprisoned and to pay a fine, has been confined in prison 30 days solely for the nonpayment of the fine, the defendant may make application in writing to any magistrate in the district where he is imprisoned, setting out his inability to pay the fine, and, after notice to the district attorney, the magistrate shall proceed to hear and determine the matter. If on examination it shall appear to him that the defendant is unable to pay the fine and that he has not any property exceeding \$50.00 in value, except property which is by law exempt from being taken on execution for debt, the magistrate shall administer to him the following oath: "I do solemnly swear that I do not have any property, real or personal, to the amount of \$50.00, except property which is by law exempt from being taken on civil process for debt, and that I have no property in any way conveyed or concealed, or any way disposed of, for my future use or benefit. So help me God." The magistrate shall discharge the defendant after he takes the oath."

Page 24, line 21: Delete the word "larcey" and insert "larceny"

Page 24, line 24: Delete the word "offense" and insert "crime"

Page 24, line 26: Delete all material and insert "through 65-5-49, 65-5-61 and 65-5-81, ACLA 1949, as amended, shall be adjudged"

Page 26, line 3: Delete the word "offenses" and insert "crimes"

Page 26, line 29: Delete the words "an offense" and insert "a crime"

Page 27, line 1: Delete the word "offense" and insert "crime"

Page 27, lines 3-22: Delete all material and insert the following:

"Sec. 8.08. SUSPENSION OF SENTENCE AND PROBATION. Upon entering a judgment of conviction of a crime, or at any time within 60 days from the date of entry of that judgment of conviction, any court, when satisfied that the ends of justice and the best interest of the public as well as the defendant will be served thereby, may suspend the imposition or execution or balance of the sentence or any portion thereof and place the defendant on probation for a period and upon the terms and conditions as the court considers best."

Page 27, line 24: Delete the word "offense" and insert "crime"

Page 27, line 25: Delete the words "an offense" and insert "a crime"

Page 28, line 10: Delete the word "offense" and insert "crime"

Page 29, lines 18-20: Delete all material and insert the following:

"Sec. 9.05. EXAMINATION OF COMPLAINANT AND WITNESSES. When the action is brought, the magistrate shall examine the complainant on oath and any witnesses he produces and shall take their depositions."

Page 29, lines 21-24: Delete all material and insert the following:

"Sec. 9.06. ARREST. If it appears that there is good reason to fear the commission of the crime threatened by the person complained of, the magistrate shall have the person complained of arrested and immediately brought before him."

Page 29, lines 25-29: Delete all material and insert the following:

"Sec. 9.07. EXAMINATION OF CHARGE. When the person complained of appears or is brought before the magistrate, if the charge is controverted, the magistrate may subpoena witnesses, hear any statement to the charges made by the person complained of, and all other testimony."

Page 30, lines 1-4: Delete all material and insert the following:

"Sec. 9.08. ADJOURNMENT OF EXAMINATION. The magistrate may adjourn the examination and commit the person complained of, or take bail or a deposit of money in lieu thereof."

Page 30, line 7: Delete the word "informed" and insert "complained"

Page 30, line 10: Delete the word "informed" and insert "complained"

Page 30, line 14: Delete the word "informer" and insert "complainant"

Page 30, line 15: Delete the words "for six months" and insert the words "for a period not to exceed one year"

Page 30, line 16: Delete all material and insert "the action, be extended for an additional period not to exceed one year, or a new undertaking"

Page 30, line 19: Delete the word "informed" and insert "complained"

Page 31, line 2: Delete the word "informed" and insert "complained"

Page 31, lines 5-7: Delete all material and insert the following:

"Sec. 9.14. FORFEITURE OF UNDERTAKING. The undertaking is forfeited upon the person complained of being convicted of a breach of the peace."

Page 31, line 24: Delete the words "the people of"

Page 34, lines 12-29 and)

Page 35, line 1): Delete all material and insert the following:

"Sec. 10.04. INQUIRY INTO CAUSE OF DEATH. The coroner shall, when he is informed that a person has been killed by another or has suddenly died under such circumstances as to afford a reasonable ground to suspect that his death has been occasioned by criminal means or has committed suicide, inquire by the intervention of a jury into the cause of the death, and perform the other duties incidental thereto in the manner prescribed by law. The coroner shall go to the place where the dead person is, or, in the alternative, arrange for a peace officer to do so and report his findings to the coroner, on the basis of which the coroner may proceed with an inquest if an inquest is warranted."

Page 35, lines 26-29 and)

Page 36, lines 1-3): Delete all material and insert the following:

"Sec. 10.09. WARRANT FOR ARREST OF PERSON CAUSING DEATH. If the jury finds that a crime was committed in the killing, and also charges a person with the commission of the crime, the coroner, as a magistrate, shall immediately issue a warrant for the arrest of that person."

Page 37, lines 15-16: Delete all material and insert "and that thereafter he fled the demanding state; except that this allegation shall not be required"

Page 53, line 12: Delete the word "proof" and insert "evidence"

Page 53, line 13: Delete the word "proof" and insert "evidence"

Page 55, line 10: Delete all material and insert: "are repealed: Secs. 65-3-2 through 65-3-4, ACLA 1949, inclusive; Secs. 66-1-1 through 66-26-46, ACLA 1949, inclusive,"