

CODE OF CRIMINAL PROCEDURE

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1 IN THE SENATE

BY THE HOUSE JUDICIARY COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 119

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SECOND LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act to codify and revise the law relat-
7 ing to criminal procedure; and providing
8 for an effective date."

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

10 ARTICLE I. GENERAL PROVISIONS

11 Section 1.01. APPLICABILITY OF CODE; SUPREME COURT RULES.

12 The provisions of this code apply to all criminal actions and
13 proceedings in all courts except where specific provision is
14 otherwise made or where the Rules of Criminal Procedure adopted
15 by the supreme court under its constitutional authority apply.

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

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

1 b. Even if the general time limitation has expired, a pro-
2 secution for any offense based upon misconduct in office by a
3 public officer or employee may be commenced within one year after
4 discovery of the offense by a person having a duty to report such
5 offense, but in no case shall this provision extend the period
6 of limitation otherwise applicable by more than three years.

7 Sec. 1.04. WHEN PERIOD OF LIMITATION RUNS. a. An offense
8 is committed either when every element occurs, or, if a legis-
9 lative purpose to prohibit a continuing course of conduct plainly
10 appears, at the time when the course of conduct or the defendant's
11 complicity therein is terminated. Time starts to run on the day
12 after the offense is committed.

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

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

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

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

1 time of the commission of the crime charged, if he consummated
2 the crime through the intervention of an innocent or guilty agent,
3 or by other means proceeding directly from himself.

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

12 Sec. 1.08. ACCESSORIES AFTER THE FACT. All persons who,
13 after the commission of any felony, conceal or aid the offender,
14 with knowledge that he has committed a felony and with intent
15 that he may avoid or escape from arrest, trial, conviction or
16 punishment, are accessories. There are no accessores in mis-
17 demeanors.

18 Sec. 1.09. PROSECUTION OF ACCESSORY AFTER THE FACT. An
19 accessory after the fact to the commission of a felony may be
20 prosecuted, tried, and punished, though the principal felon is
21 neither prosecuted nor tried.

22 Sec. 1.10. PROSECUTION OF ONE COMPOUNDING OR CONCEALING
23 CRIME. A person may be prosecuted for having, with the knowledge
24 of the commission of a crime, taken money or property of another,
25 or a gratuity or a reward, or an engagement or promise of money,
26 property, gratuity or reward, upon an agreement or understanding,
27 express or implied, to compound or conceal the crime, or to
28 abstain from a prosecution of the crime, or to withhold any
29 evidence of the crime, though the person guilty of the original

1 crime is neither prosecuted nor tried.

2 Sec. 1.11. CONVICTION OR ACQUITTAL ELSEWHERE AS BAR. When
3 an act charged as a crime is within the jurisdiction of the United
4 States, another state or a territory, as well as of this state, a
5 conviction or acquittal in the former is a bar to the prosecution
6 for it in this state.

7 Sec. 1.12. WHEN ACQUITTAL OR DISMISSAL IS NO BAR. If the
8 defendant is acquitted on the ground of a variance between the
9 charge and the proof, or the charge is dismissed upon an objection
10 to its form or substance, or discharged for want of prosecution,
11 without a judgment of acquittal or in bar of another prosecution,
12 it is not an acquittal of the crime and does not bar a subsequent
13 prosecution for the same crime.

14 Sec. 1.13. WHEN ACQUITTAL IS A BAR. When the defendant is
15 acquitted on the merits, he is acquitted of the same crime, not-
16 withstanding any defect in form or substance in the charge, in-
17 formation or complaint on which the trial was had.

18 Sec. 1.14. WHEN CONVICTION OR ACQUITTAL IS A BAR TO OTHER
19 OFFENSES. When the defendant is convicted or acquitted of a
20 crime consisting of different degrees, the conviction or acquittal
21 is a bar to another prosecution for the crime charged in the
22 former or for any inferior degree of that crime, or for an attempt
23 to commit that crime, or for an offense necessarily included in
24 the crime, of which he might have been convicted under the infor-
25 mation, indictment or complaint.

26 Sec. 1.15. DISMISSAL AS BAR. a. It is a bar to another
27 prosecution for the same crime, if the crime is a misdemeanor,
28 but it is not a bar if the crime charged is a felony when a
29 person is:

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1 (1) held to answer to the grand jury and the court
2 dismisses the charge before the case is presented to the grand
3 jury upon the motion of the prosecuting attorney; or

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

7 (3) indicted for a crime, and the indictment is dis-
8 missed because the trial is not held within a reasonable period
9 of time and there is not good cause shown for the delay and the
10 delay was not upon the application of the defendant or with his
11 consent.

12 b. Unless the court directs a judgment of acquittal to be
13 entered, it is not a bar to another action for the same crime if
14 the court orders an indictment to be discharged because the pro-
15 secuting attorney is not prepared to go to trial when the indict-
16 ment is called for trial and does not show sufficient cause for
17 postponing the trial.

18 Sec. 1.16. DISCHARGE OF CODEFENDANT AS BAR. It is an
19 acquittal of the defendant discharged and a bar to another pro-
20 secution for the same crime when two or more persons are charged
21 in the same indictment, and the court dismisses the indictment
22 against any defendant either:

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

26 (2) before the evidence is closed and on the applica-
27 tion of another defendant on trial so that he may be a witness
28 for a codefendant, and when in the opinion of the court there is
29 not sufficient evidence to put that defendant on his defense.

1 Sec. 2.05. TAKING BEFORE MAGISTRATE PERSON ARRESTED BY BY-
2 STANDER. A peace officer may, without warrant, take before a
3 magistrate a person who, being engaged in a breach of the peace,
4 is arrested by a bystander and delivered to him.

5 Sec. 2.06. METHOD OF MAKING ARREST. An arrest is made by
6 the actual restraint of a person or by his submission to the
7 custody of the person making the arrest.

8 Sec. 2.07. METHOD OF ARREST BY OFFICER WITHOUT WARRANT.
9 When making an arrest without a warrant, the peace officer shall
10 inform the person to be arrested of his authority and the cause
11 of the arrest, unless the person to be arrested is then engaged
12 in the commission of a crime, or is pursued immediately after its
13 commission or after an escape.

14 Sec. 2.08. LIMITATION ON RESTRAINT IN ARREST. No peace
15 officer or private person may subject a person arrested to greater
16 restraint than is necessary and proper for his arrest and
17 detention.

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

22 Sec. 2.10. AUTHORITY TO SUMMON AID TO MAKE ARREST. Any
23 peace officer making an arrest may orally summon as many persons
24 as he considers necessary to aid him in making the arrest. Every
25 person when required by an officer shall aid him in making the
26 arrest.

27 Sec. 2.11. BREAKING INTO BUILDING OR VESSEL TO EFFECT
28 ARREST. A peace officer may break into a building or vessel in
29 which the person to be arrested is or is believed to be, if the

1 officer is refused admittance after he has announced his authority
2 and purpose.

3 Sec. 2.12. BREAKING OPEN BUILDING OR VESSEL TO LIBERATE. A
4 peace officer may break open a building or vessel to liberate a
5 person who entered to make an arrest and is detained, or to
6 liberate himself when necessary.

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

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

15 Sec. 2.15. PROPERTY TAKEN FROM DEFENDANT ON ARREST. When
16 money or other property is taken from a person arrested upon a
17 charge of a crime, the officer taking it shall immediately make
18 duplicate receipts for the property, specifying particularly the
19 amount of money or kind of property taken. The officer shall
20 deliver one receipt to the person arrested and the other to the
21 magistrate who examines the charge or if the arrest is after the
22 information or indictment, to the clerk of the court where the
23 action is pending.

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

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

7 c. It shall be unlawful for any officer having custody of
8 a person so arrested to wilfully refuse or neglect to grant any
9 prisoner the rights provided by this section. Any violation of
10 this section shall be a misdemeanor, and upon conviction of the
11 offender, he shall be punished by a fine of not more than \$100.00
12 or imprisonment for not more than 30 days, or by both fine and
13 imprisonment.

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

19 ARTICLE III. BAIL

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

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

28 Sec. 3.03. BAIL BEFORE CONVICTION IS MATTER OF RIGHT. The
29 defendant is entitled to be admitted to bail before conviction,

1 as a matter of right.

2 Sec. 3.04. ARREST BY BAIL OR DEPOSITOR FOR PURPOSE OF SUR-
3 RENDER. For the purpose of surrendering the defendant, the bail,
4 or any person who has deposited money to secure the release of
5 the defendant, at any time before they are finally discharged
6 and at any place within the state, may themselves arrest him, or
7 by a written authority, endorsed on a certified copy of the
8 undertaking, or a certified copy of the deposit receipt, may em-
9 power any other person to do so.

10 ARTICLE IV. SEARCH AND SEIZURE

11 Sec. 4.01. DEFINITION AND AUTHORITY TO ISSUE SEARCH
12 WARRANTS. A search warrant is an order, in writing, signed by
13 a judge or magistrate, directed to a peace officer, commanding
14 him to search for personal property and bring it before the
15 magistrate. Any judge or magistrate may issue a search warrant.

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

18 (1) If the property was stolen or embezzled, it may be
19 taken on the warrant from any house or other place in which it is
20 concealed or may be found, or from the possession of the person
21 by whom it was stolen or embezzled, or from any person who is in
22 possession of the property.

23 (2) When the property is used as a means of committing
24 a felony, it may be taken on the warrant from any house or other
25 place in which it is concealed or may be found, or from the pos-
26 session of the person by whom it was used in the commission of
27 the crime, or from any person who is in possession of the
28 property.

29 (3) When the property is in the possession of a person
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1 who intends to use it as the means of committing a crime, or in
2 possession of another to whom he may have delivered it for the
3 purpose of concealing it or preventing its being discovered, it
4 may be taken on the warrant from the possession of that person,
5 or from possession of the person to whom he may have delivered it,
6 or from any house or other place occupied by them or under their
7 control, or either of them.

8 Sec. 4.03. SHOWING OF PROBABLE CAUSE. A search warrant
9 shall not issue except upon probable cause, supported by oath or
10 affirmation, and particularly describing the place to be searched
11 and the things to be seized.

12 Sec. 4.04. AUTHORITY OF OFFICER EXECUTING WARRANT. In the
13 execution or service of a search warrant, the officer has the
14 same power and authority, in all respects, to break open any door
15 or window, to use the necessary and proper means to overcome any
16 forcible resistance made to him, or to call any other person to
17 his aid, as he has in the execution or service of a warrant of
18 arrest.

19 Sec. 4.05. DISPOSITION OF PROPERTY TAKEN. When the property
20 is delivered to the judge or magistrate, he shall, if it was
21 stolen or embezzled, dispose of it as provided in Secs. 4.09 and
22 4.10. If it was taken on a warrant issued on the grounds stated
23 in Sec. 4.02(2) and Sec. 4.02(3), he shall retain it in his pos-
24 session, subject to the order of the court to which he is
25 required to return the proceedings before him, or any other court
26 in which the crime in respect to which the property was taken is
27 triable.

28 Sec. 4.06. MALICIOUS PROCUREMENT OF SEARCH WARRANT. Any
29 person who maliciously and without probable cause causes a search

1 warrant to be issued and executed is guilty of a misdemeanor.

2 Sec. 4.07. SEARCH OF DEFENDANT IN PRESENCE OF JUDGE OR
3 MAGISTRATE. When a person charged with a crime is believed by
4 the judge or magistrate before whom he is brought to have on his
5 person a dangerous weapon, or anything which may be used as
6 evidence of the commission of the crime, the judge or magistrate
7 may direct the accused to be searched in his presence, and the
8 weapon or other thing be retained, subject to his order or the
9 order of the court in which the defendant may be tried.

10 Sec. 4.08. MAGISTRATE OR OFFICER TO HOLD PROPERTY ALLEGEDLY
11 STOLEN OR EMBEZZLED. When property alleged to have been stolen
12 or embezzled comes into the custody of a magistrate or peace
13 officer, he shall hold it subject to the order of the magistrate
14 who examines the charge against the person accused of stealing or
15 embezzling the property.

16 Sec. 4.09. DELIVERY OF PROPERTY TO OWNER. On satisfactory
17 proof of ownership of the property, the magistrate who examines
18 the charge against the person accused of stealing or embezzling
19 it shall order it to be delivered to the owner or his duly
20 authorized agent, on his paying the reasonable and necessary ex-
21 penses incurred in its preservation, to be certified by the
22 magistrate. The order entitles the owner to demand and receive
23 the possession of the property but does not affect the rights of
24 third persons.

25 Sec. 4.10. PROPERTY NOT DELIVERED TO OWNER. If the proper-
26 ty stolen or embezzled has not been delivered to the owner, the
27 court before which the trial is had for the theft or embezzle-
28 ment of the property may order its delivery to the owner or his
29 agent under the conditions of Sec. 4.09.

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

11 ARTICLE V. GRAND JURY

12 Sec. 5.01. QUALIFICATIONS AND MANNER OF DRAWING GRAND
13 JURORS. Grand jurors shall have the qualifications and be drawn
14 as are trial jurors under Art. II of the Code of Civil Procedure.

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

17 Sec. 5.03. DUTY OF INQUIRY INTO CRIMES; GENERAL POWERS.
18 The grand jury shall inquire into all crimes committed or triable
19 within the jurisdiction of the court and present them to the
20 court. The grand jury shall have the power to investigate and
21 make recommendations concerning the public welfare or safety.

22 Sec. 5.04. JUROR TO DISCLOSE KNOWLEDGE OF CRIME. If an
23 individual grand juror knows, or has reason to believe, that a
24 crime has been committed which is triable by the court, he shall
25 disclose it to his fellow jurors, who shall investigate it.

26 Sec. 5.05. HOLDING TO ANSWER AS AFFECTING INDICTMENT OR
27 PRESENTMENT. The grand jury may indict or present a person for a
28 crime, upon sufficient evidence, whether that person has been held
29 to answer for the crime or not.

1 Sec. 5.06. ACCESS TO PUBLIC JAILS AND PRISONS AND PUBLIC
2 RECORDS. The grand jury is entitled to access, at all reasonable
3 time, to the public jails and prisons, to offices pertaining to
4 the courts of justice in the state and to all other public offices,
5 and to the examination of all public records in the state.

6 Sec. 5.07. PROSECUTING ATTORNEY'S DUTY. The prosecuting
7 attorney (1) shall submit an indictment to the grand jury and
8 cause the evidence in support of the indictment to be brought
9 before them in every case when a person is held to answer a
10 criminal charge in the court where the jury is formed; (2) may
11 submit an indictment in any case when he has good reason to
12 believe a crime has been committed which is triable by the court;
13 and (3) shall, when required by the grand jury, prepare indict-
14 ments or presentments for them and attend their sittings to
15 advise them in relation to their duties or to examine witnesses
16 in their presence.

17 Sec. 5.08. EFFECT OF FAILURE TO RETURN INDICTMENT; RE-
18 EXAMINATION BY JURY. When a grand jury does not return an
19 indictment, the charge is dismissed, and it may not be again
20 submitted to or inquired into by the grand jury, unless the court
21 so orders.

22 Sec. 5.09. QUESTIONING JUROR FOR CONDUCT. A grand juror
23 cannot be questioned for anything he may say, or any vote he may
24 give, while acting as a grand juror, in relation to any matter
25 legally pending before the grand jury, except for a perjury, of
26 which he may have been guilty in giving testimony before that
27 jury.

28 Sec. 5.10. CONTENTS OF INDICTMENT. a. The indictment
29 shall be direct and certain as it regards:

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

5 b. The statement of the facts constituting the offense
6 shall be in ordinary and concise language, without repetition,
7 and in a manner which will enable a person of common understand-
8 ing to know what is intended.

9 ARTICLE VI. TRIAL

10 Sec. 6.01. FORMATION OF TRIAL JURY. The qualification,
11 disqualification, and exemption of jurors, the preparation of
12 jury lists, and the composition of jury panel, in criminal actions
13 are the same as provided in civil actions.

14 Sec. 6.02. CONVICTION ON TESTIMONY OF ACCOMPLICE; CORROBOR-
15 ATION. A conviction shall not be had on the testimony of an
16 accomplice unless it is corroborated by other evidence which tends
17 to connect the defendant with the commission of the crime; and
18 the corroboration is not sufficient if it merely shows the com-
19 mission of the crime or the circumstances of the commission.

20 Sec. 6.03. NECESSARY EVIDENCE FOR FALSE PRETENSES. Upon a
21 trial for having, by any false pretense, obtained the signature
22 of any person to any written instrument, or obtained from any
23 person any valuable thing, no evidence can be admitted of a false
24 pretense expressed orally and unaccompanied by a false token or
25 writing. The pretense, or some note or memorandum of it, shall
26 be in writing, and either subscribed by or in the handwriting of
27 the defendant. This section does not apply to an action for
28 falsely representing or personating another, and in that assumed
29 character receiving any valuable thing.

1 Sec. 6.04. NECESSARY EVIDENCE FOR PROSTITUTION OR SEDUCTION.
2 Upon a trial for inveigling, enticing, or taking away an unmarried
3 female for the purposes of prostitution, or for seducing and hav-
4 ing an illicit connection with an unmarried female, the defendant
5 shall not be convicted upon the testimony of the injured female
6 unless her testimony is corroborated by some other evidence tend-
7 ing to connect the defendant with the commission of the crime.

8 Sec. 6.05. LIMITATION ON DISCOVERY OF STATEMENT OF PROSECU-
9 TION WITNESS. In any criminal prosecution, no statement or report
10 in the possession of the state which was made by a prosecution
11 witness or prospective prosecution witness (other than the defend-
12 ant) to an agent of the state may be the subject of subpoena,
13 discovery, or inspection until the witness has testified on direct
14 examination in the trial of the case.

15 Sec. 6.06. DISCOVERY AFTER DIRECT EXAMINATION OF WITNESS.
16 After a witness called by the state has testified on direct
17 examination, the court shall, on motion of the defendant, order
18 the state to produce any statement of the witness in the posses-
19 sion of the state which relates to the subject matter as to which
20 the witness has testified. If the entire contents of the state-
21 ment relate to the subject matter of the testimony of the witness,
22 the court shall order it to be delivered directly to the defend-
23 ant for his examination and use.

24 Sec. 6.07. DISCOVERY OF PORTIONS OF STATEMENT. If the
25 state claims that any statement ordered to be produced under Sec.
26 6.06 contains matter which does not relate to the subject matter
27 of the testimony of the witness, the court shall order the state
28 to deliver the statement for the inspection of the court in
29 chambers. Upon delivery the court shall excise the portions of
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1 the statement which do not relate to the subject matter of the
2 testimony of the witness. With the material excised, the court
3 shall then direct delivery of the statement to the defendant for
4 his use. If, pursuant to this procedure, any portion of the
5 statement is withheld from the defendant and the defendant objects
6 to the withholding, and the trial is continued to an adjudication
7 of the guilt of the defendant, the entire text of the statement
8 shall be preserved by the state and, in the event the defendant
9 appeals, shall be made available to the appellate court for the
10 purpose of determining the correctness of the ruling of the trial
11 judge. Whenever any statement is delivered to a defendant, the
12 court may recess the trial for the examination of the statement
13 by the defendant and his preparation for its use in the trial.

14 Sec. 6.08. DISPOSITION OF PROCEEDING UPON FAILURE OF STATE
15 TO COMPLY WITH ORDER. If the state elects not to comply with an
16 order of the court to deliver to the defendant any statement, or
17 a portion of any statement as the court may direct, the court
18 shall strike from the record the testimony of the witness, and
19 the trial shall proceed unless the court in its discretion shall
20 determine that the interests of justice require that a mistrial
21 be declared.

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

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

27 (2) a stenographic, mechanical, electrical, or other
28 recording, or a transcription of the statement, which is a sub-
29 stantially verbatim recital of an oral statement made by the

1 witness to an agent of the state and recorded contemporaneously
2 with the making of the oral statement.

3 Sec. 6.10. COMMITMENT OF DEFENDANT ON GROUND OF INSANITY.

4 If the jury finds the defendant not guilty on the ground of in-
5 sanity and the court considers his being at large dangerous to
6 the public peace or safety, the court shall order him to be com-
7 mitted to an institution authorized by the commissioner of health
8 and welfare to receive that person and held in custody until he
9 becomes sane or is otherwise discharged therefrom by authority of
10 law.

11 Sec. 6.11. DETERMINATION OF INSANITY DURING TRIAL OR PROBA-
12 TION. Whenever, after arrest and prior to the imposition of
13 sentence or prior to the expiration of any period of probation,
14 the attorney general, the district attorney, or the attorney for
15 the accused has reasonable cause to believe that a person charged
16 with an offense may be presently insane or otherwise so mentally
17 incompetent as to be unable to understand the proceedings against
18 him or properly to assist in his own defense, he may file a
19 motion for a judicial determination of the mental competency of
20 the accused. Upon that motion or upon a similar motion in behalf
21 of the accused, or upon its own motion, the court shall have the
22 accused, whether or not previously admitted to bail, examined as
23 to his mental condition by at least one qualified psychiatrist,
24 who shall report to the court. For the purpose of the examination
25 the court may order the accused committed for a reasonable period
26 as the court may determine to a suitable hospital or other facili-
27 ty to be designated by the court. If the report of the psychia-
28 trist indicates a state of present insanity or of mental
29 incompetency in the accused, the court shall hold a hearing, upon

1 due notice, at which evidence as to the mental condition of the
2 accused may be submitted, including that of the reporting
3 psychiatrist, and make a finding with respect thereto. No state-
4 ment made by the accused in the course of any examination into
5 his sanity or mental competency provided for by this section,
6 whether the examination is with or without the consent of the
7 accused, may be admitted in evidence against the accused on the
8 issue of guilt in any criminal proceeding. A finding by the
9 judge that the accused is mentally competent to stand trial in
10 no way prejudices the accused in a plea of insanity as a defense
11 to the crime charged; the finding may not be introduced in
12 evidence on that issue nor otherwise be brought to the notice of
13 the jury.

14 Sec. 6.12. COMMITMENT ON FINDING OF INSANITY. Whenever the
15 trial court determines, in accordance with Sec. 6.11, that an
16 accused is or was mentally incompetent as to be unable to under-
17 stand the proceedings against him or properly to assist in his
18 own defense, the court may commit the accused to the custody of
19 the commissioner of health and welfare or his authorized repre-
20 sentative until the accused shall be mentally competent to stand
21 trial or until the pending charges against him are disposed of
22 according to law.

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

28 (1) by or upon a peace officer or magistrate while in
29 the execution of the duties of his office;

- 1 (2) riotously;
2 (3) with an intent to commit a felony;
3 (4) larcenously.

4 Sec. 6.14. ACKNOWLEDGMENT OF SATISFACTION BY INJURED PARTY.

5 If the party injured appears before the court in which the
6 defendant is bound to appear, at any time before trial, and ac-
7 knowledges in writing that he has received satisfaction for the
8 injury, the court may, on payment of the costs incurred, order
9 the prosecution dismissed and the defendant discharged. The
10 order is a bar to another prosecution for the same crime.

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

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

29

ARTICLE VII. WITNESSES

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

7 Sec. 7.02. COMMITMENT ON FAILURE TO COMPLY WITH ORDER. If
8 a witness required to enter into an undertaking to appear and
9 testify, either with or without sureties, refuses compliance with
10 the order for that purpose, the magistrate shall commit him to
11 the custody of a peace officer until he complies or is legally
12 discharged.

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

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

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

19 (3) "subpoena" includes a summons, in any state where
20 a summons is used in lieu of subpoena, order or other notice
21 requiring the appearance of a witness. The word subpoena also
22 includes a subpoena duces tecum.

23 Sec. 7.04. WITNESS SUBPOENAED IN THIS STATE TO TESTIFY IN
24 ANOTHER STATE. a. If a judge of a court of record in any state,
25 which by its laws has made provision for commanding persons with-
26 in the state to attend and testify in this state, certifies under
27 the seal of the court that there is a criminal prosecution pend-
28 ing in the court or that a grand jury investigation has commenced
29 or is about to commence, that a person within this state is a
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1 material witness in that prosecution or grand jury investigation,
2 and that his presence will be required for a specified number of
3 days, then, upon presentation of the certificate to a judge of a
4 court of record in the judicial district in which the person is,
5 the judge shall fix a time and place for a hearing and shall
6 make an order directing the witness to appear at a time and place
7 certain for the hearing.

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

22 c. If the certificate recommends that the witness be taken
23 into immediate custody and delivered to an officer of the request-
24 ing state to assure his attendance in the requesting state, the
25 judge may, in lieu of notification of the hearing, direct that the
26 witness be forthwith brought before him for said hearing; and if
27 the judge at the hearing is satisfied of the desirability of the
28 custody and delivery, for which determination the certificate
29 shall be prima facie proof of this desirability, he may, in lieu

1 of issuing subpoena, order that the witness be forthwith taken
2 into custody and delivered to an officer of the requesting state.

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

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

1 of this state to take the witness into custody and hold him until
2 discharged by a court of this state.

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

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

24 Sec. 7.07. IMMUNITY OF FOREIGN WITNESS PASSING THROUGH
25 STATE FROM ARREST OR PROCESS. If a person passes through this
26 state while going to another state in obedience to a subpoena to
27 attend and testify in that state or while returning therefrom,
28 he shall not, while so passing through this state, be subject to
29 arrest or the service of process, civil or criminal, in connection

1 with matters which arose before his entrance into this state
2 under the subpoena.

3 Sec. 7.08. UNIFORMITY OF INTERPRETATION. Secs. 7.02 through
4 7.09 shall be so interpreted and construed as to effectuate the
5 general purpose to make uniform the laws of the state which enact
6 similar legislation.

7 Sec. 7.09. PARTY SEEKING WITNESS. The right to obtain wit-
8 nesses under Secs. 7.03 through 7.10 in criminal proceedings shall
9 extend to the state or a defendant. Witness fees shall be paid
10 by the party calling the witness except as provided in Rule 17(b),
11 Rules of Criminal Procedure, State of Alaska. If the time esti-
12 mate in the certificate of the requesting court is exceeded, the
13 nonindigent defendant shall be required to tender additional per
14 diem or post bond to insure payment of total witness fees.

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

18 ARTICLE VIII. SENTENCING AND PROBATION

19 Sec. 8.01. IMPRISONMENT ON JUDGMENT FOR PAYMENT OF FINE.

20 A judgment that the defendant pay a fine shall also direct that
21 he be imprisoned until the fine is satisfied, specifying the ex-
22 tent of the imprisonment, which cannot exceed one day for every
23 \$5.00 of the fine. In case the entry of judgment should omit to
24 direct the imprisonment and the extent thereof, the judgment to
25 pay the fine shall operate to authorize and require the imprison-
26 ment of the defendant until the fine is satisfied at the rate
27 above mentioned. If the defendant chooses to work during the
28 imprisonment, he may be granted an additional reduction of \$5.00
29 of fine for each day worked. Prisoners may be employed only in

1 undertakings that do not put them in competition with the product
2 of free labor.

3 Sec. 8.02. ENFORCING JUDGMENT TO PAY MONEY. A judgment
4 that a defendant pay money, whether the same be a fine or costs
5 and disbursements or both, constitutes a lien in the same manner
6 as a judgment for money rendered in a civil action. Execution
7 may issue on it as on a judgment in a civil action.

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

26 Sec. 8.04. INCREASED PUNISHMENT FOR HABITUAL CRIMINAL AFTER
27 CONVICTION OF PETTY LARCENY OR MISDEMEANOR INVOLVING FRAUD.
28 Every person convicted of petty larceny or a misdemeanor in which
29 fraud or intent to defraud is an element, who, subsequent to

1 March 9, 1939, has been three times convicted in this state, or
2 elsewhere, of a crime which would constitute burglary, larceny
3 except changing brands, embezzlement or obtaining money or
4 property by false pretenses under Alaska law, shall be adjudged
5 an habitual criminal and shall be sentenced to imprisonment in
6 the penitentiary for a term of not more than 10 years.

7 Sec. 8.05. INCREASED PUNISHMENT FOR PERSONS CONVICTED OF
8 MORE THAN ONE FELONY. Every person convicted of a felony in this
9 state who has been previously convicted of a felony in this state
10 or elsewhere, if the same crime elsewhere would constitute a
11 felony under Alaska law, shall be punished as follows:

12 (1) if that person is convicted of a felony which
13 would be punishable by imprisonment for any term less than his
14 natural life, and that person had previously been convicted of
15 one felony, then that person shall be sentenced to imprisonment
16 in the penitentiary for not more than twice the longest term
17 prescribed for the felony of which that person is convicted;

18 (2) if that person has previously been convicted of
19 two felonies, then that person shall be sentenced to imprisonment
20 in the penitentiary for not more than twice the longest term
21 prescribed herein for a second conviction of felony;

22 (3) if that person has previously been convicted of
23 three or more felonies, then on the fourth conviction that person
24 shall be adjudged an habitual criminal and sentenced to imprison-
25 ment in the penitentiary for not less than 20 years nor more than
26 the remainder of his natural life.

27 Sec. 8.06. PROCEDURE UPON DISCOVERY OF PRIOR CONVICTIONS.
28 Before conviction or while sentence is effective, if it appears
29 that a person convicted of a crime in this state has previously

1 been convicted and has not been charged under Secs. 8.04 and 8.05,
2 the district attorney may file an information in the superior
3 court accusing that person of the previous conviction or convic-
4 tions. The court shall cause that person, whether confined in
5 prison or otherwise, to be brought before it and shall inform him
6 of the allegations contained in the information and of his right
7 to be tried as to the truth of the allegations, and shall require
8 the accused person to plead to the information. If the accused
9 acknowledges or confesses in open court, after being cautioned as
10 to his rights, that he was previously convicted of the crimes
11 charged, or any of them, the court shall sentence him as provided
12 in Sec. 8.04 or Sec. 8.05, and shall vacate the previous
13 sentence, deducting from the new sentence all time actually served
14 on the sentence so vacated. If the accused says he is not the
15 same person, or refuses to answer, or remains silent, or pleads
16 not guilty, the court shall examine the charge of previous con-
17 viction, which shall be the only matter in issue. If it appears
18 from the examination that there is sufficient cause to believe
19 the accused has been previously convicted as charged in the
20 information, the accused shall be committed to await the action
21 of the grand jury, which shall consider only the fact of previous
22 conviction of the accused. If the grand jury indicts the accused
23 and he pleads not guilty, he shall be tried by jury in the
24 superior court, and the only issue before the jury shall be
25 whether the accused was previously convicted as charged. If the
26 jury finds that the accused has been previously convicted as
27 charged, or if, after being cautioned as to his rights, the
28 accused acknowledges or confesses in open court that he was pre-
29 viously convicted as charged, the court shall sentence him as

1 provided in Sec. 8.04 or Sec. 8.05, and shall vacate the previous
2 sentence, deducting from the new sentence all time served on the
3 vacated sentence. The accused may be admitted to bail either
4 while awaiting examination, action of the grand jury, or trial.

5 Sec. 8.07. NOTIFICATION OF PROSECUTING ATTORNEY OF DIS-
6 COVERY OF PRIOR CONVICTIONS. Whenever it shall become known to
7 a prison, probation, parole or police officer that a person
8 charged with or convicted of a crime has been previously convicted
9 of another crime, he shall immediately report the fact to the
10 district attorney.

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

20 Sec. 8.09. GRANTING OF PROBATION. a. Probation may be
21 granted whether the crime is punishable by fine or imprisonment
22 or both. If a crime is punishable by both fine and imprisonment,
23 the court may impose a fine and place the defendant on probation
24 as to imprisonment. Probation may be limited to one or more
25 counts or indictments, but in the absence of express limitation,
26 shall extend to the entire sentence and judgment.

27 b. The court may revoke or modify any condition of probation
28 or may change the period of probation.

29 c. The period of probation, together with any extension,

1 shall not exceed five years.

2 Sec. 8.10. CONDITIONS OF PROBATION. a. While on probation
3 and among the conditions of probation, the defendant may be re-
4 quired:

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

6 (2) to make restitution or reparation to aggrieved
7 parties for actual damages or loss caused by the crime for which
8 conviction was had; and

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

11 b. The defendant's liability for any fine or other punish-
12 ment imposed as to which probation is granted shall be fully dis-
13 charged by the fulfillment of the terms and conditions of proba-
14 tion.

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

20 ARTICLE IX. PREVENTION OF CRIMES

21 Sec. 9.01. RESISTANCE TO COMMISSION OF CRIME. Lawful re-
22 sistance to the commission of crime may be made by the party
23 about to be injured, or by any other person in aid or defense of
24 the person about to be injured:

25 (1) to prevent a crime against his person or his
26 family;

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

29 Sec. 9.02. MANNER OF PREVENTING CRIME. Crimes may be

1 prevented by the intervention of the peace officers;

2 (1) by requiring security to keep the peace;

3 (2) by forming a police in cities, towns, villages,
4 and settlements and by requiring their attendance at exposed
5 places;

6 (3) by suppressing riots.

7 Sec. 9.03. JUSTIFICATION OF PERSONS AIDING OFFICERS IN PRE-
8 VENTING CRIME. When peace officers act in the prevention of
9 crime, other persons who, by their command, act in their aid are
10 justified in doing so.

11 Sec. 9.04. ACTION ON THREATENED CRIME. Any person may bring
12 a complaint in the magistrate court against a person who has
13 threatened to commit a crime against the person or property of
14 another.

15 Sec. 9.05. EXAMINATION OF COMPLAINANT AND WITNESSES. When
16 the complaint is brought, the magistrate shall examine the com-
17 plainant and require him to sign the complaint under oath and
18 take signed statements under oath of any witnesses he produces.

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

23 Sec. 9.07. EXAMINATION OF CHARGE. When the person complain-
24 ed of appears or is brought before the magistrate, if the charge
25 in the complaint is controverted, the magistrate may subpoena
26 witnesses, hear any statement to the charges made by the person
27 complained of, and all other testimony.

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

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

6 Sec. 9.10. REQUIREMENT OF UNDERTAKING. If there is good
7 reason to fear the commission of the crime, the person complained
8 of may be required to enter into an undertaking in a sum, not
9 exceeding \$2,000.00, as the magistrate may direct, with one or
10 more sufficient sureties, to keep the peace toward the people of
11 the state, and particularly toward the complainant. The under-
12 taking is valid and binding for a period not to exceed one year
13 and may, upon the renewal of the action, be extended for an
14 additional period not to exceed one year, or a new undertaking
15 required.

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

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

28 Sec. 9.13. DISCHARGE UPON GIVING UNDERTAKING AFTER COMMIT-
29 MENT. If the person complained of is committed for not giving

1 the undertaking required, he may be discharged by any magistrate
2 upon giving the undertaking.

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

6 Sec. 9.15. RIGHTS AND AUTHORITIES OF SURETIES. The sureties
7 in an undertaking to keep the peace are entitled to the rights and
8 authority of bail, including the right to arrest the defendant as
9 provided in Sec. 3.04 of this Act and the Rules of Criminal Pro-
10 cedure, and may be exonerated from their undertaking in the
11 manner prescribed therein.

12 Sec. 9.16. REQUIRING SECURITY OF CONVICTED PERSON. The
13 court before whom any person is convicted of a crime, which by
14 the judgment of the court is punished otherwise than by imprison-
15 ment in the penitentiary, may require that person to enter into
16 an undertaking as provided in Sec. 9.10 for a period not exceed-
17 ing two years. If he does not provide the undertaking, the court
18 may commit him until the undertaking is given or the period ex-
19 pired.

20 Sec. 9.17. SECURITY TO KEEP PEACE. An undertaking to keep
21 the peace shall also be considered an undertaking to be of good
22 behaviour, and cannot be required except as prescribed in this
23 article.

24 Sec. 9.18. UNLAWFUL OR RIOTOUS ASSEMBLY; COMMAND TO DIS-
25 PERSE. Where three or more persons, whether armed or not, are
26 unlawfully or riotously assembled, any magistrate, peace officer
27 or the chief executive officer of a city, town, village, or
28 settlement, shall go among the persons assembled, or as near to
29 them as they can with safety, and command them in the name of the

1 state to disperse.

2 Sec. 9.19. ARREST ON FAILURE TO DISPERSE; COMMANDING AID OF
3 PERSONS. If the persons assembled do not immediately disperse,
4 the magistrates and officers shall arrest them. Any two of the
5 officers mentioned in Sec. 9.18 may command the aid of a suffi-
6 cient number of persons, armed or otherwise, as may be necessary,
7 and may proceed in the manner as in their judgment may be most
8 expedient to disperse the assembly and arrest the offenders.

9 Sec. 9.20. PERSON REFUSING TO AID OFFICERS AS RIOTER. If
10 a person is commanded to aid the magistrate or officers, or any
11 of them, mentioned in Sec. 9.18, and neglects to do so, he is
12 considered one of the rioters, and may be treated and is punish-
13 able accordingly.

14 Sec. 9.21. OFFICER FAILING TO ACT IS GUILTY OF MISDEMEANOR.
15 If a magistrate or officer having notice of an unlawful or riotous
16 assembly, mentioned in Sec. 9.18, neglects to proceed to the place
17 of assembly, or as near as he can with safety, and to exercise the
18 authority with which he is invested for suppressing the same and
19 arresting the offenders, he is guilty of a misdemeanor.

20 Sec. 9.22. GUILT WHERE DEATH ENSUES. If, in the effort to
21 suppress or disperse any unlawful or riotous assembly, or to
22 arrest or detain any of the persons engaged in the assembly, any
23 of the rioters or other persons then present as spectators or
24 otherwise are killed or wounded, the magistrate and officers and
25 persons acting in their aid are guiltless of the killing or
26 wounding. However, if any magistrate or officer or person acting
27 in their aid is killed or wounded, all the persons unlawfully
28 engaged in the assembly are guilty of the killing or wounding.

29 Sec. 9.23. REWARD FOR INFORMATION LEADING TO CONVICTION OF
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1 CERTAIN PERSONS. A reward of \$200.00 shall be paid to any person
2 not a peace officer who lodges information that leads to the
3 arrest and conviction of any person, or persons, maliciously
4 breaking into and entering any cache, cabin, house or warehouse,
5 whether occupied or unoccupied, located outside the boundaries
6 of any incorporated town in the state.

7 Sec. 9.24. PAYMENT OF REWARD. The Department of Revenue
8 shall pay all claims for rewards upon certificate by a magistrate
9 or clerk of the superior court, showing that the claimant has
10 lodged information that resulted in an arrest and conviction
11 under the provisions of Sec. 9.23.

12 ARTICLE X. CORONER'S INQUEST

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

23 Sec. 10.02. DUTIES. Whenever any person dies unattended by
24 a physician, or whenever no physician is prepared to execute the
25 certificate of death prescribed by the Vital Statistics Act, the
26 district magistrate or deputy magistrate assigned to serve the
27 place where death occurs may, by written order, direct a medical
28 examiner to view the remains of the deceased person and to perform
29 the post mortem examination, including an autopsy, as is, in the

1 opinion of the medical examiner, necessary to make a proper
2 determination of the cause of death and to execute the prescribed
3 death certificate. Upon the completion of the examination, the
4 examiner shall, without delay, submit a report of his findings
5 and conclusions to the district magistrate or deputy magistrate.
6 The magistrate shall order an inquest under this article if the
7 findings and conclusions of the medical examiner, together with
8 other information available to the magistrate, warrant the in-
9 quest. Otherwise he shall enter an order dispensing with the
10 inquest and shall record the certificate of death as prescribed by
11 law.

12 Sec. 10.03. MAGISTRATE AS CORONER. District magistrates and
13 deputy magistrates shall serve as ex officio coroners and shall
14 perform the duties and exercise the authority of that office.

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

26 Sec. 10.05. SUMMONING JURORS FOR INQUEST. If an inquest is
27 warranted, the coroner shall immediately summon six persons quali-
28 fied by law to serve as jurors to appear before him at a specified
29 place, to inquire into the cause of the death.

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

7 Sec. 10.07. SUBPOENA AND EXAMINATION OF WITNESSES. The
8 magistrate or deputy magistrate may subpoena and examine as wit-
9 nesses persons who, in his opinion, have knowledge of the
10 material facts, and also an appointed medical examiner when avail-
11 able, or otherwise a physician, who shall examine the body and
12 give professional opinion as to the cause of the death. The
13 testimony shall be reduced to writing.

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

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

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

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

26 Sec. 10.10. BURIAL OF BODY. When a coroner holds an inquest
27 upon the body of a stranger or pauper, and no friend or relative
28 appears to claim the body for burial, the coroner shall notify
29 the Department of Health and Welfare which shall cause the body

1 to be plainly and decently buried.

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

13 ARTICLE XI. EXTRADITIONS

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

15 (1) "governor" includes any person performing the
16 functions of governor by authority of the law of this state;

17 (2) "executive authority" includes the governor and
18 any person performing the functions of governor in a state other
19 than this state;

20 (3) "state," referring to a state other than this
21 state, includes any other state or possession of the United States
22 of America.

23 Sec. 11.02. FUGITIVES FROM OTHER STATES; DUTY OF GOVERNOR.

24 Subject to the provisions of Secs. 11.01 to 11.29 inclusive, the
25 provisions of the Constitution of the United States controlling,
26 and any and all acts of Congress enacted in pursuance thereof, it
27 is the duty of the governor of this state to have arrested and
28 delivered up to the executive authority of any other state any
29 person charged in that state with treason, felony, or other crime,

1 who has fled from justice and is found in this state.

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

6 (1) An allegation that the accused was present in the
7 demanding state at the time of the commission of the alleged
8 crime and that thereafter he fled the demanding state; except that
9 this allegation shall not be required in a proceeding based on
10 Sec. 11.06.

11 (2) A copy of an indictment found or an information
12 supported by affidavit in the state having jurisdiction of the
13 crime or by a copy of a complaint, affidavit or other equivalent
14 accusation made before a magistrate there. The indictment, in-
15 formation, or complaint, affidavit or other equivalent accusation
16 must substantially charge the person demanded with having com-
17 mitted a crime under the law of that state, and the copy must be
18 authenticated by the executive authority making the demand.

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

22 (1) A statement by the executive authority of the
23 demanding state that the person claimed has escaped from confine-
24 ment or has broken the terms of bail, probation or parole;

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

28 Sec. 11.04. INVESTIGATION OF DEMAND AND REPORT. When a
29 demand is made upon the governor of this state by the executive

1 authority of another state for a surrender of a person so charged
2 with crime, the governor shall investigate the demand.

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

14 b. The governor of this state may also surrender on demand
15 of the executive authority of any other state any person in this
16 state who is charged in the manner provided in Sec. 11.23 with
17 having violated the laws of the state whose executive authority is
18 making the demand, even though that person left the demanding
19 state involuntarily.

20 Sec. 11.06. EXTRADITION OF PERSON NOT PRESENT IN DEMANDING
21 STATE AT TIME OF COMMISSION OF CRIME. The governor of this state
22 may also surrender, on demand of the executive authority of any
23 other state, any person in this state charged in the other state
24 in the manner provided in Sec. 11.03 with committing an act in
25 this state, or a third state, intentionally resulting in a crime
26 in the state whose executive authority is making the demand, and
27 the provisions of Secs. 11.01 to 11.29, inclusive, not otherwise
28 inconsistent shall apply to those cases, even though the accused
29 was not in that state at the time of the commission of the crime,

1 and has not fled from that state.

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

3 If the governor decides that the demand should be complied with,
4 he shall sign a warrant of arrest, which shall be sealed with
5 the state seal, and be directed to any peace officer or other
6 person whom he may think fit to entrust with the execution of the
7 warrant. The warrant must substantially recite the facts neces-
8 sary to the validity of its issuance.

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

10 The warrant shall authorize the peace officer or other person to
11 whom directed to arrest the accused at any time and any place
12 where he may be found within the state and to command the aid of
13 all peace officers or other persons in the execution of the
14 warrant, and to deliver the accused, subject to the provisions of
15 Secs. 11.01 to 11.29, inclusive, to the duly authorized agent of
16 the demanding state.

17 Sec. 11.09. AUTHORITY OF ARRESTING OFFICER TO COMMAND

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

23 Sec. 11.10. RIGHTS OF ACCUSED PERSON; APPLICATION FOR WRIT
24 OF HABEAS CORPUS. No person arrested upon a warrant shall be
25 delivered over to the agent whom the executive authority demanding
26 him shall have appointed to receive him unless he is first taken
27 forthwith before a judge of the superior court or a district
28 magistrate of this state, who shall inform him of the demand made
29 for his surrender, and of the crime with which he is charged, and

1 that he has the right to demand and procure legal counsel. If the
2 prisoner or his counsel shall state that he or they desire to
3 test the legality of the arrest, the judge of the superior court
4 or the district magistrate shall fix a reasonable time to be
5 allowed him within which to apply for a writ of habeas corpus.
6 When that writ is applied for, notice thereof, and of the time and
7 place of hearing thereon, shall be given to the prosecuting
8 attorney of the judicial district in which the arrest is made and
9 in which the accused is in custody, and to the agent of the
10 demanding state.

11 Sec. 11.11. PENALTY FOR NONCOMPLIANCE WITH PRECEDING SECTION
12 Any officer or other person who delivers to the agent for extra-
13 dition of the demanding state a person in his custody under the
14 governor's warrant, in wilful disobedience to the last section,
15 is guilty of a misdemeanor and, on conviction, shall be fined not
16 more than \$1,000.00 or be imprisoned not more than six months, or
17 both.

18 Sec. 11.12. CONFINEMENT IN JAIL WHEN NECESSARY. a. The
19 officer or person executing the governor's warrant of arrest, or
20 the agent of the demanding state to whom the prisoner may have
21 been delivered, may, when necessary, confine the prisoner in a
22 jail in any political subdivision, judicial district or city of
23 this state, through which he may pass. The keeper of the jail
24 shall receive and safely keep the prisoner until the officer or
25 person having charge of him is ready to proceed on his route.
26 The officer or person is chargeable with the expense of keeping.

27 b. The officer or agent of a demanding state to whom a
28 prisoner may have been delivered following extradition proceedings
29 in another state, or to whom a prisoner may have been delivered

1 after waiving extradition in the other state, and who is passing
2 through this state with a prisoner for the purpose of immediately
3 returning that prisoner to the demanding state may, when neces-
4 sary, confine the prisoner in a jail in any political subdivision,
5 judicial district or city of this state through which he may pass.
6 The keeper of the jail shall receive and safely keep the prisoner
7 until the officer or agent having charge of him is ready to pro-
8 ceed on his route. The officer or agent is chargeable with the
9 expense of keeping. The officer or agent shall produce and show
10 to the keeper of the jail satisfactory written evidence of the
11 fact that he is actually transporting the prisoner to the demand-
12 ing state after a requisition by the executive authority of the
13 demanding state. The prisoner shall not be entitled to demand a
14 new requisition while in this state.

15 Sec. 11.13. ARREST PRIOR TO REQUISITION. Whenever any
16 person within this state is charged on the oath of any credible
17 person before any judge of the superior court or district magis-
18 trate of this state with the commission of any crime in any
19 other state and, except in cases arising under Sec. 11.06, with
20 having fled from justice, or with having been convicted of a
21 crime in that state and having escaped from confinement, or having
22 broken the terms of his bail, probation or parole; or whenever
23 complaint is made before any judge of the superior court or
24 district magistrate in this state setting forth on the affidavit
25 of any credible person in another state that a crime has been
26 committed in the other state and that the accused has been charged
27 in that state with the commission of the crime, and except in
28 cases arising under Sec. 11.06, has fled from justice, or with
29 having been convicted of a crime in that state and having escaped

1 from confinement, or having broken the terms of his bail, proba-
2 tion or parole and is believed to be in this state; the judge of
3 the superior court or district magistrate shall issue a warrant
4 directed to any peace officer commanding him to apprehend the
5 person named in the warrant, wherever he may be found in this
6 state, and to bring him before the same or any other judge of the
7 superior court or district magistrate, who is available in or
8 convenient of access to the place where the arrest may be made,
9 to answer the charge or complaint and affidavit. A certified
10 copy of the sworn charge or complaint or affidavit upon which the
11 warrant is issued shall be attached to the warrant.

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

24 Sec. 11.15. COMMITMENT TO AWAIT REQUISITION; BAIL. If at
25 the examination before the superior court judge or district
26 magistrate it appears that the person held is the person charged
27 with having committed the crime alleged and, except in cases
28 arising under Sec. 11.06, that he has fled from justice, the
29 superior court judge or district magistrate shall commit him to

1 jail for a time, not exceeding 30 days, as will enable the arrest
2 of the accused to be made under a warrant of the governor on a
3 requisition of the executive authority of the state having juris-
4 diction of the offense, unless the accused gives bail as provided
5 in Sec. 11.16, or until he is legally discharged, The commitment
6 by the judge of the superior court or by the district magistrate
7 shall be by a warrant which shall recite the following:

8 (1) the accusation against him;

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

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

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

23 Sec. 11.17. EXTENSION OF TIME OF COMMITMENT; ADJOURNMENT.

24 If the accused is not arrested under warrant of the governor by
25 the expiration of the time specified in the warrant, bond or
26 undertaking, a judge of the superior court or district magistrate
27 may discharge him or may recommit him for a further period not
28 to exceed 60 days, or a judge of the superior court or district
29 magistrate may again take bail for his appearance and surrender,

1 as provided in Sec. 11.16, but within a period not to exceed 60
2 days after the date of the new bond or undertaking.

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

12 Sec. 11.19. PERSONS UNDER CRIMINAL PROSECUTION IN THIS STATE
13 AT TIME OF REQUISITION. If a criminal prosecution has been in-
14 stituted against the person under the laws of this state and is
15 still pending, the governor, in his discretion, either may
16 surrender him on demand of the executive authority of another
17 state or may hold him until he has been tried and discharged, or
18 convicted and punished in this state.

19 Sec. 11.20. GUILT OR INNOCENCE OF ACCUSED; WHEN INQUIRED
20 INTO. The guilt or innocence of the accused as to the crime of
21 which he is charged may not be inquired into by the governor in
22 any proceeding after the demand for extradition, accompanied by
23 a charge of crime in legal form as above provided, has been pre-
24 sented to the governor, except as it may be involved in identify-
25 ing the person held as the person charged with the crime.

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

29 Sec. 11.22. FUGITIVES FROM THIS STATE; DUTY OF GOVERNORS.

1 Whenever the governor of this state demands a person charged with
2 crime or with escaping from confinement or breaking the terms of
3 his bail, probation or parole in this state, from the executive
4 authority of any other state, or from a judge of the District
5 Court of the United States for the District of Columbia authorized
6 to receive the demand under the laws of the United States, he
7 shall issue a warrant under the seal of this state to an agent,
8 commanding him to receive the person so charged if delivered to
9 him and convey him to the proper officer of the judicial district
10 in this state in which the offense was committed.

11 Sec. 11.23. APPLICATION FOR ISSUANCE OF REQUISITION; BY
12 WHOM MADE; CONTENTS. a. When the return to this state of a
13 person charged with a crime in this state is required, the prose-
14 cuting attorney of the judicial district in which the offense is
15 committed, or the attorney general, shall present to the governor
16 his written application for a requisition for the return of the
17 person charged. In the application there shall be stated the
18 name of the person so charged, the crime charged against him, the
19 approximate time, place and circumstances of its commission, the
20 state in which he is believed to be, including the location of
21 the accused therein at the time the application is made, and
22 certifying that in the opinion of the said prosecuting attorney,
23 or the attorney general, the ends of justice require the arrest
24 and return of the accused to this state for trial, and that the
25 proceeding is not instituted to enforce a private claim.

26 b. When the return to this state is required of a person
27 who has been convicted of a crime in this state and has escaped
28 from confinement or broken the terms of his bail, probation or
29 parole, the prosecuting attorney of the judicial district in which

1 the offense was committed, or the attorney general, the parole or
2 probation authority having jurisdiction over him, or the commis-
3 sioner of the Department of Health and Welfare, shall present to
4 the governor a written application for a requisition for the
5 return of that person. In the application there shall be stated
6 the name of the person, the crime for which he was convicted, the
7 circumstances of his escape from confinement or of the breach of
8 the terms of his bail, probation or parole, and the state in
9 which he is believed to be, including the location of the person
10 therein at the time the application is made.

11 c. The application shall be verified by affidavit, shall be
12 executed in duplicate and shall be accompanied by two certified
13 copies of the indictment returned, or information and affidavit
14 filed, or the complaint made to the superior court judge or
15 district magistrate, stating the offense with which the accused
16 is charged, or of the judgment of conviction or of the sentence.
17 The attorney general or the prosecuting attorney, the parole or
18 probation authority, or the commissioner of the Department of
19 Health and Welfare may also attach further affidavits and other
20 documents in duplicate as he deems proper to be submitted with the
21 application. One copy of the application, with the action of the
22 governor indicated by endorsement on the application, and one of
23 the certified copies of the indictment, complaint, information
24 and affidavits, or judgment of conviction or sentence shall be
25 filed in the office of the governor to remain of record in that
26 office. The other copies of all papers shall be forwarded with
27 the governor's requisition.

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

8 Sec. 11.25. WRITTEN WAIVER OF EXTRADITION PROCEEDINGS. a.

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

22 b. If and when that consent is executed, it shall forthwith
23 be forwarded to the office of the governor of this state and filed
24 therein. The judge or district magistrate shall direct the
25 officer having the person in custody to deliver forthwith that
26 person to the duly accredited agent or agents of the demanding
27 state, and shall deliver or cause to be delivered to such agent
28 or agents a copy of the consent.

29 c. Nothing in this section shall be deemed to limit the
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1 rights of the accused person to return voluntarily and without
2 formality to the demanding state, nor shall this waiver procedure
3 be deemed to be an exclusive procedure or to limit the powers,
4 rights or duties of the officers of the demanding state or of
5 this state.

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

16 Sec. 11.27. NO RIGHT OF ASYLUM; NO IMMUNITY FROM OTHER
17 CRIMINAL PROSECUTIONS WHILE IN THIS STATE. After a person has
18 been brought back to this state through extradition proceedings,
19 or after waiver of extradition proceedings by that person, he may
20 be tried in this state for other crimes which he may be charged
21 with having committed here as well as that specified in the
22 requisition for his extradition.

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

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

29

ARTICLE XII. HABEAS CORPUS

1 Sec. 12.01. PERSONS ENTITLED TO PROSECUTE WRIT. Every
2 person imprisoned or otherwise restrained of his liberty under any
3 pretense whatsoever, except in the cases specified in the next
4 section, may prosecute a writ of habeas corpus to inquire into the
5 cause of the imprisonment or restraint, and if illegal to be
6 delivered therefrom. Procedure may be as prescribed in the Rules
7 of Civil Procedure.

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

13 Sec. 12.03. OFFENSE NOT BAILABLE. When it appears that the
14 cause or offense for which the person prosecuting the writ is im-
15 prisoned or restrained is not bailable, the production of the
16 party may be dispensed with and the writ issued accordingly.

17 Sec. 12.04. PRODUCTION OF BODY. The person on whom the writ
18 is served shall bring the body of the person in his custody or
19 under his restraint, according to the command of the writ, except
20 in the cases provided in the next section.

21 Sec. 12.05. HEARING WITHOUT PRODUCTION OF PERSON. Whenever,
22 from the sickness or infirmity of the person directed to be pro-
23 duced, he cannot without danger be brought before the court, the
24 person in whose custody or power he is may state that fact in
25 his return to the writ. If the court is satisfied of the truth
26 of the return and the return is otherwise sufficient, the court
27 shall proceed to decide on the return and to dispose of the matter
28 as if the party had been produced.

29 Sec. 12.06. PROCEEDINGS ON DISOBEDIENCE OF WRIT. If the
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1 person upon whom the writ is served refuses or neglects to obey
2 it within the time required, and no sufficient excuse is shown,
3 it is the duty of the court before whom the writ is returnable,
4 upon due proof of service, to immediately issue a warrant against
5 that person, directed to a peace officer commanding him to
6 immediately apprehend and bring the person before the court. Upon
7 that person being brought before the court, the court shall com-
8 mit him to custody until he makes return to the writ and complies
9 with any order that may be made.

10 Sec. 12.07. PRECEPT TO PEACE OFFICER. The court which
11 issues a writ without requiring the production of the person or
12 which issues a warrant may also, at any time before final deci-
13 sion, issue a precept to the peace officer to whom the writ or
14 warrant is directed commanding him to immediately bring the per-
15 son for whose benefit the writ was allowed before the court.
16 That person shall remain in the custody of the peace officer until
17 discharged or remanded.

18 Sec. 12.08. DISCHARGE OF PARTY. If no legal cause is shown
19 for the imprisonment or restraint, or for its continuation, the
20 court shall discharge the party from the custody or restraint
21 under which he is held.

22 Sec. 12.09. REMAND OF PARTY LEGALLY DETAINED. The court
23 shall remand the party if it appears that he is legally detained
24 in custody.

25 Sec. 12.10. DISCHARGE OF PERSON IN CUSTODY BY VIRTUE OF
26 CIVIL PROCESS. If it appears on the return of the writ that the
27 prisoner is in custody by virtue of an order or civil process of
28 any court legally constituted, or issued by an officer in the
29 course of judicial proceedings before him, authorized by law, the

1 prisoner shall be discharged in either of the following cases:

2 (1) when the jurisdiction of the court or officer has
3 been exceeded, either as to matter, place, sum, or person;

4 (2) when though the original imprisonment was lawful,
5 yet by some act, omission, or event which has taken place after-
6 wards, the party has become entitled to a discharge;

7 (3) when the order or process is defective in some
8 matter of substance required by law, rendering the process void;

9 (4) when the order or process, though in proper form,
10 has been issued in a case not allowed by law;

11 (5) when the person having the custody of the prisoner
12 under the order or process is not the person empowered by law to
13 detain him; or

14 (6) when the order or process is not authorized by any
15 judgment of any court or by any provision of law.

16 Sec. 12.11. LIMITATION ON SCOPE OF COURT'S INQUIRY. No
17 court or judge, on the return of a writ of habeas corpus, may
18 inquire into the legality or justice of any order, judgment, or
19 process specified in Sec. 12.02, or into the justice, propriety,
20 or legality of any commitment for a contempt made by a court,
21 officer, or body, according to law, and charged in the commitment,
22 as provided by law.

23 Sec. 12.12. PROCEEDINGS WHERE COMMITMENT IRREGULAR. If it
24 appears by the testimony offered with the return, or upon the
25 hearing that the party is probably guilty of a criminal offense,
26 the court, although the commitment is irregular, shall immediately
27 remand him to the custody of the proper person.

28 Sec. 12.13. CUSTODY OF PARTY PENDING JUDGMENT. Until
29 judgment is given upon the return, the party may either be

1 committed to the custody of a peace officer or placed in his care
2 or under such custody as his age or circumstances require.

3 Sec. 12.14. ADMISSION TO BAIL. Any person prosecuting a
4 writ of habeas corpus may, at any time after the writ is allowed,
5 be admitted to bail by the court allowing the writ, or by any
6 other magistrate designated by that court or judge, pending the
7 hearing upon the writ and the final order of the court and, in
8 case of appeal, during the pendency of the appeal and until the
9 final order of the appellate court. The bail shall be by written
10 undertaking and executed as bail upon arrest, and the undertaking
11 shall be conditioned that the person so admitted to bail shall
12 appear in the designated court or before the designated judge
13 whenever required, and shall at all times render himself amenable
14 to the order or process of that court or judge, and that if he
15 fails to perform either of those conditions, the surety or sure-
16 ties on the undertaking will pay to the state the sum in which
17 that person is so admitted to bail.

18 Sec. 12.15. EFFECT OF ADMITTING TO BAIL. The admitting to
19 bail of a person prosecuting a writ of habeas corpus does not
20 in any manner affect the writ or other proceedings or the full
21 right of that person to have the cause and legality of his im-
22 prisonment inquired into and determined both in the trial court
23 and upon appeal.

24 Sec. 12.16. ENFORCING JUDGMENT OF DISCHARGE. Obedience to
25 a judgment for the discharge of a person imprisoned or restrained,
26 pursuant to the provisions of this article, may be enforced by
27 the court by proceedings for a contempt. No peace officer or
28 other person is liable to any action or proceeding for obeying
29 the judgment of discharge.

1 Sec. 12.17. DISCHARGE AS BAR TO SUBSEQUENT RESTRAINT. No
2 person who has been discharged by the order of a court upon
3 habeas corpus shall again be imprisoned, restrained, or kept in
4 custody for the same cause except in the following cases:

5 (1) if he has been discharged from a commitment on a
6 criminal charge and is afterwards committed for the same offense
7 by legal order or process;

8 (2) if, after a judgment or discharge for a defect of
9 evidence, or for a material defect in the commitment, in a
10 criminal case, the party is again arrested on sufficient evidence
11 and committed by legal process for the same offense;

12 (3) if, after a civil action, the party has been dis-
13 charged for any illegality in the judgment, decree, or process
14 specified in Sec. 12.10, and is afterwards imprisoned for the
15 same cause of action;

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

20 Sec. 12.18. GROUNDS FOR WARRANT IN LIEU OF WRIT. Whenever
21 it appears, to any court authorized to issue the writ of habeas
22 corpus, that any person is illegally imprisoned or restrained,
23 and that there is good reason to believe that he will be carried
24 out of the state or suffer some irreparable injury before he can
25 be relieved by the issuing of a writ of habeas corpus, any court
26 or judge authorized to issue the writ may issue a warrant recit-
27 ing the facts, and directed to a peace officer commanding him to
28 immediately bring the person before the court to be dealt with
29 according to law.

1 Sec. 12.19. WARRANT MAY INCLUDE COMMAND FOR ARREST OF
2 DEFENDANT. When the proof mentioned in Sec. 12.18 shall also be
3 sufficient to justify an arrest of the person having the party
4 in his custody, as for a criminal offense, committed in the tak-
5 ing or detaining of the party, the warrant may also contain an
6 order for the arrest of the person for that offense.

7 Sec. 12.20. WARRANT IN LIEU OF WRIT. The peace officer to
8 whom the warrant is directed shall execute it by bringing the
9 party named and the person who detains him, if so commanded by
10 the warrant, before the judge issuing the warrant. The person
11 detaining the party shall make a return to the warrant as in the
12 case of a writ of habeas corpus, and a proceeding shall be had
13 as if a writ of habeas corpus had been issued in the first in-
14 stance.

15 Sec. 12.21. PROCEEDINGS AS TO PERSON HAVING PARTY IN
16 CUSTODY. If the person having the party in his custody is brought
17 before the court as for a criminal offense, he shall be examined,
18 committed, bailed, or discharged by the court in like manner as
19 in other criminal cases of like nature.

20 Sec. 12.22. PENALTY FOR REFUSING TO DELIVER COPY OF OR OBEY
21 AUTHORITY TO DETAIN PARTY. If any peace officer or other person
22 refuses to deliver a copy of any order, warrant, process or other
23 authority by which he detains any person to anyone who demands a
24 copy and tenders the fees therefor, he shall forfeit and pay to
25 the person detained a sum not to exceed \$200.00.

26 Sec. 12.23. APPEAL. Any party to a proceeding by habeas
27 corpus may appeal from the judgment of the court refusing to
28 allow the writ or any final judgment therein in like manner and
29 with like effect as in an action. No question once finally

1 determined upon a proceeding by habeas corpus shall be re-examined
2 upon another or subsequent proceeding of the same kind.

3 ARTICLE XIII. FORMAL PROVISIONS

4 Sec. 13.01. SHORT TITLE. This Act may be cited as the "Code
5 of Criminal Procedure."

6 Sec. 13.02. REPEALS. The following laws and parts of laws
7 are repealed: Secs. 65-3-2 through 65-3-4, ACLA 1949, inclusive;
8 Secs. 66-1-1 through 66-26-46, ACLA 1949, inclusive, as amended
9 by Ch. 7, SLA 1949, Ch. 11, SLA 1955, Ch. 45, SLA 1955, Ch. 195,
10 SLA 1955, Ch. 37, SLA 1957, Ch. 93, SLA 1957, Ch. 128, SLA 1957,
11 Ch. 132, SLA 1957, Ch. 8, SLA 1960, Ch. 71, SLA 1960, and Ch. 105,
12 SLA 1960; Secs. 69-1-1 through 69-6-11, ACLA 1949, inclusive, as
13 amended by Ch. 47, SLA 1957; Ch. 121, SLA 1957; Ch. 30, SLA 1960;
14 Ch. 103, SLA 1960; Ch. 104, SLA 1960; and Ch. 153, SLA 1960.

15 Sec. 13.03. HOW CODE TO TAKE EFFECT. This Act takes effect
16 on January 1, 1963. It governs all proceedings in actions brought
17 after that date and all further proceedings in actions then pend-
18 ing, except to the extent that, in the opinion of the court, their
19 application in a particular action pending when the rules take
20 effect would not be feasible, or would work injustice, in which
21 event, the laws repealed by this Act apply.
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