

Introduced: 1/14/72  
Referred: Judiciary

1 IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST  
OF THE LEGISLATIVE COUNCIL

2 HOUSE BILL NO. 524

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act revising AS 11, Criminal Law; and providing  
7 for an effective date."

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

9 \* Section 1. AS 11 is amended by adding new chapters to read:

10 CHAPTER 7. GENERAL PROVISIONS.

11 Sec. 11.07.010. GENERAL PURPOSES. The provisions of this title  
12 shall be construed in accordance with the following general purposes:

13 (1) proscribe and prevent the commission of criminal offenses

14 (2) define adequately the act and mental state which con-  
15 stitute each offense, and limit the condemnation of conduct as criminal  
16 when it is without fault;

17 (3) prescribe penalties which are proportionate to the  
18 seriousness of offenses and which permit recognition of differences  
19 in rehabilitation possibilities among individual offenders.

20 Sec. 11.07.015. PRINCIPLES OF CONSTRUCTION. The provisions of  
21 this title shall be construed according to the fair import of their  
22 terms but when the language is susceptible of differing constructions  
23 it shall be interpreted to further the general purposes provided for in  
24 sec. 10 of this chapter as well as the special purposes of the  
25 particular provision involved.

26 Sec. 11.07.020. APPLICABILITY OF COMMON LAW. No conduct con-  
27 stitutes an offense unless it is specified as an offense in this title  
28 or in another statute of the state. However, this provision does not  
29 affect the power of a court to punish for contempt or to employ any

1 sanction authorized by law for the enforcement of an order, civil  
2 judgment, or decree.

3  
4 Sec. 11.07.030. CIVIL REMEDIES PRESERVED. No provision of this  
5 title bars, suspends, or otherwise affects any right or liability to  
6 damages, penalty, forfeiture, or other remedy authorized by law to be  
7 recovered or enforced in a civil action, for any conduct which a  
8 provision of this title makes punishable; and the civil injury is not  
9 merged in the offense.

10 Sec. 11.07.040. TERRITORIAL APPLICABILITY. (a) A person is  
11 subject to prosecution in this state for an offense committed by his  
12 own conduct or the conduct of another for which he is legally  
13 accountable if

14 (1) either the conduct which is an element of the offense  
15 or the result which is an element of the offense occurs within this  
16 state; or

17 (2) conduct occurring outside this state intended to cause a  
18 result within this state is sufficient to constitute an attempt to  
19 commit an offense in this state; or

20 (3) conduct occurring outside this state is sufficient  
21 to constitute a conspiracy to commit an offense within this  
22 state and an overt act in furtherance of the conspiracy occurs within  
23 this state; or

24 (4) conduct occurring within this state establishes  
25 complicity in the commission of, or an attempt, solicitation or  
26 conspiracy to commit, an offense in another jurisdiction which also  
27 is an offense under this title; or

28 (5) the offense consists of the omission to perform a legal  
29 duty imposed by the law of this state with respect to domicile,  
30 residence or a relationship to a person, thing or transaction in this

1 state; or

2 (6) the offense is based on a statute of this state which  
3 expressly prohibits conduct outside this state, when the conduct bears  
4 a reasonable relation to a legitimate interest of this state and the  
5 actor knows or should know that his conduct is likely to affect that  
6 interest.

7 (b) Paragraph (a)(1) of this section does not apply when (1)  
8 causing a specified result or (2) a purpose to cause or (3) danger of  
9 causing the result is an element of an offense and the result occurs or  
10 is designed or likely to occur only in another jurisdiction where the  
11 conduct charged would not constitute an offense, unless a legislative  
12 purpose plainly appears to declare the conduct criminal regardless of  
13 the place of the result.

14 (c) Paragraph (a)(1) of this section does not apply when conduct  
15 causing a particular result is an element of an offense and the result  
16 is caused by conduct occurring outside this state which would not  
17 constitute an offense if the result had occurred there, unless the actor  
18 purposely or knowingly caused the result to occur within this state.

19 (d) When the offense is homicide, either the death of the victim  
20 or the bodily impact causing death constitutes a "result", within the  
21 meaning of (a)(1) of this section and if the body of a homicide victim  
22 is found within this state, it is presumed that the result occurred  
23 within this state.

24 Sec. 11.07.050. COMPUTATION OF TERM OF IMPRISONMENT AND STAY.

25 (a) When a person is sentenced to imprisonment, his term of confine-  
26 ment begins from the day of his sentence. A person who is sentenced  
27 shall receive credit toward service of his sentence for time spent in  
28 custody pending trial or sentencing, or appeal, if that detention was  
29 in connection with the offense for which sentence was imposed. The

1 time during which the person is voluntarily absent, other than for  
2 authorized labor, from the penitentiary, reformatory, jail, or from  
3 the custody of an officer after his sentence, shall not be estimated  
4 or counted as a part of the term for which he was sentenced.

5 (b) A sentence of imprisonment shall be stayed if an appeal is  
6 taken and the defendant is admitted to bail. If the defendant is not  
7 admitted to bail, the court may authorize the commissioner of health  
8 and social services or his designee to designate the facility in which  
9 the defendant shall be detained pending appeal or admission to bail.

10 Sec. 11.07.060. DUTY OF COURT TO DETERMINE AND IMPOSE PUNISH-  
11 MENT. The court authorized to pass sentence shall determine and  
12 impose the punishment prescribed. When punishment is left undetermined  
13 between certain limits or kinds of punishment, the court shall determine  
14 the punishment to be inflicted.

15 Sec. 11.07.070. JUDGMENT OF IMPRISONMENT. A judgment of im-  
16 prisonment need only specify the duration of confinement. The manner  
17 of the confinement and the treatment and employment of the person  
18 sentenced shall be regulated and governed by the law in force pre-  
19 scribing the discipline of the place in which he is confined and the  
20 treatment and employment of persons sentenced to confinement in it.

21 Sec. 11.07.080. CONSECUTIVE SENTENCES. If the defendant  
22 is convicted of two or more crimes, before judgment on either,  
23 the judgment may be that the imprisonment upon one conviction be-  
24 gins at the expiration of the imprisonment of any other of the  
25 crimes. If the defendant is imprisoned upon a previous judgment on  
26 a conviction for a crime, the judgment may be that the imprisonment  
27 commences at the expiration of the term limited by the previous  
28 judgment.

29 Sec. 11.07.090. BASIS OF LOSS AND RESTORATION OF RIGHTS

1 INCIDENT TO IMPRISONMENT. (a) Except during the period of  
2 actual imprisonment, no person suffers a legal disqualification or  
3 disability because of his conviction of a crime unless it is  
4 provided for in this title or in a statute other than in this  
5 title, or the disqualification or disability involves the depriva-  
6 tion of a right or privilege which is

7 (1) necessarily incident to execution of the sentence of  
8 the court;

9 (2) provided by the State Constitution;

10 (3) provided by the judgment, order or regulation  
11 of a court, agency or official exercising a jurisdiction  
12 conferred by law, or by the statute defining the jurisdiction,  
13 when the commission of a crime or the conviction or the  
14 sentence is reasonably related to the competency  
15 of the individual to exercise the right or privilege of which he  
16 is deprived.

17 (b) Proof of a conviction as relevant evidence upon  
18 the trial or determination of any issue, or for the purpose of  
19 impeaching the convicted person as a witness is not a disqualification  
20 or disability within the meaning of secs. 90 - 102 of this  
21 chapter.

22 (c) Release from imprisonment constitutes a restoration of civil  
23 rights under AS 15.05.030.

24 Sec. 11.07.093. FORFEITURE OF PUBLIC OFFICE. Notwithstanding  
25 any other provision of law, a person holding a public office who is  
26 convicted of a crime forfeits the office if he is imprisoned as  
27 a result of his conviction of that crime under the laws of this  
28 state.

29 Sec. 11.07.096. JURY SERVICE. Notwithstanding any other

1 provision of law, a person who is convicted of a crime is, during the  
2 period of actual imprisonment, disqualified from serving as a  
3 juror.

4 Sec. 11.07.099. TESTIMONIAL CAPACITY. Notwithstanding any other  
5 provision of law, the fact that a person has been convicted of a  
6 crime or that he is under sentence for conviction of a crime, whether  
7 of imprisonment or otherwise, does not render him incompetent to  
8 testify in a legal proceeding.

9 Sec. 11.07.102. APPOINTMENT OF AGENT, ATTORNEY-IN-FACT OR  
10 TRUSTEE FOR PRISONER. A person confined under a sentence of imprison-  
11 ment has the same right to appoint an agent, attorney-in-fact or  
12 trustee to act in his behalf with respect to his property or economic  
13 interests as if he were not confined.

14 Sec. 11.07.110. FORFEITURE OF PROPERTY UPON CONVICTION AND LIEN  
15 FOR FINE AND COSTS. A conviction of a person for an offense under  
16 this title does not work a forfeiture of property, except in cases  
17 where a forfeiture is expressly provided by law. However, in all cases  
18 of the commission or attempt to commit a felony the state has a lien,  
19 from the time of the commission or attempt, upon all the property of  
20 the defendant for the purpose of satisfying a judgment which may be  
21 given against him for a fine and for the costs and disbursements in  
22 the proceedings against him for the crime.

23 Sec. 11.07.120. IMPOSING LESS THAN PRESCRIBED PENALTY. Except  
24 in a case of murder or rape, the court may, upon conviction, when in  
25 its opinion the facts and circumstances make the minimum penalty  
26 provided in this title manifestly too severe, impose a lesser  
27 penalty, either of a fine or imprisonment or both. When less than  
28 the minimum penalty is imposed, the court shall set out the reasons  
29 for its action on the record in the case.

1           Sec. 11.07.130. PROOF BEYOND A REASONABLE DOUBT. (a) No person  
2 may be convicted of an offense unless each element of the offense is  
3 proved beyond a reasonable doubt. In the absence of proof beyond a  
4 reasonable doubt, the innocence of the defendant is assumed. (a) of  
5 this section does not

6           (1) require the disproof of an affirmative defense unless  
7 there is evidence supporting the defense; or

8           (2) apply to a defense which this title or another statute  
9 plainly requires the defendant to prove by a preponderance of evidence.

10          (b) A defense is affirmative, within the meaning of  
11 (a) of this section if

12           (1) it arises under a provision of this title;

13           (2) it relates to an offense defined by a statute other than  
14 in this title and the statute provides for it; or

15           (3) it involves a matter of excuse or justification peculiarly  
16 within the knowledge of the defendant on which he can fairly be required  
17 to adduce supporting evidence.

18          Sec. 11.07.140. BURDEN OF PROVING FACT WHEN NOT AN ELEMENT OF AN  
19 OFFENSE. When the application of this title depends upon the finding  
20 of a fact which is not an element of an offense, unless otherwise  
21 specified

22           (1) the burden of proving the fact is on the prosecution or  
23 defendant, depending on whose interest or contention will be furthered  
24 if the finding is made; and

25           (2) the fact must be proved to the satisfaction of the court  
26 or jury, as the case may be.

27          Sec. 11.07.150. PRESUMPTIONS. (a) When a presumption exists  
28 under this title, with respect to a fact which is an element of an  
29 offense, it has the following consequences:

1 (1) when there is evidence of the facts which give rise to  
2 the presumption, the issue of the existence of the presumed fact must  
3 be submitted to the jury, unless the court is satisfied that the  
4 evidence as a whole clearly negatives the presumed fact; and

5 (2) when the issue of the existence of the presumed fact is  
6 submitted to the jury, the court shall charge that while the presumed  
7 fact must, on all the evidence, be proved beyond a reasonable doubt,  
8 the law declares that the jury may regard the facts giving rise to the  
9 presumption as sufficient evidence of the presumed fact.

10 (b) A presumption not established under this title or inconsistent  
11 with it has the consequences otherwise accorded it by law.

12 Sec. 11.07.160. DEFINITIONS. In this title

13 (1) "act" or "action" means a bodily movement whether  
14 voluntary or involuntary;

15 (2) "acted" includes, where relevant, "omitted to act";

16 (3) "actor" includes, where relevant, a person guilty of an  
17 omission;

18 (4) "conduct" means an action or omission and its  
19 accompanying state of mind, or, where relevant, a series of acts and  
20 omissions;

21 (5) "element of an offense" means

22 (A) the conduct

23 (B) the attendant circumstances or

24 (C) a result of the conduct as

25 (i) is included in the description of the for-  
26 bidden conduct in the definition of the offense;

27 (ii) establishes the required kind of culpa-  
28 bility;

29 (iii) negatives an excuse or justification for

1 the conduct;

2 (iv) negatives a defense under the statute of  
3 limitations; or

4 (v) establishes jurisdiction or venue;

5 (6) "intentionally" or "with intent" means purposely;

6 (7) "knowingly" has the meaning specified in AS 11.11.040-  
7 (a)(2) and equivalent terms such as "knowing" or "with knowledge" have  
8 the same meaning;

9 (8) "material element of an offense" means an element that  
10 does not relate exclusively to the statute of limitations, jurisdiction,  
11 venue or to any other matter similarly unconnected with

12 (A) the harm or evil, incident to conduct, sought to be  
13 prevented by the law defining the offense, or

14 (B) the existence of a justification or excuse for the  
15 conduct;

16 (9) "negligently" has the meaning specified in AS 11.11.040-  
17 (a)(4) and equivalent terms such as "negligence" or "with negligence"  
18 have the same meaning;

19 (10) "omission" means a failure to act;

20 (11) "person", "he" and "actor" includes corporations as well  
21 as natural persons, and officers and agents of corporations, firms and  
22 associations; and where the word "person" is used to designate the  
23 party whose property is the subject of a crime, it includes this state,  
24 or another state, government, or country which may lawfully own property  
25 in this state, and all municipal or public corporations and private  
26 corporations, as well as individuals;

27 (12) "purposely" has the meaning specified in AS 11.11.040-  
28 (a)(1) and equivalent terms such as "with purpose", "designed" or  
29 "with design" have the same meaning;

1 (13) "reasonably believes" or "reasonable belief" designates  
2 a belief which the actor is not reckless or negligent in holding;

3 (14) "recklessly" has the meaning specified in AS 11.11.040-  
4 (a)(3) and equivalent terms such as "recklessness" or "with reckless-  
5 ness" have the same meaning;

6 (15) "state" includes the land and water within its ter-  
7 ritorial limits and the air space above it;

8 (16) "statute" includes the constitution and a local law or  
9 ordinance of a political subdivision of the state;

10 (17) "voluntary" has the meaning specified in AS 11.11.010.

11 CHAPTER 9. CLASSES OF CRIMES AND  
12 DISPOSITION OF OFFENDERS.

13 Sec. 11.09.010. CRIMES. An offense defined in this title or by  
14 any other statute of this state, for which a sentence of imprisonment  
15 is authorized, constitutes a crime. Crimes are classified as felonies,  
16 misdemeanors or petty misdemeanors.

17 Sec. 11.09.020. FELONY. A crime is a felony if it is designated  
18 in this title as a felony or if designated as a felony in a statute  
19 other than in this title. A person upon conviction of a felony, is  
20 punishable by imprisonment for a term as provided in secs. 100 - 120  
21 of this chapter or by a fine as specified in sec. 80 of this chapter,  
22 or by both. When an act is declared to be a felony and no minimum  
23 term is prescribed, the minimum term is one year.

24 Sec. 11.09.030. MISDEMEANOR. A crime is a misdemeanor if it is  
25 designated as a misdemeanor in this title or if designated as a  
26 misdemeanor in a statute other than in this title. A person, upon  
27 conviction of a misdemeanor, is punishable by imprisonment in a jail  
28 as provided in secs. 130-150 of this chapter or by a fine as specified  
29 in sec. 80 of this chapter, or by both.

1           Sec. 11.09.040. PETTY MISDEMEANOR. A crime is a petty misdemeanor  
2 if it is designated in this title as a petty misdemeanor or if design-  
3 nated as a petty misdemeanor in a statute other than in this title. A  
4 person, upon conviction of a petty misdemeanor, is punishable by im-  
5 prisonment in a jail as specified in secs. 130 - 150 of this chapter or  
6 as specified in sec. 80 of this chapter, or by both.

7           Sec. 11.09.050. VIOLATION. An offense is a violation if it is  
8 designated in this title as a violation or as a violation in a statute  
9 other than this title, and a person, upon conviction of a violation, is  
10 punishable by a fine as specified in sec. 80 of this chapter, or a fine  
11 as specified in sec. 80 of this chapter and forfeiture or other civil  
12 penalty. A violation does not constitute a crime and conviction of a  
13 violation does not give rise to a disability or legal disadvantage  
14 based on conviction of a criminal offense.

15           Sec. 11.09.060. CRIME WITHOUT SPECIFICATION OF GRADE OR SENTENCE.  
16 An offense declared by law to constitute a crime without specification  
17 of the grade of it or of the sentence authorized upon conviction, is a  
18 misdemeanor.

19           Sec. 11.09.070. OFFENSES DESIGNATED IN OTHER TITLES (a) A  
20 penalty designated in a statute of the state other than in this title  
21 shall remain in effect on the effective date of this Act.

22           (b) When an act in a statute of the state other than in this  
23 title is declared to be a misdemeanor, and no punishment is prescribed,  
24 the person, upon conviction, is punishable by imprisonment in a jail for  
25 not more than one year, or by a fine of not more than \$500. When an  
26 act in a statute of the state other than in this title is declared to  
27 be a felony, and no minimum term of imprisonment is prescribed, the  
28 minimum term is one year.

29           Sec. 11.09.080. FINES. A person who has been convicted of an

1 offense may be sentenced to pay a fine not exceeding

2 (1) \$10,000, when the conviction is of a felony of the first  
3 or second degree;

4 (2) \$5,000, when the conviction is of a felony of the third  
5 degree;

6 (3) \$1,000, when the conviction is of a misdemeanor;

7 (4) \$500, when the conviction is of a petty misdemeanor or  
8 a violation;

9 (5) any higher amount equal to double the pecuniary gain  
10 derived from the offense by the offender;

11 (6) any higher amount specifically authorized by statute.

12 Sec. 11.09.090. DEGREES OF FELONIES. (a) Felonies defined by  
13 this title are classified, for the purpose of sentence, into three  
14 degrees, as follows:

15 (1) felonies of the first degree;

16 (2) felonies of the second degree;

17 (3) felonies of the third degree.

18 (b) A felony is of the first or second degree when it is desig-  
19 nated by this title as a felony of the first or second degree. A crime  
20 designated as a felony, without specification of degree, is a felony of  
21 the third degree.

22 Sec. 11.09.100. SENTENCE OF IMPRISONMENT FOR FELONY; ORDINARY  
23 TERM. (a) A person who has been convicted of a felony may be  
24 sentenced to imprisonment, as follows:

25 (1) in the case of a felony of the first degree, for a term  
26 the minimum of which shall be fixed by the court at not less than one  
27 year nor more than 10 years, and the maximum of which shall be life  
28 imprisonment;

29 (2) in the case of a felony of the second degree, for a term

1 the minimum of which shall be fixed by the court at not less than one  
2 year nor more than three years, and the maximum of which shall be 10  
3 years;

4 (3) in the case of a felony of the third degree, for a term  
5 the minimum of which shall be fixed by the court at not less than one  
6 year nor more than two years, and the maximum of which shall be five  
7 years.

8 (b) No sentence may be imposed under this section in which the  
9 minimum is longer than one-half the maximum, or, when the maximum is  
10 life imprisonment, longer than 10 years.

11 Sec. 11.09.110. SENTENCE OF IMPRISONMENT FOR FELONY; EXTENDED  
12 TERMS. In a case designated in sec. 120 of this chapter, a person  
13 who has been convicted of a felony may be sentenced to an extended  
14 term of imprisonment, as follows:

15 (1) in the case of a felony of the first degree, for a  
16 term the minimum of which shall be fixed by the court at not less than  
17 five years nor more than 10 years, and the maximum of which shall be  
18 life imprisonment;

19 (2) in the case of a felony of the second degree, for a term  
20 the minimum of which shall be fixed by the court at not less than one  
21 year nor more than five years, and the maximum of which shall be fixed  
22 by the court at not less than 10 nor more than 20 years;

23 (3) in the case of a felony of the third degree, for a term  
24 the minimum of which shall be fixed by the court at not less than one  
25 year nor more than three years, and the maximum of which shall be fixed  
26 by the court at not less than five nor more than 10 years.

27 Sec. 11.09.120. CRITERIA FOR SENTENCE OF EXTENDED TERM OF  
28 IMPRISONMENT; FELONIES. The court may sentence a person who has been  
29 convicted of a felony to an extended term of imprisonment if it finds

1 one or more of the grounds specified in this section. The finding of  
2 the court shall be incorporated in the record.

3 (1) The defendant is a persistent offender whose commitment  
4 for an extended term is necessary for protection of the public. The  
5 court may not make this finding unless the defendant is over 19  
6 years of age and has previously been convicted of two felonies or of one  
7 felony and two misdemeanors, committed at different times.

8 (2) The defendant is a professional criminal whose  
9 commitment for an extended term is necessary for protection of the  
10 public. The court may not make this finding unless the defendant  
11 is over 19 years of age and

12 (A) the circumstances of the crime show that the  
13 defendant has knowingly devoted himself to criminal activity  
14 as a major source of livelihood; or

15 (B) the defendant has substantial income or resources  
16 not explained to be derived from a source other than criminal  
17 activity.

18 (3) The defendant is a dangerous, mentally abnormal person  
19 whose commitment for an extended term is necessary for protection of  
20 the public. The court may not make this a finding unless the  
21 defendant has been subjected to a psychiatric examination  
22 showing that his mental condition is gravely abnormal; that  
23 his criminal conduct has been characterized by a pattern of repetitive  
24 or compulsive behavior or by persistent aggressive behavior with  
25 heedless indifference to consequences; and that these conditions make  
26 him a serious danger to others.

27 (4) The defendant is a multiple offender whose criminality  
28 was so extensive that a sentence of imprisonment for an extended term  
29 is warranted. The court may not make this finding unless

1 (A) the defendant is being sentenced for two or more  
2 felonies, or is already under sentence of imprisonment for felony,  
3 and the sentences of imprisonment involved will run concurrently;  
4 or

5 (B) the defendant admits in open court the commission  
6 of one or more other felonies and asks that they be taken into  
7 account when he is sentenced; and

8 (C) the longest sentences of imprisonment authorized for  
9 each of the defendant's crimes, including admitted crimes taken into  
10 account, if made to run consecutively would exceed in length the  
11 minimum and maximum of the extended term imposed.

12 Sec. 11.09.130. SENTENCE OF IMPRISONMENT FOR MISDEMEANORS AND  
13 PETTY MISDEMEANORS; ORDINARY TERMS. A person who has been convicted  
14 of a misdemeanor or a petty misdemeanor may be sentenced to imprison-  
15 ment for a definite term which shall be fixed by the court and shall not  
16 exceed one year in the case of a misdemeanor or 30 days in the case of  
17 a petty misdemeanor.

18 Sec. 11.09.140. SENTENCE OF IMPRISONMENT FOR MISDEMEANORS AND  
19 PETTY MISDEMEANORS: EXTENDED TERMS. (a) In a case designated in  
20 sec. 150 of this chapter, a person who has been convicted of a  
21 misdemeanor or a petty misdemeanor may be sentenced to an extended  
22 term of imprisonment, as follows:

23 (1) in the case of a misdemeanor, for a term the minimum  
24 of which shall be fixed by the court at not more than one year and  
25 the maximum of which shall be three years;

26 (2) in the case of a petty misdemeanor for a term the  
27 minimum of which shall be fixed by the court at not more than six  
28 months and the maximum of which shall be two years.

29 (b) No sentence for an extended term shall be imposed unless

1 the commissioner of health and social services has certified that there  
2 is an detention facility in the state which is appropriate for the  
3 detention and correctional treatment of the misdemeanors or petty  
4 misdemeanants, and that the institution is available to receive the  
5 commitments.

6 Sec. 11.09.150. CRITERIA FOR SENTENCE OF EXTENDED TERM OF  
7 IMPRISONMENT; MISDEMEANORS AND PETTY MISDEMEANORS. The court may  
8 sentence a person who has been convicted of a misdemeanor or petty  
9 misdemeanor to an extended term of imprisonment if it finds one or  
10 more of the grounds specified in this section. The finding of the  
11 court shall be incorporated in the record.

12 (1) The defendant is a persistent offender whose commitment  
13 for an extended term is necessary for protection of the public. The  
14 court shall not make this finding unless the defendant has previously  
15 been convicted of two crimes, committed at different times  
16 when he was over 19 years of age.

17 (2) The defendant is a professional criminal whose com-  
18 mitment for an extended term is necessary for protection of the public.  
19 The court shall not make this finding unless

20 (A) the circumstances of the crime show that the  
21 defendant has knowingly devoted himself to criminal activity as  
22 a major source of livelihood; or

23 (B) the defendant has substantial income or resources  
24 not explained to be derived from a source other than criminal  
25 activity.

26 (3) The defendant is a chronic alcoholic, narcotic addict,  
27 prostitute or person of abnormal mental condition who requires re-  
28 habilitative treatment for a substantial period of time. The court  
29 shall not make this finding unless, with respect to the particular

1 category to which the defendant belongs, the commissioner of health  
2 and social services has certified that there is a specialized institution  
3 or facility which is satisfactory for the rehabilitative treatment  
4 of these persons and which otherwise meets the requirements of sec.  
5 140(b) of this chapter.

6 (4) The defendant is a multiple offender whose criminality  
7 was so extensive that a sentence of imprisonment for an extended term  
8 is warranted. The court shall not make this a finding unless

9 (A) the defendant is being sentenced for a number of  
10 misdemeanors or petty misdemeanors or is already under sentence  
11 of imprisonment for misdemeanors or petty misdemeanors, or admits  
12 in open court the commission of one or more misdemeanors or petty  
13 misdemeanors and asks that they be taken into account when he is  
14 sentenced; and

15 (B) maximum fixed sentences of imprisonment for each of  
16 the defendant's crimes, including admitted crimes taken into  
17 account, if made to run consecutively, would exceed in length the  
18 maximum period of the extended term imposed.

19 Sec. 11.09.155. FORMER CONVICTION IN ANOTHER JURISDICTION. (a)  
20 For purposes of sec. 120(1) or sec. 150(1) of this chapter, a con-  
21 viction of the commission of a crime in another jurisdiction constitutes  
22 a previous conviction. The conviction is considered to have been of a  
23 felony if sentence of death or of imprisonment in excess of one year  
24 was authorized under the law of the other jurisdiction, and of a mis-  
25 demeanor if sentence of imprisonment in excess of 30 days but not in  
26 excess of a year was authorized and of a petty misdemeanor if sentence  
27 of imprisonment for not more than 30 days was authorized.

28 (b) An adjudication by a court of competent jurisdiction that the  
29 defendant committed a crime constitutes a conviction for purposes of

1 secs. 120 and 150 - 155 of this chapter, although sentence or the  
2 execution of it was suspended, provided that the time to appeal  
3 has expired and that the defendant was not pardoned on the ground of  
4 innocence.

5 (c) Prior conviction may be proved by any evidence, including  
6 fingerprint records made in connection with arrest, conviction or  
7 imprisonment, that reasonably satisfies the court that the defendant  
8 was convicted.

9 (d) When the defendant has asked that other crimes admitted in  
10 open court be taken into account when he is sentenced and the court  
11 has not rejected the request, the sentence bars the prosecution or  
12 conviction of the defendant in this state for the admitted crime.

13 Sec. 11.09.160. CRITERIA FOR IMPOSING FINES. (a) No court may  
14 sentence a defendant to pay a fine only, when any other disposition is  
15 authorized by law, unless with regard to the nature and circumstances  
16 of the crime and the history and character of the defendant, it  
17 determines that the fine alone is sufficient for protection of the  
18 public.

19 (b) No court may sentence a defendant to pay a fine in addition  
20 to a sentence of imprisonment or probation unless

21 (1) the defendant has derived a pecuniary gain from the  
22 crime; or

23 (2) the court concludes that a fine is specially adapted  
24 to deterrence of the crime involved or to the correction of the  
25 offender.

26 (c) Notwithstanding (a) and (b) of this section, no court may  
27 sentence a defendant to pay a fine unless

28 (1) the defendant is or will be able to pay the fine; and

29 (2) the fine will not prevent the defendant from making

1 restitution or reparation to the victim of the crime.

2 (d) In determining the amount and method of payment of a fine,  
3 the court shall consider the financial resources of the defendant and  
4 the nature of the burden that its payment will impose.

5 Sec. 11.09.170. CIVIL COMMITMENT IN LIEU OF PROSECUTION OR OF  
6 SENTENCE. (a) When a person prosecuted for a misdemeanor or petty  
7 misdemeanor is a chronic alcoholic, narcotic addict or person suffering  
8 from mental abnormality and the court is authorized by law to order  
9 the civil commitment of the person to a hospital or other institution  
10 for medical, psychiatric or other rehabilitative treatment, the court  
11 may order the commitment and dismiss the prosecution. The order of  
12 commitment may be made after conviction, in which case the court may  
13 set aside the verdict or judgment of conviction and dismiss the  
14 prosecution.

15 (b) No court may make an order under (a) of this section unless  
16 it is of the view that civil commitment will substantially further  
17 the rehabilitation of the defendant, without jeopardizing the safety  
18 of the public.

19 CHAPTER 11. GENERAL PRINCIPLES OF LIABILITY.

20 Sec. 11.11.010. REQUIREMENT OF VOLUNTARY ACT. (a) A person  
21 is not guilty of an offense unless his liability is based on conduct  
22 which includes a voluntary act or the omission to perform an act of  
23 which he is physically capable.

24 (b) The following acts are not voluntary within the meaning  
25 of this section:

- 26 (1) a reflex or convulsion;  
27 (2) a bodily movement during unconsciousness or sleep;  
28 (3) conduct during hypnosis or resulting from hypnotic  
29 suggestion;

1 (4) a bodily movement that otherwise is not a product of the  
2 effort or determination of the actor, either conscious or habitual.

3 Sec. 11.11.020. LIABILITY BASED ON OMISSION. Liability for  
4 the commission of an offense may not be based on an omission  
5 unaccompanied by action unless

6 (1) the omission is expressly made sufficient by the law  
7 defining the offense; or

8 (2) a duty to perform the omitted act is otherwise imposed  
9 by law.

10 Sec. 11.11.030. POSSESSION AN ACT. Possession is an act, within  
11 the meaning of secs. 10 - 20 of this chapter if the possessor knowingly  
12 procured or received the thing possessed or was aware of his control  
13 of it for a sufficient period to have been able to terminate his  
14 possession.

15 Sec. 11.11.040. GENERAL REQUIREMENTS OF CULPABILITY. (a) Except  
16 as provided in secs. 60 - 70 of this chapter, a person is not guilty  
17 of an offense unless he acted purposely, knowingly, recklessly or  
18 negligently with respect to each material element of the offense.  
19 For the purposes of this title

20 (1) a person acts purposely, with respect to a material  
21 element of an offense when

22 (A) if the element involves the nature of his conduct  
23 or a result of it, it is his conscious object to engage in conduct  
24 of that nature or to cause such a result; and

25 (B) if the element involves the attendant circumstances,  
26 he is aware of the existence of the circumstances or he believes  
27 or hopes that they exist.

28 (2) A person acts knowingly with respect to a material  
29 element of an offense when

1 (A) if the element involves the nature of his conduct  
2 or the attendant circumstances, he is aware that his conduct is of  
3 that nature or that the circumstances exist; and

4 (B) if the element involves a result of his conduct, he  
5 is aware that it is practically certain that his conduct will  
6 cause such a result.

7 (3) A person acts recklessly with respect to a material element  
8 of an offense when he consciously disregards a substantial and unjustifi-  
9 able risk that the material element exists or will result from his  
10 conduct. The risk must be of such a nature and degree that, considering  
11 the nature and purpose of the actor's conduct and the circumstances  
12 known to him, its disregard involves a gross deviation from the  
13 standard of conduct that a law-abiding person would observe in the  
14 actor's situation.

15 (4) A person acts negligently with respect to a material  
16 element of an offense when he should be aware of a substantial and  
17 unjustifiable risk that the material element exists or will result  
18 from his conduct. The risk must be of such a nature and degree that  
19 the actor's failure to perceive it, considering the nature and purpose  
20 of his conduct and the circumstances known to him, involves a gross  
21 deviation from the standard of care that a reasonable person would  
22 observe in the actor's situation.

23 (b) When the culpability sufficient to establish a material  
24 element of an offense is not prescribed by law, the element is  
25 established if a person acts purposely, knowingly or recklessly with  
26 respect to it.

27 (c) When the law defining an offense prescribes the kind of  
28 culpability that is sufficient for the commission of an offense, without  
29 distinguishing among the material elements of it, the provision applies

1 to all the material elements of the offense, unless a contrary purpose  
2 plainly appears.

3 (d) When the law provides that negligence suffices to establish  
4 an element of an offense, the element also is established if a person  
5 acts purposely, knowingly or recklessly. When recklessness is  
6 sufficient to establish an element, the element also is established if  
7 a person acts purposely or knowingly. When acting knowingly is  
8 sufficient to establish an element, the element also is established if  
9 a person acts purposely.

10 (e) When a particular purpose is an element of an offense, the  
11 element is established although the purpose is conditional, unless the  
12 condition negatives the harm or evil sought to be prevented by law  
13 defining the offense.

14 (f) When knowledge of the existence of a particular fact is an  
15 element of an offense, the knowledge is established if a person is  
16 aware of a high probability of its existence, unless he actually  
17 believes that it does not exist.

18 (g) A requirement that an offense be committed wilfully is  
19 satisfied if a person acts knowingly with respect to the material  
20 elements of the offense, unless a purpose to impose further require-  
21 ments appears.

22 (h) Neither knowledge nor recklessness or negligence as to  
23 whether conduct constitutes an offense or as to the existence, meaning  
24 or application of the law determining the elements of an offense is an  
25 element of the offense, unless the definition of the offense or this  
26 title so provides.

27 (i) When the grade or degree of an offense depends on whether the  
28 offense is committed purposely, knowingly, recklessly or negligently,  
29 its grade or degree shall be the lowest for which the determinative

1 kind of culpability is established with respect to any material element  
2 of the offense.

3 Sec. 11.11.050. CAUSAL RELATIONSHIP BETWEEN CONDUCT AND RESULT.

4 (a) Conduct is the cause of a result when

5 (1) it is an antecedent but for which the result in question  
6 would not have occurred; and

7 (2) the relationship between the conduct and result  
8 satisfies any additional causal requirements imposed by this title  
9 or by the law defining the offense.

10 (b) When purposely or knowingly causing a particular result is  
11 an element of an offense, the element is not established if the actual  
12 result is not within the purpose or the contemplation of the actor  
13 unless

14 (1) the actual result differs from that designed or  
15 contemplated, as the case may be, only in the respect that a different  
16 person or different property is injured or affected or that the injury  
17 or harm designed or contemplated would have been more serious or more  
18 extensive than that caused; or

19 (2) the actual result involves the same kind of injury or  
20 harm as that designed or contemplated and is not too remote or  
21 accidental in its occurrence to have a bearing on the actor's  
22 liability or on the gravity of his offense.

23 (c) When recklessly or negligently causing a particular result  
24 is an element of an offense, the element is not established if the  
25 actual result is not within the risk of which the actor is aware or,  
26 in the case of negligence, of which he should be aware unless

27 (1) the actual result differs from the probable result only  
28 in the respect that a different person or different property is injured  
29 or affected or that the probable injury or harm would have been more

1 serious or more extensive than that caused; or

2 (2) the actual result involves the same kind of injury or  
3 harm as the probable result and is not too remote or accidental in its  
4 occurrence to have a bearing on the actor's liability or on the gravity  
5 of his offense.

6 (d) When causing a particular result is a material element of an  
7 offense for which absolute liability is imposed by law, the element is  
8 not established unless the actual result is a probable consequence of  
9 the actor's conduct.

10 Sec. 11.11.060. IGNORANCE OR MISTAKE. (a) Ignorance or  
11 mistake as to a matter of fact or law is a defense if

12 (1) the ignorance or mistake negatives the purpose,  
13 knowledge, belief, recklessness or negligence required to establish a  
14 material element of the offense; or

15 (2) the law provides that the state of mind established by  
16 the ignorance or mistake constitutes a defense.

17 (b) Although ignorance or mistake would otherwise afford a  
18 defense to the offense charged, the defense is not available if the  
19 defendant would be guilty of another offense had the situation been  
20 as he thought. In that case, however, the ignorance or mistake of the  
21 defendant shall reduce the grade and degree of the offense of which  
22 he may be convicted to those of the offense of which he would be  
23 guilty had the situation been as he thought.

24 (c) A belief that conduct does not legally constitute an offense  
25 is a defense to a prosecution for that offense based upon the conduct  
26 if

27 (1) the statute defining the offense is not known to the  
28 actor and has not been published or otherwise reasonably made available  
29 prior to the conduct alleged; or

1 (2) he acts in reasonable reliance upon an official statement  
2 of law, thereafter determined to be invalid or erroneous, contained in

3 (A) a statute or other enactment;

4 (B) a judicial decision, opinion or judgment;

5 (C) an administrative order or grant of permission; or

6 (D) an official interpretation of the public officer  
7 or body charged by law with responsibility for the interpretation,  
8 administration or enforcement of the law defining the offense.

9 (3) The defendant must prove a defense arising under (c)  
10 of this section by a preponderance of evidence.

11 Sec. 11.11.070. WHEN CULPABILITY REQUIREMENTS INAPPLICABLE.

12 The requirements of culpability prescribed by secs. 10 - 40 of this  
13 chapter do not apply to

14 (1) offenses which constitute violations, unless the  
15 requirement involved is included in the definition of the offense or  
16 the court determines that its application is consistent with effective  
17 enforcement of the law defining the offense; or

18 (2) offenses defined by statutes other than this title,  
19 if a legislative purpose to impose absolute liability for the offenses  
20 or with respect to any material element in them plainly appears.

21 Sec. 11.11.080. LIABILITY FOR CONDUCT OF ANOTHER. (a) A person  
22 is guilty of an offense if it is committed by his own conduct or by  
23 the conduct of another person for which he is legally accountable,  
24 or both.

25 (b) A person is legally accountable for the conduct of another  
26 person when

27 (1) acting with the kind of culpability that is sufficient  
28 for the commission of the offense, he causes an innocent or irresponsi-  
29 ble person to engage in the conduct; or

1 (2) he is made accountable for the conduct of the other  
2 person by a provision of this title or by the law defining the offense;  
3 or

4 (3) he is an accomplice of the other person in the commission  
5 of the offense.

6 (c) A person is an accomplice of another person in the commission  
7 of an offense if

8 (1) with the purpose of promoting or facilitating the  
9 commission of the offense, he

10 (A) solicits the other person to commit it; or

11 (B) aids or agrees or attempts to aid the other person  
12 in planning or committing it; or

13 (C) having a legal duty to prevent the commission of  
14 the offense, fails to make proper effort so to do.

15 (2) his conduct is expressly declared by law to establish  
16 his complicity.

17 (d) When causing a particular result is an element of an offense,  
18 an accomplice in the conduct causing the result is an accomplice in  
19 the commission of that offense, if he acts with the kind of culpability

20 with respect to that result that is sufficient for the commission  
21 of the offense.

22 (e) A person who is legally incapable of committing a particular  
23 offense himself may be guilty of it if it is committed by the conduct  
24 of another person for which he is legally accountable, unless the  
25 liability is inconsistent with the purpose of the provision establishing  
26 his incapacity.

27 (f) Unless otherwise provided, a person is not an accomplice in  
28 an offense committed by another person if

29 (1) he is a victim of that offense;

1 (2) the offense is defined so that his conduct is inevitably  
2 incident to its commission; or

3 (3) he terminates his complicity prior to the commission  
4 of the offense and

5 (A) wholly deprives it of effectiveness in the  
6 commission of the offense; or

7 (B) gives timely warning to the law enforcement  
8 authorities or otherwise makes proper effort to prevent the  
9 commission of the offense.

10 (g) An accomplice may be convicted on proof of the commission  
11 of the offense and of his complicity in it though the person claimed  
12 to have committed the offense has not been prosecuted or convicted or  
13 has been convicted of a different offense or degree of offense or has  
14 an immunity to prosecution or conviction or has been acquitted.

15 Sec. 11.11.090. INTOXICATION. (a) Except as provided in (d)  
16 of this section, intoxication of the actor is not a defense unless it  
17 negatives an element of the offense.

18 (b) When recklessness establishes an element of the offense, if  
19 the actor, due to self-induced intoxication, is unaware of a risk of  
20 which he would have been aware had he not been intoxicated, the  
21 unawareness is immaterial.

22 (c) Intoxication does not, in itself, constitute mental disease.

23 (d) Intoxication which (1) is not self-induced or (2) is  
24 pathological is an affirmative defense if, as a result of the  
25 intoxication, the actor at the time of his conduct lacked substantial  
26 capacity either to appreciate its wrongfulness or to conform his  
27 conduct to the requirements of law.

28 (e) In this section

29 (1) "intoxication" means a disturbance of mental or

1 physical capacities resulting from the introduction of substances, in-  
2 cluding but not limited to alcohol and drugs, into the body;

3 (2) "self-induced intoxication" means intoxication caused by  
4 substances which the actor knowingly introduces into his body, the  
5 tendency of which to cause intoxication he knows or ought to know, unless  
6 he introduces them under medical advice or under circumstances that  
7 would afford a defense to a charge of crime;

8 (3) "pathological intoxication" means intoxication grossly  
9 excessive in degree, given the amount of the intoxicant, to which the  
10 actor does not know he is susceptible.

11 Sec. 11.11.100. DURESS. (a) It is an affirmative defense that  
12 the actor engaged in the conduct constituting an offense acted  
13 because he was coerced to do so by the use of, or a threat to use,  
14 unlawful force against his person or the person of another, which a  
15 person of reasonable firmness in his situation would have been unable  
16 to resist.

17 (b) The defense provided by this section is unavailable if the  
18 actor recklessly placed himself in a situation in which it was probable  
19 that he would be subjected to duress, or if he was negligent in  
20 placing himself in such a situation, when negligence is sufficient  
21 to establish culpability for the offense charged.

22 (c) It is not a defense that a woman acted on the command of her  
23 husband, unless she acted under such coercion as would establish a  
24 defense under this section.

25 (d) When the conduct of the actor would otherwise be justifiable  
26 under AS 11.13.020, this section does not preclude the defense.

27 Sec. 11.11.110. CONSENT. (a) The consent of the victim to  
28 conduct constituting an offense or to the result of it is a  
29 defense if the consent negatives an element of the offense or precludes

1 the infliction of the harm or evil sought to be prevented by the law  
2 defining the offense.

3 (b) When conduct is charged to constitute an offense because it  
4 causes or threatens bodily harm, consent to the conduct or to the  
5 infliction of the harm is a defense if

6 (1) the bodily harm consented to or threatened by the conduct  
7 consented to is not serious;

8 (2) the conduct and the harm are reasonably foreseeable  
9 hazards of joint participation in a lawful athletic contest or  
10 competitive sport; or

11 (3) the consent establishes a justification for the conduct  
12 under ch. 13 of this title.

13 (c) Unless otherwise provided, assent does not constitute consent  
14 if

15 (1) it is given by a person who is legally incompetent to  
16 authorize the conduct charged to constitute the offense;

17 (2) it is given by a person who by reason of youth, mental  
18 disease or defect or intoxication is manifestly unable or known by  
19 the actor to be unable to make a reasonable judgment as to the nature  
20 or harmfulness of the conduct charged to constitute the offense;

21 (3) it is given by a person whose improvident consent is  
22 sought to be prevented by the law defining the offense; or

23 (4) it is induced by force, duress or deception of a kind  
24 sought to be prevented by the law defining the offense.

25 Sec. 11.11.120. DE MINIMIS INFRACTIONS. (a) The court shall  
26 dismiss a prosecution if, with regard to the nature of the conduct  
27 charged to constitute an offense and the nature of the attendant  
28 circumstances, it finds that the defendant's conduct

29 (1) was within a customary license or tolerance, neither

1 expressly negatived by the person whose interest was infringed nor  
2 inconsistent with the purpose of the law defining the offense;

3 (2) did not actually cause or threaten the harm or evil  
4 sought to be prevented by the law defining the offense or did so only  
5 to an extent too trivial to warrant the condemnation of conviction; or

6 (3) presents such other extenuations that it cannot rea-  
7 sonably be regarded as contemplated by the legislature in prohibiting  
8 the offense.

9 (b) No court may dismiss a prosecution under (3) of this section  
10 without filing a written statement of its reasons for doing so.

11 Sec. 11.11.130. ENTRAPMENT. (a) A peace officer or a person  
12 acting with authorization from a peace officer perpetrates an  
13 entrapment if for the purpose of obtaining evidence of the commission  
14 of an offense, he induces or encourages another person to engage in  
15 conduct constituting the offense by either

16 (1) making knowingly false representations designed to  
17 induce the belief that the conduct is not prohibited; or

18 (2) employing methods of persuasion or inducement which  
19 create a substantial risk that the offense will be committed by persons  
20 other than those who are ready to commit it.

21 (b) Except as provided in (c) of this section, a person  
22 prosecuted for an offense shall be acquitted if he proves by a  
23 preponderance of evidence that his conduct occurred in response  
24 to an entrapment. The issue of entrapment shall be tried by the  
25 court in the absence of the jury.

26 (c) The defense afforded by this section is unavailable when  
27 causing or threatening bodily injury is an element of the offense  
28 charged and the prosecution is based on conduct causing or threatening  
29 injury to a person other than the person perpetrating the entrapment.

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CHAPTER 13. GENERAL PRINCIPLES OF JUSTIFICATION.

Sec. 11.13.010. JUSTIFICATION AN AFFIRMATIVE DEFENSE. In a prosecution based on conduct which is justifiable under this chapter, justification is an affirmative defense. The fact that conduct is justifiable under this chapter does not abolish or impair a remedy for the conduct which is available in a civil action.

Sec. 11.13.020. JUSTIFICATION IN GENERAL. (a) Conduct which the actor reasonably believes to be necessary to avoid a harm to himself or to another is justifiable if

(1) the harm sought to be avoided by the conduct is greater than that sought to be prevented by the law defining the offense charged;

(2) neither this title nor other law defining the offense provides exceptions or defenses dealing with the specific situation involved; and

(3) a legislative purpose to exclude the justification claimed does not otherwise appear.

(b) When the actor was reckless or negligent in bringing about the situation requiring a choice of harms or in appraising the necessity for his conduct, the justification afforded by this section is unavailable in a prosecution for an offense for which recklessness or negligence, as the case may be, is sufficient to establish culpability.

Sec. 11.13.030. EXECUTION OF PUBLIC DUTY. (a) Except as provided in (b) of this section, conduct is justifiable when the actor reasonably believes his conduct to be required or authorized by

(1) the law defining the duties or functions of a public officer or the assistance to be rendered to the officer in the performance of his duties;

(2) the law governing the execution of legal process; or

1 (3) the judgment or order of a competent court;

2 (4) the law governing the armed services or the lawful  
3 conduct of war; or

4 (5) any other provision of law imposing a public duty.

5 (b) Secs.10 - 130 of this chapter apply to

6 (1) the use of force upon or toward the person of another  
7 for any of the purposes dealt with in this chapter; and

8 (2) the use of deadly force for any purpose, unless the  
9 use of such force is otherwise expressly authorized by law or occurs  
10 in the lawful conduct of war.

11 (c) The justification afforded by (a) of this section applies

12 (1) when the actor reasonably believes his conduct to be  
13 required or authorized by the judgment or direction of a competent  
14 court or in the lawful execution of legal process, notwithstanding  
15 lack of jurisdiction of the court or defect in the legal process; and

16 (2) when the actor reasonably believes his conduct to be re-  
17 quired or authorized to assist a public officer in the performance of  
18 his duties, notwithstanding that the officer exceeded his legal authority.

19 Sec. 11.13.040. USE OF FORCE IN SELF-PROTECTION. (a) Subject  
20 to the provisions of this section and sec. 80 of this chapter, the use  
21 of force upon or toward a person is justifiable when the actor reason-  
22 ably believes that the force is immediately necessary for the purpose  
23 of protecting himself against the use of unlawful force by the other  
24 person under the circumstances present.

25 (b) The use of force is not justifiable under this section

26 (1) to resist an arrest which the actor knows is being  
27 made by a peace officer, although the arrest is unlawful;

28 (2) to resist force used by the occupier or possessor of  
29 property or by another person on his behalf, where the actor knows that

1 the person using the force is doing so under a claim of right to  
2 protect the property, except that this limitation shall not apply if

3 (A) the actor is a public officer acting in the  
4 performance of his duties or a person lawfully assisting him  
5 or a person making or assisting in a lawful arrest;

6 (B) the actor has been unlawfully dispossessed of the  
7 property and is making a re-entry or recaption justified by  
8 sec. 60 of this chapter; or

9 (C) the actor believes that such force is necessary to  
10 protect himself against death or serious bodily harm.

11 (3) if the actor is engaged in the commission of an  
12 unlawful offense and he seeks to use force for self-defense.

13 (c) The use of deadly force is not justifiable under this section  
14 unless the actor believes that the force is necessary to protect  
15 himself against death, serious bodily harm, kidnapping or sexual  
16 intercourse compelled by force or threat; nor is it justifiable if

17 (1) the actor, with the purpose of causing death or serious  
18 bodily harm, provoked the use of force against himself in the same  
19 encounter; or

20 (2) the actor knows that he can avoid the necessity of  
21 using such force with complete safety by retreating or by surrendering  
22 possession of a thing to a person asserting a claim of right to it or  
23 by complying with a demand that he abstain from any action which he  
24 has no duty to take, except that

25 (A) the actor is not obliged to retreat from his  
26 dwelling or place of work, unless he was the initial aggressor  
27 or is assailed in his place of work by another person whose place  
28 of work the actor knows it to be; and

29 (B) a public officer justified in using force in the

1 performance of his duties or a person justified in using force  
2 in his assistance or a person justified in using force in making  
3 an arrest or preventing an escape is not obliged to desist from  
4 efforts to perform the duty, make the arrest or prevent the  
5 escape because of resistance or threatened resistance by or on  
6 behalf of the person against whom the action is directed.

7 (d) Except as required by (b) and (c) of this section, a person  
8 employing protective force may estimate the necessity of it under the  
9 circumstances as he believes them to be when the force is used, without  
10 retreating, surrendering possession, or doing any other act which  
11 he has no legal duty to do or abstaining from any lawful action.

12 (e) The justification afforded by this section applies to the use  
13 of confinement as protective force only if the actor takes all rea-  
14 sonable measures to terminate the confinement as soon as he knows that  
15 he safely can terminate it, unless the person confined has been  
16 arrested on a charge of crime.

17 Sec. 11.13.050. USE OF FORCE FOR THE PROTECTION OF OTHER PERSONS.

18 (a) Subject to the provisions of this section and sec. 80 of this  
19 chapter, the use of force upon or toward a person is justifiable to  
20 protect a third person when

21 (1) the actor would be justified under sec. 40 of this  
22 chapter in using force to protect himself against the injury he  
23 believes to be threatened to the person whom he seeks to protect;

24 (2) under the circumstances as the actor reasonably be-  
25 lieves them to be, the person whom he seeks to protect would be  
26 justified in using such protective force; and

27 (3) the actor reasonably believes that his intervention is  
28 necessary for the protection of the other person.

29 (b) Notwithstanding (a) of this section

1 (1) when the actor would be obliged under sec. 40 of this  
2 chapter, to retreat, to surrender the possession of a thing or to  
3 comply with a demand before using force in self-protection, he is not  
4 obliged to do so before using force for the protection of another  
5 person, unless he knows that he can thereby secure the complete  
6 safety of the other person;

7 (2) when the person whom the actor seeks to protect would  
8 be obliged under sec. 40 of this chapter to retreat, to surrender the  
9 possession of a thing or to comply with a demand if he knew that he  
10 could obtain complete safety by so doing, the actor is obliged to try to  
11 cause him to do so before using force in his protection if the actor  
12 knows that he can obtain complete safety in that way; and

13 (3) neither the actor nor the person whom he seeks to  
14 protect is obliged to retreat when in the other's dwelling or place of  
15 work to any greater extent than in his own.

16 Sec. 11.13.060. USE OF FORCE FOR THE PROTECTION OF PROPERTY. (a)  
17 Subject to the provisions of this section and of sec. 80 of this chapter,  
18 the use of force upon or toward a person is justifiable when the actor  
19 reasonably believes that the force is immediately necessary

20 (1) to prevent or terminate an unlawful entry or other tres-  
21 pass upon land or a trespass against or the unlawful carrying away of  
22 tangible, movable property, provided that the land or movable property  
23 is, or is reasonably believed by the actor to be, in his possession or  
24 in the possession of another person for whose protection he acts; or

25 (2) to effect an entry or re-entry upon land or to retake  
26 tangible movable property, provided that the actor reasonably believes  
27 he or the person by whose authority he acts or a person from whom he or  
28 the other person derives title was unlawfully dispossessed of the land  
29 or movable property and is entitled to possession, and provided that

1 (A) the force is used immediately or on fresh pursuit  
2 after the dispossession; or

3 (B) the actor reasonably believes that the person a-  
4 gainst whom he uses force has no claim of right to the possession  
5 of the property and, in the case of land, the circumstances, as  
6 the actor reasonably believes them to be, are of such urgency that  
7 it would be an exceptional hardship to postpone the entry or re-  
8 entry until a court order is obtained.

9 (b) For the purposes of (a) of this section

10 (1) a person who has parted with the custody of property to  
11 another is no longer in possession, unless the property is movable  
12 and was and still is located on land in the initial person's  
13 possession;

14 (2) a person who has been dispossessed of land does not  
15 regain possession of it merely by setting foot on it;

16 (3) a person who has a license to use or occupy real  
17 property is deemed to be in possession of it except against the  
18 licensor acting under claim of right.

19 (c) The use of force is justifiable under this section only if  
20 the actor first requests the person against whom force is used to  
21 desist from his interference with the property, unless the actor  
22 reasonably believes that

23 (1) the request would be useless;

24 (2) it would be dangerous to himself or another person to  
25 make the request; or

26 (3) substantial harm will be done to the physical condition  
27 of the property which is sought to be protected before the request  
28 can effectively be made.

29 (d) The use of force to prevent or terminate a trespass is not

1 justifiable under this section if the actor knows that the exclusion  
2 of the trespasser will expose the trespasser to substantial danger of  
3 serious bodily harm.

4 (e) The use of force to prevent an entry or re-entry upon land  
5 or the recaption of movable property is not justifiable under this  
6 section, although the actor reasonably believes that the re-entry or  
7 recaption is unlawful, if

8 (1) the re-entry or recaption is made by or on behalf of a  
9 person who was actually dispossessed of the property; and

10 (2) it is otherwise justifiable under (a)(2) of this  
11 section.

12 (f) The use of deadly force is not justifiable under this section  
13 unless the actor reasonably believes that

14 (1) the person against whom the force is used is attempting  
15 to dispossess him of his dwelling otherwise than under a claim of right  
16 to its possession; or

17 (2) the person against whom the force is used is attempting  
18 to commit or consummate arson, burglary, robbery or other felonious  
19 theft or property destruction and either

20 (A) has employed or threatened deadly force against  
21 or in the presence of the actor; or

22 (B) the use of force other than deadly force to  
23 prevent the commission or the consummation of the crime would  
24 expose the actor or another in his presence to substantial danger  
25 of serious bodily harm.

26 (g) The justification afforded by this section extends to the use  
27 of confinement as protective force only if the actor takes all rea-  
28 sonable measures to terminate the confinement as soon as he knows that  
29 he can do so with safety to the property, unless the person confined

1 has been arrested on a charge of crime.

2 (h) The justification afforded by this section extends to the use  
3 of a device for the purpose of protecting property only if

4 (1) the device is not designed to cause or known to create  
5 a substantial risk of causing death or serious bodily harm;

6 (2) the use of the particular device to protect the property  
7 from entry or trespass is reasonable under the circumstances, as the  
8 actor believes them to be; and

9 (3) the device is one customarily used for such a purpose  
10 or reasonable care is taken to make known to probable intruders the  
11 fact that it is used.

12 (i) The use of force to pass a person whom the actor reasonably  
13 believes to be purposely or knowingly and unjustifiably obstructing  
14 the actor from going to a place to which he may lawfully go is justifi-  
15 fiable, provided that

16 (1) the actor reasonably believes that the person against  
17 whom he uses force has no claim of right to obstruct the actor;

18 (2) the actor is not being obstructed from entry or  
19 movement on land which he knows to be in the possession or custody of  
20 the person obstructing him, or in the possession or custody of another  
21 person by whose authority the obstructor acts, unless the circumstances,  
22 as the actor reasonably believes them to be, are of such urgency that  
23 it would not be reasonable to postpone the entry or movement on the  
24 land until a court order is obtained; and

25 (3) the force used is not greater than would be justifiable  
26 if the person obstructing the actor were using force against him to  
27 prevent his passage.

28 Sec. 11.13.070. USE OF FORCE IN LAW ENFORCEMENT. (a) Subject to  
29 the provisions of this section and sec. 110 of this chapter, the use of

1 force upon or toward a person is justifiable when the actor is making  
2 or assisting in making an arrest and the actor reasonably believes that  
3 the force is immediately necessary to effect a lawful arrest.

4 (b) The use of force is not justifiable under secs. 70 - 90 of  
5 this chapter unless

6 (1) the actor makes known the purpose of the arrest or  
7 believes that it is otherwise known by or cannot reasonably be made known  
8 to the person to be arrested; and

9 (2) when the arrest is made under a warrant, the warrant is  
10 valid or believed by the actor to be valid.

11 (c) The use of deadly force is not justifiable under this section  
12 unless

13 (1) the arrest is for a felony;

14 (2) the person effecting the arrest is authorized to act as  
15 a peace officer or is assisting a person whom he reasonably believes  
16 to be authorized to act as a peace officer;

17 (3) the actor reasonably believes that the force employed  
18 creates no substantial risk of injury to innocent persons; and

19 (4) the actor reasonably believes that

20 (A) the crime for which the arrest is made involved  
21 conduct including the use of threatened use of deadly force; or

22 (B) there is a substantial risk that the person to be  
23 arrested will cause death or serious bodily harm if his apprehension  
24 is delayed.

25 (d) The use of force to prevent the escape of an arrested person  
26 from custody is justifiable when the force could justifiably have been  
27 employed to effect the arrest under which the person is in custody,  
28 except that a guard or other person authorized to act as a peace officer  
29 is justified in using any force, including deadly force, which he

1 reasonably believes to be immediately necessary to prevent the escape  
2 of a person from a jail, prison, or other institution for the deten-  
3 tion of persons charged with or convicted of a crime.

4 Sec. 11.13.080. USE OF FORCE BY PRIVATE PERSON ASSISTING AN  
5 UNLAWFUL ARREST. (a) A private person who is summoned by a peace  
6 officer to assist in effecting an unlawful arrest, is justified in  
7 using any force which he would be justified in using if the arrest  
8 were lawful, provided that he does not believe the arrest is unlawful.

9 (b) A private person who assists another private person in  
10 effecting an unlawful arrest, or who, not being summoned, assists a  
11 peace officer in effecting an unlawful arrest, is justified in using  
12 any force which he would be justified in using if the arrest were  
13 lawful, provided that

14 (1) he reasonably believes the arrest is lawful, and

15 (2) the arrest would be lawful if the facts were as he  
16 believes them to be.

17 Sec. 11.13.090. USE OF FORCE TO PREVENT SUICIDE OR THE COMMISSION  
18 OF A CRIME. (a) The use of force upon or toward a person is justifiable  
19 when the actor reasonably believes that the force is immediately  
20 necessary to prevent the person from committing suicide, inflicting  
21 serious bodily harm upon himself, committing or consummating the com-  
22 mission of a crime involving or threatening bodily harm, damage to or  
23 loss of property or a breach of the peace, except that

24 (1) any limitations imposed by this chapter on the  
25 justifiable use of force in self-protection, for the protection of  
26 others, the protection of property, the effectuation of an arrest  
27 or the prevention of an escape from custody shall apply notwithstanding  
28 the criminality of the conduct against which the force is used; and

29 (2) the use of deadly force is not in any event justifiable

1 under sec. 90 of this chapter unless

2 (A) the actor reasonably believes that there is a substan-  
3 tial risk that the person whom he seeks to prevent from committing  
4 a crime will cause death or serious bodily harm to another unless  
5 the commission or the consummation of the crime is prevented and  
6 that the use of the force presents no substantial risk of injury  
7 to innocent persons; or

8 (B) the actor reasonably believes that the use of the  
9 force is necessary to suppress a riot after the rioters have been  
10 ordered to disperse and warned, in any particular manner that the  
11 law may require, that the force will be used if they do not obey.

12 (b) The justification afforded by sec. 90 of this chapter extends  
13 to the use of confinement as preventive force only if the actor takes  
14 all reasonable measures to terminate the confinement as soon as he  
15 knows that he safely can do so, unless the person confined has been  
16 arrested on a charge of crime.

17 Sec. 11.13.100. USE OF FORCE BY PERSONS WITH SPECIAL RESPONSI-  
18 BILITY FOR CARE, DISCIPLINE OR SAFETY OF OTHERS. (a) The use of  
19 force upon or toward a person is justifiable if

20 (1) the actor is the parent or guardian or other person  
21 similarly responsible for the general care and supervision of a minor  
22 or a person acting at the request of the parent, guardian or other  
23 responsible person and

24 (A) the force is used for the purpose of safeguarding  
25 or promoting the welfare of the minor, including the prevention  
26 or punishment of his misconduct; and

27 (B) the force used is not designed to cause or known to  
28 create a substantial risk of causing death, serious bodily harm,  
29 disfigurement, extreme pain or mental distress or gross degradation;

1 or

2 (2) the actor is a teacher or a person otherwise entrusted  
3 with the care of supervision for a special purpose of a minor and

4 (A) the actor reasonably believes that the force used  
5 is necessary to further the special purpose, including the main-  
6 tenance of reasonable discipline in a school, class or other group,  
7 and that the use of the force is consistent with the welfare of  
8 the minor; and

9 (B) the degree of force, if it had been used by the  
10 parent or guardian of the minor, would not be unjustifiable under  
11 subsection (1)(B) of this section.

12 (3) the actor is the guardian or other person similarly  
13 responsible for the general care and supervision of an incompetent  
14 person; and

15 (A) the force is used for the purpose of safeguarding  
16 or promoting the welfare of the incompetent person, including  
17 the prevention of his misconduct, or, when the incompetent  
18 person is in a hospital or other institution for his care and  
19 custody, for the maintenance of reasonable discipline in the  
20 institution; and

21 (B) the force used is not designed to cause or known  
22 to create a substantial risk of causing death, serious bodily  
23 harm, disfigurement, extreme or unnecessary pain, mental distress,  
24 or humiliation; or

25 (4) the actor is a doctor or other therapist or a person  
26 assisting him at his direction; and

27 (A) the force is used for the purpose of administering  
28 a recognized form of treatment which the actor reasonably believes  
29 to be adapted to promoting the physical or mental health of the

1 patient; and

2 (B) the treatment is administered with the consent of the  
3 patient or, if the patient is a minor or an incompetent person,  
4 with the consent of his parent or guardian or other person legally  
5 competent to consent in his behalf, or the treatment is administered  
6 in an emergency when the actor believes that no one competent to  
7 consent can be consulted and that a reasonable person, wishing to  
8 safeguard the welfare of the patient, would consent; or

9 (5) the actor is an authorized official of a correctional  
10 institution, and

11 (A) he reasonably believes that the force used is neces-  
12 sary for the purpose of enforcing the rules of the institution, un-  
13 less his belief in the lawfulness of the rule sought to be en-  
14 forced is erroneous and his error is due to ignorance or mistake as  
15 to the provisions of this title or other provision of law; and

16 (B) the nature or degree of force used is not prohibited  
17 by secs. 30 - 40 of this chapter; and

18 (C) if deadly force is used, its use is otherwise  
19 justifiable under this chapter; or

20 (6) the actor is a person responsible for the safety of a  
21 vessel or an aircraft or a person acting at his direction, and

22 (A) he reasonably believes that the force used is nec-  
23 essary to prevent interference with the operation of the vessel  
24 or aircraft or obstruction of the execution of a lawful order,  
25 unless his belief in the lawfulness of the order is erroneous and  
26 his error is due to ignorance or mistake as to the law defining  
27 his authority; and

28 (B) if deadly force is used, its use is otherwise  
29 justifiable under this chapter; or

1 (7) the actor is a person who is authorized or required by  
2 law to maintain order or decorum in a vehicle, train or other carrier  
3 or in a place where others are assembled, and

4 (A) he reasonably believes that the force used is  
5 necessary for the purpose; and

6 (B) the force used is not designed to cause or known  
7 to create a substantial risk of causing death, bodily harm, or  
8 extreme mental distress.

9 Sec. 11.13.110. JUSTIFICATION AS TO USE OF FORCE QUALIFIED.

10 (a) The justification afforded by secs. 40 - 70 of this chapter  
11 is unavailable when

12 (1) the actor's belief in the unlawfulness of the force or  
13 conduct against which he employs protective force or his belief in the  
14 lawfulness of an arrest which he endeavors to effect by force is  
15 erroneous; and

16 (2) his error is due to ignorance or mistake as to the  
17 provisions of this title or any other provision of law.

18 (b) When the actor believes that the use of force upon or toward  
19 a person is necessary for any of the purposes for which the belief  
20 would establish a justification under secs. 30 - 100 of this chapter  
21 but the actor is reckless or negligent in having the belief or in  
22 acquiring or failing to acquire any knowledge or belief which is material  
23 to the justifiability of his use of force, the justification afforded  
24 by those sections is unavailable in a prosecution for an offense for  
25 which recklessness or negligence, as the case may be, suffices to  
26 establish culpability.

27 (c) When the actor is justified under secs. 30 - 100 of this  
28 chapter in using force upon or toward a person but he recklessly or  
29 negligently injures or creates a risk of injury to innocent persons,

1 the justification afforded by those sections is unavailable in a  
2 prosecution for recklessness or negligence towards innocent persons.

3 Sec. 11.13.120. JUSTIFICATION IN PROPERTY CRIMES. Conduct  
4 involving the appropriation, seizure, destruction of, damage to,  
5 intrusion on or interference with property is justifiable under  
6 circumstances which would establish a defense of privilege in a civil  
7 action based on it, unless

8 (1) the law defining the offense deals with  
9 the specific situation involved; or

10 (2) a legislative purpose to exclude the justification  
11 claimed otherwise plainly appears.

12 Sec. 11.13.130. DEFINITIONS. In this chapter, unless a different  
13 meaning plainly is required

14 (1) "unlawful force" means force, including confinement,  
15 which is employed without the consent of the person against whom it is  
16 directed and the employment of which constitutes an offense or actionable  
17 tort or would constitute the offense or tort except for a defense  
18 not amounting to a privilege to use the force.

19 (2) "deadly force" means force which the actor uses with  
20 the purpose of causing or which he knows will create a substantial risk  
21 of causing death or serious bodily harm. A threat to cause death or  
22 serious bodily harm, by the production of a weapon or otherwise, so  
23 long as the actor's purpose is limited to creating an apprehension  
24 that he will use deadly force if necessary, does not constitute  
25 deadly force;

26 (3) "dwelling" means a building or structure, though  
27 movable or temporary, or a portion of it, which is the actor's home or  
28 place of lodging.  
29

1           Sec. 11.15.010. MENTAL DISEASE OR DEFECT EXCLUDING RESPONSIBILITY

2     A person is not responsible for criminal conduct if, at the time of the  
3     conduct, as a result of mental disease or defect, he lacks substantial  
4     capacity either to appreciate the wrongfulness of his conduct or to  
5     conform his conduct to the requirements of law. As used in this  
6     chapter, the terms "mental disease or defect" do not include an  
7     abnormality manifested only by repeated criminal or other anti-social  
8     conduct.

9           Sec. 11.15.020. EVIDENCE OF MENTAL DISEASE OR DEFECT. Evidence  
10    that the defendant suffered from a mental disease or defect is  
11    admissible when it is relevant to prove that the defendant did or did  
12    not have a state of mind which is an element of the offense. Mental  
13    disease or defect excluding responsibility is an affirmative defense.

14           Sec. 11.15.030. MENTAL DISEASE OR DEFECT EXCLUDING FITNESS TO  
15    PROCEED. No person who as a result of mental disease or defect lacks  
16    capacity to understand the proceedings against him or to assist in  
17    his own defense shall be tried, convicted or sentenced for the commission  
18    of an offense so long as the incapacity endures.

19                   CHAPTER 17. INCHOATE CRIMES.

20           Sec. 11.17.010. ATTEMPT. (a) A person is guilty of an attempt  
21    to commit a crime if, acting with the kind of culpability otherwise  
22    required for commission of the crime, he

23                   (1) purposely engages in conduct which would constitute  
24    the crime if the attendant circumstances were as he believes them to  
25    be; or

26                   (2) when causing a particular result is an element of the  
27    crime, does or omits to do anything with the purpose of causing or  
28    with the belief that it will cause the result without further conduct  
29    on his part; or

1 (3) purposely does or omits to do anything which, under the  
2 circumstances as he believes them to be, is an act or omission  
3 constituting a substantial step in a course of conduct planned to  
4 culminate in his commission of the crime.

5 (b) Conduct shall not be held to constitute a substantial step  
6 under (a)(3) of this section unless it is strongly corroborative of  
7 the actor's criminal purpose. Without negating the sufficiency of  
8 other conduct, the following, if strongly corroborative of the actor's  
9 criminal purpose, shall not be held insufficient as a matter of law:

10 (1) lying in wait, searching for or following the  
11 contemplated victim of the crime;

12 (2) enticing or seeking to entice the contemplated victim  
13 of the crime to go to the place contemplated for its commission;

14 (3) reconnoitering the place contemplated for the commission  
15 of the crime;

16 (4) unlawful entry of a structure, vehicle or enclosure in  
17 which it is contemplated that the crime will be committed;

18 (5) possession of materials to be employed in the  
19 commission of the crime, which are specially designed for unlawful  
20 use or which can serve no lawful purpose of the actor under the  
21 circumstances;

22 (6) possession, collection or fabrication of materials  
23 to be employed in the commission of the crime, at or near the place  
24 contemplated for its commission, where the possession, collection  
25 or fabrication of materials serves no lawful purpose of the actor  
26 under the circumstances;

27 (7) soliciting an innocent agent to engage in conduct  
28 constituting an element of the crime.

29 (c) A person who engages in conduct designed to aid another to

1 commit a crime which would establish his complicity under AS 11.11.080  
2 if the crime were committed by the other person, is guilty of an  
3 attempt to commit the crime, although the crime is not committed or  
4 attempted by the other person.

5 (d) When the actor's conduct would otherwise constitute an  
6 attempt under (a)(2) or (a)(3) of this section, it is an affirmative  
7 defense that he abandoned his effort to commit the crime or otherwise  
8 prevented its commission, under circumstances manifesting a complete  
9 and voluntary renunciation of his criminal purpose. The establishment  
10 of this defense does not, however, affect the liability of an  
11 accomplice who did not join in the abandonment or prevention. Within  
12 the meaning of this chapter, renunciation of criminal purpose is not  
13 voluntary if it is motivated, in whole or in part, by circumstances,  
14 not present or apparent at the inception of the actor's course of  
15 conduct, which increase the probability of detection or apprehension  
16 or which make more difficult the accomplishment of the criminal  
17 purpose. Renunciation is not complete if it is motivated by a  
18 decision to postpone the criminal conduct until a more advantageous  
19 time or to transfer the criminal effort to another but similar  
20 objective or victim.

21 Sec. 11.17.020. SOLICITATION. (a) A person is guilty of  
22 solicitation to commit a crime if, with the purpose of promoting or  
23 facilitating its commission, he commands, encourages or requests  
24 another person to engage in specific conduct which would constitute  
25 a crime or an attempt to commit a crime or which would establish his  
26 complicity in its commission or attempted commission.

27 (b) It is immaterial under (a) of this section that the actor  
28 fails to communicate with the person he solicits to commit a crime  
29 if his conduct was designed to effect the communication.

1 (c) It is an affirmative defense that the actor, after  
2 soliciting another person to commit a crime, persuaded him not to do  
3 so or otherwise prevented the commission of the crime, under  
4 circumstances manifesting a complete and voluntary renunciation of his  
5 criminal purpose.

6 Sec. 11.17.030. CONSPIRACY. (a) A person is guilty of conspiracy  
7 with another person or persons to commit a crime with the purpose of  
8 promoting or facilitating its commission, if he

9 (1) agrees with the other person or persons that one or  
10 more of them will engage in conduct which constitutes a crime or an  
11 attempt or solicitation to commit a crime; or

12 (2) agrees to aid the other person or persons in the  
13 planning or commission of a crime or of an attempt or solicitation to  
14 commit a crime.

15 (b) If a person guilty of conspiracy knows that a person with  
16 whom he conspires to commit a crime has conspired with another person  
17 or persons to commit the same crime, he is guilty of conspiring with  
18 the other person or persons, whether or not he knows their identity, to  
19 commit the crime.

20 (c) If a person conspires to commit a number of crimes, he is  
21 guilty of only one conspiracy if the multiple crimes are the object  
22 of the same agreement or continuous conspiratorial relationship.

23 (d) No person may be convicted of conspiracy to commit a crime,  
24 other than a felony of the first or second degree, unless an overt act  
25 in pursuance of the conspiracy is alleged and proved to have been done  
26 by him or by a person with whom he conspired.

27 (e) It is an affirmative defense that the actor, after  
28 conspiring to commit a crime, thwarted the success of the conspiracy,  
29 under circumstances manifesting a complete and voluntary renunciation

1 of his criminal purpose.

2 Sec. 11.17.040. DURATION OF CONSPIRACY. Conspiracy is a  
3 continuing course of conduct which terminates when the crime or  
4 crimes which are its object are committed or the agreement that  
5 they be committed is abandoned by the defendant and by those  
6 with whom he conspired; the abandonment is presumed if neither  
7 the defendant nor anyone with whom he conspired does any overt  
8 act in pursuance of the conspiracy during the applicable period  
9 of limitation. If an individual abandons the agreement,  
10 the conspiracy is terminated as to him only if he advises  
11 those with whom he conspired of his abandonment or he informs  
12 the law enforcement authorities of the existence of the conspiracy  
13 and of his participation in it.

14 Sec. 11.17.050. INCAPACITY, IRRESPONSIBILITY OR IMMUNITY  
15 OF PARTY TO SOLICITATION OR CONSPIRACY. (a) Except as  
16 provided in (b) of this section, it is immaterial to the  
17 liability of a person who solicits or conspires with another to  
18 commit a crime that

19 (1) he or the person whom he solicits or with whom he  
20 conspires does not occupy a particular position or have a particular  
21 characteristic which is an element of the crime, if he believes that  
22 one of them does; or

23 (2) the person whom he solicits or with whom he conspires  
24 is irresponsible or has an immunity to prosecution or conviction for  
25 the commission of the crime.

26 (b) It is a defense to a charge of solicitation or conspiracy  
27 to commit a crime that if the criminal object were achieved, the actor  
28 would not be guilty of a crime under the law defining the offense or  
29 as an accomplice under AS 11.11.080.

1                   Sec. 11.17.060. GRADING OF CRIMINAL ATTEMPT, SOLICITATION AND  
2 CONSPIRACY. (a) Except as otherwise provided in this section, attempt  
3 solicitation and conspiracy are crimes of the same grade and degree as  
4 the most serious offense which is attempted or solicited or is an object  
5 of the conspiracy. An attempt, solicitation or conspiracy to commit  
6 a felony of the first degree is a felony of the second degree.

7                   (b) If the particular conduct charged to constitute a criminal  
8 attempt, solicitation or conspiracy is so inherently unlikely to result  
9 or culminate in the commission of a crime that neither the conduct nor  
10 the actor presents a public danger warranting the grading of the  
11 offense under this section, the court shall exercise its power under  
12 AS 11.07.120 to enter judgment and impose sentence for a crime of  
13 lower grade or degree or, in extreme cases, may dismiss the prosecution

14                   (c) No person may be convicted of more than one offense defined  
15 by this chapter for conduct designed to commit or to culminate in the  
16 commission of the same crime.

17                   Sec. 11.17.070. POSSESSING INSTRUMENTS OF CRIME. (a) A person  
18 commits a misdemeanor if he possesses an instrument of crime with  
19 purpose to employ it criminally. For purposes of this section,  
20 "instrument of crime" means:

21                   (1) anything specially made or specially adapted for criminal  
22 use; or

23                   (2) anything commonly used for criminal purposes and  
24 possessed by the actor under circumstances which do not negative  
25 unlawful purpose.

26                   (b) If a person possesses a firearm or other weapon on or about  
27 his person, in a vehicle occupied by him, or otherwise readily  
28 available for use, it shall be presumed that he had the purpose to  
29 employ it criminally, unless:

1 (1) The weapon is possessed in the actor's home or place  
2 of business;

3 (2) the actor is a peace officer or is otherwise licensed  
4 or authorized by law to possess the weapon; or

5 (3) the weapon is a type commonly used in lawful sport.

6 (c) For purposes of this section, "weapon" means anything readily  
7 capable of lethal use and possessed under circumstances not  
8 manifestly appropriate for lawful use notwithstanding the fact  
9 that a firearm is unloaded or lacks a clip or other component  
10 to render it immediately operable. A weapon includes components  
11 which can readily be assembled into a weapon.

12 (d) Where a weapon or other instrument of crime is found in an  
13 automobile, it shall be presumed to be in the possession of the occupant  
14 if there is only one occupant. If there is more than one occupant, it  
15 is presumed to be in the possession of all of them, except under the  
16 following circumstances:

17 (1) where it is found upon the person of one of the  
18 occupants;

19 (2) where the automobile is not a stolen one and the weapon  
20 or instrument is found out of view in a glove compartment, car  
21 trunk, or other enclosed customary depository, in which case it shall  
22 be presumed to be in the possession of the occupant or occupants who  
23 own or have authority to operate the automobile;

24 (3) in the case of a taxicab, a weapon or instrument found  
25 in the passengers' portion of the vehicle shall be presumed to be in  
26 the possession of all the passengers, if there are any, and, if not,  
27 in the possession of the driver.

28 Sec. 11.17.080. PROHIBITED OFFENSIVE WEAPONS. Unless otherwise  
29 authorized by law, a person commits a misdemeanor if he makes, repairs,

1 sells, or otherwise deals in, uses, or possesses an offensive weapon.  
2 For purposes of this section, "offensive weapon" means a bomb, machine  
3 gun, sawed-off shotgun, firearm specially made or specially adapted for  
4 concealment or silent discharge; any blackjack, sandbag, metal knuckles  
5 dagger, or other implement for the infliction of serious bodily harm  
6 which serves no common lawful purpose. It is a defense under this  
7 section for the defendant to prove by a preponderance of evidence  
8 that he possessed or dealt with the weapon solely as a curio or in a  
9 dramatic performance, or that he possessed it briefly after  
10 having found it or taken it from an aggressor, or under circumstances  
11 similarly negating any purpose or likelihood that the weapon would  
12 be used unlawfully. The presumptions provided in sec. 70(d) are  
13 applicable to prosecutions under this section.

14 CHAPTER 19. OFFENSES AGAINST THE PERSON.

15 Sec. 11.19.010. CRIMINAL HOMICIDE. (a) A person is guilty of  
16 criminal homicide if he purposely, knowingly, recklessly or negligently  
17 causes the death of another human being.

18 (b) Criminal homicide is murder, manslaughter or negligent  
19 homicide.

20 Sec. 11.19.020. MURDER. (a) Except as provided in sec. 30(a)(2)  
21 of this chapter, criminal homicide constitutes murder when

22 (1) it is committed purposely or knowingly; or

23 (2) it is committed recklessly under circumstances manifesting  
24 extreme indifference to the value of human life. Recklessness and  
25 indifference are presumed if the actor is engaged or is an accomplice  
26 in the commission of, or an attempt to commit, or flight after  
27 committing or attempting to commit robbery, rape or deviate sexual  
28 intercourse by force or threat by force, arson, burglary, kidnapping  
29 or felonious escape.

1 (b) Murder is a felony of the first degree.

2 Sec. 11.19.030. MANSLAUGHTER. (a) Criminal homicide constitutes  
3 manslaughter when

4 (1) it is committed recklessly; or

5 (2) a homicide which would otherwise be murder is committed  
6 under the influence of extreme mental or emotional disturbance for  
7 which there is a reasonable explanation or excuse. The reasonableness  
8 of the explanation or excuse shall be determined from the viewpoint  
9 of a person in the actor's situation under the circumstances as he  
10 believes them to be.

11 (b) Manslaughter is a felony of the second degree.

12 Sec. 11.19.040. NEGLIGENCE HOMICIDE. (a) Criminal homicide  
13 constitutes negligent homicide when it is committed negligently.

14 (b) Negligent homicide is a felony of the third degree.

15 Sec. 11.19.050. CAUSING OR AIDING SUICIDE. (a) A person may  
16 be convicted of criminal homicide for causing another to commit  
17 suicide only if he purposely causes the suicide by force, duress or  
18 deception.

19 (b) A person who purposely aids or solicits another to commit  
20 suicide is guilty of a felony of the second degree if his conduct  
21 causes a suicide or an attempted suicide. Solicitation that does not  
22 lead to an attempted suicide or actual suicide is a misdemeanor.

23 Sec. 11.19.060. ASSAULT. (a) A person is guilty of simple  
24 assault if he

25 (1) attempts to cause, or purposely, knowingly or  
26 recklessly causes bodily injury to another; or

27 (2) negligently causes bodily injury to another with a  
28 deadly weapon; or

29 (3) attempts by physical menace to put another in fear of

1 imminent serious bodily injury.

2 Simple assault is a misdemeanor unless committed in a fight or scuffle  
3 entered into by mutual consent, in which case it is a petty mis-  
4 demeanor.

5 (b) A person is guilty of aggravated assault if he

6 (1) attempts to cause serious bodily injury to another, or  
7 causes such injury purposely, knowingly or recklessly under circumstances  
8 manifesting extreme indifference to the value of human life; or

9 (2) attempts to cause or purposely or knowingly causes  
10 bodily injury to another with a deadly weapon.

11 Aggravated assault under (b)(1) of this section is a felony of the  
12 second degree. Aggravated assault under (b)(2) of this section is a  
13 felony of the third degree.

14 Sec. 11.19.070. RECKLESSLY ENDANGERING ANOTHER PERSON. A person  
15 commits a misdemeanor if he recklessly engages in conduct which creates  
16 a substantial risk of death or serious physical injury to another person.

17 Sec. 11.19.080. CARELESS USE OF FIREARMS. (a) A person who  
18 intentionally, and without malice, points or aims a firearm at or toward  
19 a person, or discharges a firearm so pointed or aimed at a person, or  
20 points and discharges a firearm at or toward a person or object without  
21 knowing the identity of the object and maims or injures a human being,  
22 is guilty of the careless use of firearms, and upon conviction is  
23 punishable by a misdemeanor. If an offense specified in this section  
24 was committed by a person licensed to hunt and was committed while he  
25 was hunting, upon conviction, the court shall, in addition to the  
26 penalty imposed in this section, revoke the person's hunting license.  
27 A person whose license has been revoked may not purchase another  
28 hunting license of any class for a period of not less than one year  
29 nor more than 10 years from the date of revocation as determined by

1 the court. If an offense specified in this section was committed by  
2 a person not licensed to hunt and was committed while he was hunting,  
3 the court shall, in addition to the penalty imposed in this section,  
4 prohibit the person from purchasing any class hunting license for a  
5 period of not less than one year nor more than 10 years as determined  
6 by the court.

7 (b) If death ensues from the maiming or injuring, the person  
8 discharging the firearm may, in the discretion of the prosecuting  
9 officer or grand jury, be charged with the crime of manslaughter.

10 (c) This section does not apply to a case where firearms are  
11 used in self-defense or in the discharge of official duty, or in case  
12 of a homicide justifiable under law.

13 Sec. 11.19.090. TERRORISTIC THREATS. A person is guilty of a  
14 felony of the third degree if he threatens to commit a crime of  
15 violence with purpose to terrorize another or to cause evacuation of  
16 a building, place of assembly, or facility of public transportation,  
17 or otherwise to cause serious public inconvenience, or in reckless  
18 disregard of the risk of causing terror or inconvenience.

19 Sec. 11.19.100. KIDNAPPING. (a) A person is guilty of kid-  
20 napping if he unlawfully removes a person from one place to another  
21 place, or if he unlawfully confines another for a substantial period  
22 in a place of isolation, with any of the following purposes:

- 23 (1) to hold for ransom or reward, or as a shield or hostage;  
24 (2) to facilitate commission of a felony or flight after a  
25 felony;  
26 (3) to inflict bodily injury on or to terrorize the victim  
27 or another;  
28 (4) to interfere with the performance of a governmental or  
29 political function; or

1 (5) to inflict extreme mental distress on him or a third person.

2 (b) Kidnapping is a felony of the first degree; however, if the  
3 actor, before he is apprehended, voluntarily releases the victim alive  
4 and in a safe place prior to the payment of ransom, money benefit, or  
5 other valuable thing from the person kidnapped or from any other  
6 person, it is a felony of the second degree. A removal or confinement  
7 is unlawful within the meaning of this section if it is accomplished  
8 by force, threat or deception, or, in the case of a person who is  
9 under the age of 14 or incompetent, if it is accomplished without the  
10 consent of a parent, guardian or other person responsible for general  
11 supervision of his welfare.

12 Sec. 11.19.110. FELONIOUS RESTRAINT. A person commits a felony  
13 of the third degree if he knowingly

14 (1) restrains another unlawfully in circumstances exposing  
15 him to risk of serious bodily injury; or

16 (2) holds another in a condition of involuntary servitude.

17 Sec. 11.19.120. FALSE IMPRISONMENT. A person commits a  
18 misdemeanor if he knowingly and unlawfully restrains another,  
19 interfering substantially with his liberty.

20 Sec. 11.19.130. REASONABLE DETENTION AS DEFENSE. (a) In a civil  
21 or criminal action brought by a person having been detained on or in  
22 the immediate vicinity of the premises of a mercantile establishment  
23 for the purpose of investigation or questioning as to the ownership  
24 of merchandise, it shall be a defense that the person was detained in a  
25 reasonable manner and for not more than a reasonable time to permit  
26 investigation or questioning by a peace officer or by the owner of  
27 mercantile establishment, his authorized employee or agent, and that  
28 the peace officer, owner, employee or agent had reasonable grounds to  
29 believe that the person detained was unlawfully concealing merchandise.

1 (b) In this section reasonable grounds includes knowledge that  
2 a person has concealed upon or about his person unpurchased merchandise  
3 of the mercantile establishment, and reasonable time means the time  
4 necessary to permit the person detained to make a statement or to  
5 refuse to make a statement, and also the time necessary to examine  
6 employees and records of the mercantile establishment relative to the  
7 ownership of the merchandise.

8 Sec. 11.19.140. INTERFERENCE WITH CUSTODY OF CHILDREN. (a) A  
9 person commits a misdemeanor if he knowingly or recklessly takes or  
10 entices a child under the age of 18 from the custody of its parent,  
11 guardian or other lawful custodian, when he has no privilege to do so.  
12 If the actor, not being a parent or person in equivalent relation to  
13 the child, acted with knowledge that his conduct would cause serious  
14 alarm for the child's safety, or in reckless disregard of a likelihood  
15 of causing such alarm, the offense is a felony of the third degree.

16 (b) A person is guilty of a misdemeanor if he knowingly or  
17 recklessly takes or entices a committed person away from lawful custody  
18 when he is not privileged to do so. In this section, "committed  
19 person" means, in addition to anyone committed under judicial warrant,  
20 an orphan, neglected or delinquent child, mentally defective or  
21 insane person, or other dependent or incompetent person entrusted  
22 to another's custody by or through a recognized social agency or  
23 otherwise by law.

24 Sec. 11.19.150. CRIMINAL COERCION. (a) A person is guilty  
25 of criminal coercion if, with purpose unlawfully to restrict  
26 another's freedom of action to his detriment, he threatens to

- 27 (1) commit a criminal offense;  
28 (2) accuse anyone of committing a criminal offense;  
29 (3) expose a confidence which would subject a person to

1 hatred, contempt or ridicule, or to impair his credit or business  
2 repute; or

3 (4) take or withhold action as an official, or cause an  
4 official to take or withhold action.

5 (b) It is an affirmative defense to prosecution based on (a)(2) -  
6 (4) of this section that the actor believed the accusation or  
7 confidence to be true or the proposed official action justified and that  
8 his purpose was limited to compelling the other to behave in a way  
9 reasonably related to the circumstances which were the subject of  
10 the accusation, exposure or proposed official action, as by desisting  
11 from further misbehavior, making good a wrong done, refraining from  
12 taking any action or responsibility for which the actor believes the  
13 other disqualified.

14 (c) Criminal coercion is a misdemeanor unless the threat is to  
15 commit a felony or the actor's purpose is felonious, in which cases  
16 the offense is a felony of the third degree.

17 Sec. 11.19.160. RAPE. (a) A male who has sexual intercourse  
18 with a female not his wife is guilty of rape if

19 (1) he compels her to submit by force or by threat of  
20 imminent death, serious bodily injury, extreme pain or kidnapping,  
21 to be inflicted on anyone;

22 (2) he has substantially impaired her power to appraise  
23 or control her conduct by administering or employing without her  
24 knowledge or consent drugs, intoxicants or other means for the purpose  
25 of preventing resistance;

26 (3) the female is unconscious; or

27 (4) the female is less than 14 years old.

28 (b) Rape is a felony of the second degree unless

29 (1) in the course of it the actor inflicts serious bodily  
injury upon anyone, or

1 (2) the victim was not a voluntary social companion of the  
2 actor upon the occasion of the crime and had not previously permitted  
3 him sexual liberties, in which cases the offense is a felony of the  
4 first degree.

5 (c) For the purpose of this section, sexual intercourse includes  
6 intercourse by means of the mouth or rectum, with some penetration  
7 however slight; emission is not required.

8 Sec. 11.19.170. GROSS SEXUAL IMPOSITION. A male who has sexual  
9 intercourse with a female not his wife commits a felony of the third  
10 degree if

11 (1) he compels her to submit by a threat that would prevent  
12 resistance by a woman of ordinary resolution; or

13 (2) he knows that she suffers from a mental disease or defect  
14 which renders her incapable of appraising the nature of her conduct; or

15 (3) he knows that she is unaware that a sexual act is being  
16 committed upon her or that she submits because she mistakenly supposes  
17 that he is her husband.

18 Sec. 11.19.180. DEVIATE SEXUAL INTERCOURSE BY FORCE OR IMPOSITION  
19 (a) A person who engages in deviate sexual intercourse with another  
20 person, or who causes another to engage in deviate sexual intercourse,  
21 commits a felony of the second degree if

22 (1) he compels the other person to participate in it by  
23 force or by threat of imminent death, serious bodily injury, extreme  
24 pain or kidnapping, to be inflicted on anyone;

25 (2) he has substantially impaired the other person's power  
26 to appraise or control his conduct, by administering or employing  
27 without the knowledge of the other person drugs, intoxicants or other  
28 means for the purpose of preventing resistance;

29 (3) the other person is unconscious; or

1 (4) the other person is less than 14 years old.

2 (b) For the purposes of this section, deviate sexual intercourse  
3 means sexual intercourse by means of the mouth or rectum between human  
4 beings who are not husband and wife, and any form of sexual inter-  
5 course with an animal.

6 (c) A person who engages in deviate sexual intercourse with  
7 another person, or who causes another to engage in deviate sexual  
8 intercourse, commits a felony of the third degree if

9 (1) he compels the other person to participate by a threat  
10 that would prevent resistance by a person of ordinary resolution; or

11 (2) he knows that the other person suffers from a mental  
12 disease or defect which renders him incapable of appraising the nature  
13 of his conduct; or

14 (3) he knows that the other person submits because he is  
15 unaware that a sexual act is being committed upon him.

16 Sec. 11.19.190. CORRUPTION OF MINORS. (a) A male who has sexual  
17 intercourse with a female not his wife, or any person who engages in  
18 deviate sexual intercourse or causes another to engage in deviate  
19 sexual intercourse, is guilty of an offense if

20 (1) the other person is less than 16 years old and the  
21 actor is at least four years older than the other person;

22 (2) the other person is less than 19 years old and the  
23 actor is his guardian or otherwise responsible for general supervision  
24 of his welfare; or

25 (3) the other person is in custody of law or detained in  
26 a hospital or other institution and the actor has supervisory or  
27 disciplinary authority over him.

28 (b) An offense committed under (a)(1) of this section is a  
29 felony of the third degree. An offense committed under (a)(2)

1 or (3) of this section is a misdemeanor.

2 Sec. 11.19.200. SEXUAL ASSAULT. (a) A person who has sexual  
3 contact with another not his spouse or causes the other to have sexual  
4 contact with him is guilty of sexual assault if

5 (1) he knows that the contact is offensive to the other  
6 person

7 (2) he knows that the other person suffers from a mental  
8 disease or defect rendering him incapable of appraising the nature  
9 of his conduct;

10 (3) he knows that the other person is unaware that a sexual  
11 act is being committed;

12 (4) the other person is less than 14 years old;

13 (5) he has substantially impaired the other person's power  
14 to appraise or control his conduct, by administering or employing  
15 without the other's knowledge drugs, intoxicants or other means for  
16 the purpose of preventing resistance;

17 (6) the other person is less than 16 years old and the  
18 actor is at least four years older than the other person;

19 (7) the other person is less than 19 years old and the  
20 actor is his guardian or otherwise responsible for general supervision  
21 of his welfare; or

22 (8) the other person is in custody of law or detained in a  
23 hospital or other institution and the actor has supervisory or  
24 disciplinary authority over him.

25 (b) The offense of sexual assault is a misdemeanor. For the  
26 purposes of this section "sexual contact" is any touching of the sexual  
27 parts of the person for the purpose of arousing or gratifying sexual  
28 desire.

29 Sec. 11.19.210. INDECENT EXPOSURE. A person commits a mis-

1 demeanor if, for the purpose of arousing or gratifying sexual desire  
2 of himself or of any person, he wilfully and lewdly exposes his  
3 genitals in a public place under circumstances in which his conduct  
4 is likely to cause offense or annoyance.

5 Sec. 11.19.220. GENERAL PROVISIONS. (a) In secs. 160 - 230  
6 of this chapter, when the criminality of conduct depends on a child's  
7 being below the age of 14, it is no defense that the actor did not  
8 know the child's age, or reasonably believed the child to be older  
9 than 14. When criminality depends on the child's being below a  
10 critical age other than 14, it is a defense for the actor to prove by  
11 a preponderance of the evidence that he reasonably believed the child  
12 to be above the critical age.

13 (b) In secs. 160 - 230 of this chapter, when the definition of  
14 an offense excludes conduct with a spouse, the exclusion extends to  
15 persons living as man and wife, regardless of the legal status of  
16 their relationship. The exclusion shall be inoperative as respects  
17 spouses living apart under a decree of judicial separation. When the  
18 definition of an offense excludes conduct with a spouse or conduct  
19 by a woman, this does not preclude conviction of a spouse or woman  
20 as accomplice in a sexual act which he or she causes another person,  
21 not within the exclusion, to perform.

22 (c) It is a defense to prosecution under sec. 190 and sec. 200-  
23 (a)(6) - (a)(8) for the actor to prove by a preponderance of the  
24 evidence that the alleged victim had, prior to the time of the offense  
25 charged, engaged promiscuously in sexual relations with others.

26 (d) Notwithstanding any other provision of law, no prosecution may  
27 be instituted or maintained under secs. 160 - 230 of this chapter unless  
28 the alleged offense is brought to the notice of public authority within  
29 three months of its occurrence or, where the alleged victim was less

1 than 16 years old or otherwise incompetent to make complaint, within  
2 three months after a parent, guardian or other competent person  
3 specially interested in the victim learns of the offense.

4 (e) Notwithstanding any other provision of law, no person may be  
5 convicted of a felony under secs. 160 - 230 of this chapter upon the un-  
6 corroborated testimony of the alleged victim. Corroboration may be cir-  
7 cumstantial. In a prosecution before a jury for an offense under secs.  
8 160 - 230 of this chapter, the jury shall be instructed to evaluate the  
9 testimony of a victim or complaining witness with special care in view  
10 of the emotional involvement of the witness and the difficulty of de-  
11 termining the truth with respect to alleged sexual activities carried  
12 out in private.

13 Sec. 11.19.230. DEFINITIONS. In this chapter

14 (1) "human being" means a person who has been born and is alive;

15 (2) "bodily injury" means physical pain, illness or an  
16 impairment of physical condition;

17 (3) "serious bodily injury" means bodily injury which  
18 creates a substantial risk of death or which causes serious, permanent  
19 disfigurement, or protracted loss or impairment of the function of a  
20 bodily member or organ;

21 (4) "deadly weapon" means a firearm, or other weapon, device  
22 instrument, material or substance, whether animate or inanimate, which  
23 in the manner it is used or is intended to be used is known to be  
24 capable of producing death or serious bodily injury.

25 CHAPTER 21. OFFENSES AGAINST PROPERTY.

26 ARTICLE 1. ARSON AND RELATED OFFENSES.

27 Sec. 11.21.010. ARSON. A person is guilty of arson, a felony of  
28 the second degree, if he starts a fire or causes an explosion with the  
29 purpose of

1 (1) destroying a building or occupied structure of another;  
2 or

3 (2) destroying or damaging any property, whether his own or  
4 another's, to collect insurance for the loss. It is an affirmative  
5 defense to prosecution under this section that the actor's conduct did  
6 not recklessly endanger a building or occupied structure of another or  
7 place any other person in danger of death or bodily injury.

8 Sec. 11.21.020. RECKLESS BURNING OR EXPLODING. A person commits  
9 felony of the third degree if he purposely starts a fire or causes an  
10 explosion, whether on his own property or another's and thereby recklessly

11 (1) places another person in danger of death or bodily injury;  
12 or

13 (2) places a building or occupied structure of another in  
14 danger of damage or destruction.

15 Sec. 11.21.030. FAILURE TO CONTROL OR REPORT DANGEROUS FIRE.  
16 A person who knows that a fire is endangering life or a substantial  
17 amount of property of another and fails to take reasonable measures  
18 to put out or control the fire, when he can do so without substantial  
19 risk to himself, or to give a prompt fire alarm, commits a misdemeanor  
20 if

21 (1) he knows that he is under an official, contractual,  
22 or other legal duty to prevent or combat the fire; or

23 (2) the fire was started, lawfully, by him or with his  
24 assent, or on property in his custody or control.

25 Sec. 11.21.040. DEFINITIONS. For the purposes of secs. 10 - 40,

26 (1) "occupied structure" includes a ship, trailer, sleeping  
27 car, airplane, or other vehicle, structure or place adapted for over-  
28 night accommodation of persons or for the conducting of business,  
29 whether or not a person is actually present.

1 (2) "property" is property of another, if anyone other  
2 than the actor has a possessory or proprietary interest in it. If a  
3 building or structure is divided into separately occupied units, a unit  
4 not occupied by the actor is an occupied structure of another.

5 Sec. 11.21.050. CAUSING CATASTROPHE. (a) Other than one acting  
6 under legal authority, a person who causes a catastrophe by explosion,  
7 fire, flood, avalanche, collapse of building, release of poison gas,  
8 radioactive material or other harmful or destructive force or substance,  
9 or by any other means of causing potentially widespread injury or  
10 damage, commits a felony of the second degree if he does so purposely  
11 or knowingly. A person causing a catastrophe mentioned in this sub-  
12 section commits a felony of the third degree if he does so recklessly.

13 (b) A person is guilty of a misdemeanor if he recklessly creates  
14 a risk of catastrophe in the employment of fire, explosives or other  
15 dangerous agents specified in (a) of this section.

16 (c) A person who knowingly or recklessly fails to take reasonable  
17 measures to prevent or mitigate a catastrophe commits a misdemeanor if

18 (1) he knows that he is under an official, contractual or  
19 other legal duty to take such measures; or

20 (2) he did or assented to the act causing or threatening  
21 the catastrophe.

22 Sec. 11.21.060. CRIMINAL MISCHIEF. (a) A person is guilty of  
23 criminal mischief if he

24 (1) damages tangible property of another purposely,  
25 recklessly, or by negligence in the employment of fire, explosives,  
26 or other dangerous means specified in sec. 50(a) of this chapter; or

27 (2) purposely or recklessly tampers with tangible property  
28 of another so as to endanger a person or property; or

29 (3) purposely or recklessly causes another to suffer

1 pecuniary loss by deception or threat.

2 (b) Criminal mischief is a felony of the third degree if the actor  
3 purposely causes pecuniary loss in excess of \$5,000, or a substantial  
4 interruption or impairment of public communication, transportation,  
5 supply of water, gas or power, or other public service. It is a mis-  
6 demeanor if the actor purposely causes pecuniary loss in excess of \$100,  
7 or a petty misdemeanor if he purposely or recklessly causes pecuniary  
8 loss in excess of \$25. All other criminal mischief is a violation.

9 ARTICLE 2. BURGLARY.

10 Sec. 11.21.070. BURGLARY. (a) A person is guilty of burglary if  
11 he enters a building or occupied structure, or separately secured or  
12 occupied portion of a building or occupied structure, with purpose to  
13 commit a crime in it, unless the premises are at the time open to the  
14 public or the actor is licensed or privileged to enter. It is an  
15 affirmative defense to prosecution for burglary that the building or  
16 structure was abandoned.

17 (b) Burglary is a felony of the second degree if, in the course of  
18 committing the offense, the actor

19 (1) purposely, knowingly or recklessly inflicts or attempts  
20 to inflict bodily injury on anyone; or

21 (2) is armed with explosives or a deadly weapon.

22 (c) All other burglary is a felony of the third degree. An act  
23 is considered "in the course of committing" an offense if it occurs in  
24 an attempt to commit the offense or in the flight after the attempt or  
25 commission.

26 (d) No person may be convicted both for burglary and for the offense  
27 which it was his purpose to commit after the burglarious entry or for an  
28 attempt to commit that offense, unless the additional offense constitutes  
29 a felony of the first or second degree.

1           Sec. 11.21.080. CRIMINAL TRESPASS. (a) A person commits  
2 the offense of criminal trespass if, knowing that he is not licensed  
3 or privileged to do so, he enters or surreptitiously remains in or  
4 uses or occupies a building or occupied structure, or separately  
5 secured or occupied portion of a building or occupied structure.  
6 This offense is a petty misdemeanor.

7           (b) A person commits the offense of criminal trespass if,  
8 knowing that he is not licensed or privileged to do so, he enters  
9 or remains in a place as to which notice against trespass is given  
10 by

- 11                   (1) actual communication to the actor;  
12                   (2) posting a manner prescribed by law or reasonably  
13 likely to come to the attention of an intruder; or  
14                   (3) fencing or other enclosure manifestly designed to  
15 exclude intruders.

16           (c) An offense under (b) of this section constitutes a petty  
17 misdemeanor if the offender defies an order to leave personally  
18 communicated to him by the owner of the premises or other authorized  
19 person. Otherwise it is a violation.

20           (d) It is an affirmative defense to prosecution under this  
21 section that

- 22                   (1) the building or occupied structure involved in an  
23 offense under (a) of this section was abandoned;  
24                   (2) the premises were at the time open to members of the  
25 public and the actor complied with all lawful conditions imposed on  
26 access to or remaining in the premises; or  
27                   (3) the actor reasonably believed that the owner of the  
28 premises, or other person empowered to license access to them, would  
29 have licensed him to enter or remain.

1 (e) No person may be prosecuted for an offense under this  
2 section if

3 (1) the entry, use or occupancy of any of the facilities  
4 described in this section is for an emergency in the case of im-  
5 mediate and dire need, and

6 (2) the person contacts the owner or agent within 15  
7 days after using the facility, or if the owner is unknown, the  
8 nearest state or local police agency, and makes a report of the time  
9 of the entry, use or occupancy of the facility and any damage to  
10 the facility or personal property, unless notice waiving necessity  
11 of the report is posted in the facility by the owner or his agent.

12 (f) A court having jurisdiction to impose sentence for vio-  
13 lation of this section may suspend all or part of a sentence on  
14 condition, among any other which might be lawfully ordered by the  
15 court, that the defendant make restitution for, or repair, any  
16 damage he caused or compensate the owner for property used or con-  
17 sumed.

18 (g) The Department of Public Safety shall provide forms upon  
19 which reports required by this section can be made and shall supply  
20 the forms to all local and state police agencies in the state for  
21 public distribution. The department may adopt rules and regulations  
22 regarding reports required under this section.

23 Sec. 11.21.090. DEFINITIONS. In secs. 70 - 90 of this  
24 chapter, "occupied structure" means a structure, vehicle, or place  
25 adapted for overnight accommodation of persons, or for the carrying  
26 on of business, whether or not a person is actually present.

27 ARTICLE 3. ROBBERY.

28 Sec. 11.21.100. ROBBERY. (a) A person is guilty of robbery,  
29 if in the course of committing a theft, he

1 (1) recklessly inflicts serious bodily injury upon  
2 another;

3 (2) threatens another with or purposely puts him in fear  
4 of immediate serious bodily injury; or

5 (3) commits or threatens immediately to commit a felony  
6 of the first or second degree.

7 (b) An act is considered "in the course of committing a theft"  
8 if it occurs in an attempt to commit theft or in flight after the  
9 attempt or commission of a theft.

10 (c) Robbery is a felony of the second degree, except that it  
11 is a felony of the first degree if in the course of committing the  
12 theft the actor attempts to kill anyone, or purposely inflicts or  
13 attempts to inflict serious bodily injury.

14 ARTICLE 4. THEFT AND  
15 RELATED OFFENSES.

16 Sec. 11.21.110. THEFT BY UNLAWFUL TAKING. (a) A person  
17 is guilty of theft if he unlawfully takes, or exercises unlawful con-  
18 trol over, movable property of another with purpose to deprive him  
19 of it.

20 (b) A person is guilty of theft if he unlawfully transfers  
21 immovable property of another or any interest in it with purpose  
22 to benefit himself or another not entitled to it.

23 Sec. 11.21.120. THEFT BY DECEPTION. (a) A person is guilty of  
24 theft if he purposely obtains property of another by deception. A  
25 person deceives, if he purposely

26 (1) creates or reinforces a false impression, including  
27 false impressions as to law, value, intention or other state of mind;  
28 but deception as to a person's intention to perform a promise shall  
29 not be inferred from the fact alone that he did not subsequently

1 perform the promise;

2 (2) prevents another from acquiring information which would  
3 affect his judgment of a transaction;

4 (3) fails to correct a false impression which the deceiver  
5 previously created or reinforced, or which the deceiver knows to be  
6 influencing another to whom he stands in a fiduciary or confidential  
7 relationship; or

8 (4) fails to disclose a known lien, adverse claim or other  
9 legal impediment to the enjoyment of property which he transfers or  
10 encumbers in consideration for the property obtained, whether the  
11 impediment is or is not valid, or is or is not a matter of official  
12 record.

13 (b) The term "deceive" does not, however, include falsity as to  
14 matters having no pecuniary significance, or puffing by statements  
15 unlikely to deceive ordinary persons in the group addressed.

16 Sec. 11.21.130. THEFT BY EXTORTION. (a) A person is guilty  
17 of theft if he purposely obtains property of another by threatening  
18 to

19 (1) inflict bodily injury on a person or commit a criminal  
20 offense;

21 (2) accuse anyone of a criminal offense;

22 (3) expose any secret tending to subject a person to  
23 hatred, contempt or ridicule, or to impair his credit or business  
24 repute;

25 (4) take or withhold action as an official, or cause an  
26 official to take or withhold action;

27 (5) bring about or continue a strike, boycott or other col-  
28 lective unofficial action, if the property is not demanded or received  
29 for the benefit of the group in whose interest the actor purports

1 to act;

2 (6) testify or provide information or withhold testimony  
3 or information with respect to another's legal claim or defense; or

4 (7) inflict any other harm which would not benefit the actor.

5 (b) It is an affirmative defense to prosecution based on  
6 paragraphs (a)(2), (3) or (4) of this section that the property obtained  
7 by threat of accusation, exposure, lawsuit or other invocation of  
8 official action was honestly claimed as restitution or indemnification  
9 for harm done in the circumstances to which the accusation, exposure,  
10 lawsuit or other official action relates, or as compensation for  
11 property or lawful services.

12 Sec. 11.21.140. THEFT OF PROPERTY LOST, MISLAID OR DELIVERED BY  
13 MISTAKE. A person who comes into control of property of another that  
14 he knows to have been lost, mislaid, or delivered under a mistake as  
15 to the nature or amount of the property or the identity of the  
16 recipient, is guilty of theft if, with purpose to deprive the owner  
17 of it, he fails to take reasonable measures to restore the property  
18 to a person entitled to have it.

19 Sec. 11.21.150. RECEIVING STOLEN PROPERTY. (a) A person is  
20 guilty of theft if he purposely receives, retains or disposes of  
21 movable property of another knowing that it has been stolen, or  
22 believing that it has probably been stolen, unless the property is  
23 received, retained, or disposed with purpose to restore it to the  
24 owner. "Receiving" means acquiring possession, control or title, or  
25 lending on the security of the property.

26 (b) For purposes of this section

27 (1) The requisite knowledge or belief is presumed in the  
28 case of a dealer who

29 (A) is found in possession or control of property

1 stolen from two or more persons on separate occasions;

2 (B) has received stolen property in another transaction  
3 within the year preceding the transaction charged; or

4 (C) being a dealer in property of the sort received,  
5 acquires it for a consideration which he knows is far below  
6 its reasonable value.

7 (2) "Dealer" means a person in the business of buying or  
8 selling goods.

9 Sec. 11.21.160. THEFT OF SERVICES. (a) A person is guilty of  
10 theft if he purposely obtains services which he knows are available  
11 only for compensation, by deception or threat, or by false token or  
12 other means to avoid payment for the service. "Services" includes  
13 labor, professional service, transportation, telephone or other public  
14 service, accommodation in hotels, restaurants or elsewhere, admission  
15 to exhibitions, use of vehicles or other movable property. When  
16 compensation for service is ordinarily paid immediately upon the  
17 rendering of the service, as in the case of hotels and restaurants,  
18 refusal to pay or absconding without payment or offer to pay gives  
19 rise to a presumption that the service was obtained by deception as to  
20 intention to pay.

21 (b) A person commits theft if, having control over the dis-  
22 position of services of others, to which he is not entitled, he  
23 knowingly diverts the services to his own benefit or to the benefit of  
24 another not entitled to them.

25 Sec. 11.21.170. THEFT BY FAILURE TO MAKE REQUIRED DISPOSITION OF  
26 FUNDS RECEIVED. (a) A person who purposely obtains property upon  
27 agreement, or subject to a known legal obligation, to make specified  
28 payment or other disposition, whether from the property or its proceeds  
29 or from his own property to be reserved in equivalent amount, is guilty

1 of theft if he deals with the property obtained as his own and fails  
2 to make the required payment or disposition, unless the actor proves  
3 that his obligation in the transaction was limited to a promise or other  
4 duty to be performed in the future without any present duty to reserve  
5 property for the performance.

6 (b) This offense is committed notwithstanding that it may be  
7 impossible to identify particular property as belonging to the victim  
8 at the time of the actor's failure to make the required payment or  
9 disposition.

10 (c) An officer or employee of the government or of a financial  
11 institution is presumed

12 (1) to know any legal obligation relevant to his criminal  
13 liability under this section, and

14 (2) to have dealt with the property as his own if he fails  
15 to pay or account upon lawful demand, or if an audit reveals a  
16 shortage or falsification of accounts.

17 Sec. 11.21.180. UNAUTHORIZED USE OF AUTOMOBILES AND OTHER  
18 VEHICLES. (a) A person commits a misdemeanor if he operates an  
19 automobile, airplane, motorcycle, motorboat, or other motor-propelled  
20 vehicle without consent of the owner. It is an affirmative defense  
21 to prosecution under this section if the owner would have consented  
22 to the operation had he known of it.

23 (b) A court having jurisdiction to impose sentence for violation  
24 of (a) of this section may suspend all or part of a sentence on condi-  
25 tion, among any other which might be lawfully ordered by the court,  
26 that the defendant make restitution for, or repair, any damage he has  
27 caused or compensate the owner for property used or consumed.

28 Sec. 11.21.190. CONSOLIDATION OF THEFT OFFENSES. Conduct denomin-  
29 ated theft in secs. 110 - 220 of this chapter constitutes a single

1 offense. An accusation of theft may be supported by evidence that it  
2 was committed in any manner that would be theft under secs. 110 - 220  
3 of this chapter, notwithstanding the specification of a different  
4 manner in the indictment or information, subject only to the power  
5 of the court to ensure fair trial by granting a continuance or other  
6 appropriate relief where the conduct of the defense would be  
7 prejudiced by lack of fair notice or by surprise.

8 Sec. 11.21.200. GRADING OF THEFT OFFENSES. (a) Theft  
9 constitutes a felony of the third degree if the amount involved  
10 exceeds \$500, or if the property stolen is a firearm, automobile,  
11 airplane, motorcycle, motorboat, or other motor-propelled vehicle,  
12 or in the case of theft by receiving stolen property, if the receiver  
13 is in the business of buying or selling stolen property.

14 (b) Theft not covered in (a) of this section constitutes a  
15 misdemeanor, except that if the property was not taken from the person  
16 or by threat, or in breach of a fiduciary obligation, and the actor  
17 proves by a preponderance of the evidence that the amount involved  
18 was less than \$50, the offense constitutes a petty misdemeanor.

19 (c) The amount involved in a theft is considered to be the  
20 highest value, by any standard which is reasonably applicable, of the  
21 property or services which the actor stole or attempted to steal.  
22 Amounts involved in theft committed under one scheme or course of  
23 conduct, whether from the same person or several persons, may be  
24 aggregated in determining the grade of the offense.

25 Sec. 11.21.210. DEFENSE TO PROSECUTION FOR THEFT. (a) It is an  
26 affirmative defense to prosecution for theft that the actor

27 (1) was unaware that the property or service was that of  
28 another;

29 (2) acted under an honest claim of right to the property

1 or service involved or that he had a right to acquire or dispose of  
2 it as he did; or

3 (3) took property exposed for sale, intending to purchase  
4 and pay for it promptly, or reasonably believing that the owner, if  
5 present, would have consented.

6 (b) It is no defense that theft was from the actor's spouse,  
7 except that misappropriation of household and personal effects, or other  
8 property normally accessible to both spouses, is theft only if it  
9 occurs after the parties have ceased living together.

10 ARTICLE 5. FORGERY AND FRAUDULENT PRACTICES.

11 Sec. 11.21.220. FORGERY. (a) A person is guilty of forgery if,  
12 with purpose to defraud or injure anyone, or with knowledge that he  
13 is facilitating a fraud or injury to be perpetrated by anyone, the  
14 actor

15 (1) alters a writing of another without his authority; or

16 (2) makes, completes, executes, authenticates, issues  
17 or transfers a writing so that it purports to be the act of another  
18 who did not authorize that act, or to have been executed at a time or  
19 place or in a numbered sequence other than was in fact the case, or to  
20 be a copy of an original when no original existed; or

21 (3) utters any writing which he knows to be forged in a  
22 manner specified in (1) and (2) of this subsection.

23 (b) Forgery is a felony of the second degree if the writing is  
24 or purports to be part of an issue of money, securities, postage or  
25 revenue stamps, or other instruments issued by the government, or  
26 part of an issue of stock, bonds or other instruments representing  
27 interests in or claims against any property or enterprise. Forgery  
28 is a felony of the third degree if the writing is or purports to be a  
29 will, deed, contract, release, commercial instrument, or other document

1 evidencing, creating, transferring, altering, terminating, or otherwise  
2 affecting legal relations. All other forgery is a misdemeanor.

3 (c) For purposes of secs. 220 - 350 of this chapter, a "writing"  
4 includes printing or any other method of recording information,  
5 money, coins, tokens, stamps, seals, credit cards, badges, trade-marks,  
6 and other symbols of value, right, privilege, or identification.

7 Sec. 11.21.230. SIMULATING OBJECTS OF ANTIQUITY. A person  
8 commits a misdemeanor if, with purpose to defraud a person or with  
9 knowledge that he is facilitating a fraud to be perpetrated by a person  
10 he makes, alters or utters any object so that it appears to have value  
11 because of antiquity, rarity, source, or authorship which it does not  
12 possess.

13 Sec. 11.21.240. FRAUDULENT DESTRUCTION, REMOVAL OR CONCEALMENT  
14 OF RECORDABLE INSTRUMENTS. A person commits a felony of the third  
15 degree if, with purpose to deceive or injure anyone, he destroys,  
16 removes or conceals a will, deed, mortgage, security instrument or  
17 other writing requiring public recording.

18 Sec. 11.21.250. TAMPERING WITH RECORDS. A person commits a  
19 misdemeanor if, knowing that he has no privilege to do so, he  
20 falsifies, destroys, removes or conceals a writing or record with  
21 purpose to deceive or injure anyone or to conceal a wrongdoing.

22 Sec. 11.21.260. BAD CHECKS. A person who issues or passes a  
23 check or similar sight order for the payment of money, knowing that it  
24 will not be honored by the drawee, commits a misdemeanor. For the  
25 purposes of this section as well as in any prosecution for theft  
26 committed by means of a bad check, an issuer is presumed to know that  
27 the check or order would not be paid if

28 (1) the issuer had no account with the drawee at the time  
29 the check or order was issued; or

1 (2) payment was refused by the drawee for lack of funds,  
2 upon presentation within 30 days after issue, and the issuer failed to  
3 make it good within 10 days after receiving notice of that refusal.

4 Sec. 11.21.265. CREDIT CARDS. (a) A person commits an offense  
5 if he uses a credit card for the purpose of obtaining money, property  
6 or services with knowledge that

7 (1) the card is stolen or forged;

8 (2) the card has been revoked or canceled; or

9 (3) for any other reason his use of the card is unauthorized.

10 (b) It is an affirmative defense to prosecution under (3) of this  
11 section if the actor proves by a preponderance of the evidence that he  
12 had the purpose and ability to meet all obligations to the issuer  
13 arising out of his use of the card.

14 (c) For purposes of this section, "credit card" means a writing  
15 purporting to evidence an undertaking to pay for money, property or  
16 services delivered or rendered to or upon the order of a designated  
17 person or bearer.

18 (d) An offense under this section is a felony of the third degree  
19 if the value of the money, property or services secured or sought to be  
20 secured by means of the credit card exceeds \$500. If the value of the  
21 property, money or services secured or sought to be secured by means of  
22 the credit card is less than \$500, it is a misdemeanor.

23 Sec. 11.21.270. DECEPTIVE BUSINESS PRACTICES. (a) A person  
24 commits a misdemeanor if in the course of business he

25 (1) uses or possesses for use a false weight or measure,  
26 or any other device for falsely determining or recording any quality  
27 or quantity;

28 (2) sells, offers or exposes for sale, or delivers less  
29 than the represented quantity of a commodity or service;

1 (3) takes or attempts to take more than the represented  
2 quantity of a commodity or service when as buyer he furnishes the  
3 weight or measure;

4 (4) sells, offers or exposes for sale adulterated or mis-  
5 labeled commodities. "Adulterated" means varying from the standard  
6 of composition or quality prescribed by law, or set by established  
7 commercial usage. "Mislabeled" means varying from the standard of  
8 truth or disclosure in labeling prescribed by law, or set by establish  
9 commercial usage;

10 (5) makes a false or misleading statement in an advertise-  
11 ment addressed to the public or to a substantial segment of it for the  
12 purpose of promoting the purchase or sale or property or services;

13 (6) makes a false or misleading written statement for the  
14 purpose of obtaining property or credit; or

15 (7) makes a false or misleading written statement for the  
16 purpose of promoting the sale of securities, or omits information  
17 required by law to be disclosed in written documents relating to  
18 securities.

19 (b) It is an affirmative defense to prosecution under this  
20 section if the defendant proves by a preponderance of the evident  
21 that his conduct was not knowingly or recklessly deceptive.

22 Sec. 11.21.280. COMMERCIAL BRIBERY AND BREACH OF DUTY TO ACT  
23 DISINTERESTEDLY. (a) A person commits a misdemeanor if he solicits,  
24 accepts or agrees to accept a benefit as consideration for knowingly  
25 violating or agreeing to violate a duty of fidelity to which he is  
26 subject as

27 (1) agent, partner or employee of another;

28 (2) trustee, guardian, or other fiduciary;

29 (3) lawyer, physician, accountant, appraiser, or other

1 professional adviser or informant;

2 (4) officer, director, partner, manager or other participant  
3 in the direction of the affairs of an incorporated or unincorporated  
4 association; or

5 (5) arbitrator or other purportedly disinterested  
6 adjudicator or referee.

7 (b) A person who holds himself out to the public as being engaged  
8 in the business of making disinterested selection, appraisal, or  
9 criticism of commodities or services commits a misdemeanor if he solicits,  
10 accepts or agrees to accept any benefit to influence his selection,  
11 appraisal or criticism.

12 (c) A person commits a misdemeanor if he confers, or offers  
13 or agrees to confer, a benefit the acceptance of which would be  
14 criminal under this section.

15 Sec. 11.21.290. RIGGING PUBLICLY EXHIBITED CONTEST. (a) A  
16 person commits a misdemeanor if, with purpose to prevent a publicly  
17 exhibited contest from being conducted in accordance with the rules  
18 and usages purporting to govern it, he

19 (1) confers or offers or agrees to confer a benefit upon,  
20 or threatens an injury to a participant, official or other person  
21 associated with the contest or exhibition; or

22 (2) tampers with a person, animal or thing.

23 (b) A person commits a misdemeanor if he knowingly solicits,  
24 accepts or agrees to accept a benefit the giving of which would be  
25 prohibited under (a) of this section.

26 (c) A person commits a misdemeanor if he knowingly engages in,  
27 sponsors, produces, judges or otherwise participates in a publicly  
28 exhibited contest knowing that the contest is not being conducted in  
29 compliance with the rules and usages purporting to govern it, by

1 reason of conduct which would be criminal under this section.

2 Sec. 11.21.300. DEFRAUDING SECURED CREDITORS. A person commits  
3 a misdemeanor if he destroys, removes, conceals, encumbers, transfers  
4 or otherwise deals with property subject to a security interest with  
5 purpose to hinder enforcement of that interest.

6 Sec. 11.21.310. FRAUD IN INSOLVENCY. A person commits a  
7 misdemeanor if, knowing that proceedings have been or are due to be  
8 instituted for the appointment of a receiver or other person entitled  
9 to administer property for the benefit of creditors, or that any other  
10 composition or liquidation for the benefit of creditors has been or is  
11 about to made, he

12 (1) destroys, removes, conceals, encumbers, transfers,  
13 or otherwise deals with property with purpose to defeat or  
14 obstruct the claim of any creditor, or otherwise to obstruct the  
15 operation of a law relating to administration of property for the  
16 benefit of creditors;

17 (2) knowingly falsifies a writing or record relating to  
18 the property; or

19 (3) knowingly misrepresents or refuses to disclose to a  
20 receiver or other person entitled to administer property for the  
21 benefit of creditors, the existence, amount or location of the  
22 property, or any other information which the actor could be legally  
23 required to furnish in relation to such administration.

24 Sec. 11.21.320. RECEIVING DEPOSITS IN A FAILING FINANCIAL  
25 INSTITUTION. An officer, manager or other person directing or  
26 participating in the direction of a financial institution commits  
27 a misdemeanor if he receives or permits the receipt of a deposit,  
28 premium payment or other investment in the instituion knowing that

29 (1) due to financial difficulties the institution is about

1 to suspend operations or go into receivership or reorganization; and

2 (2) the person making the deposit or other payment is  
3 unaware of the precarious situation of the institution.

4 Sec. 11.21.330. MISAPPLICATION OF ENTRUSTED PROPERTY AND PROPERTY  
5 OF GOVERNMENT OR FINANCIAL INSTITUTION. A person commits an offense  
6 if he applies or disposes of property that has been entrusted to him  
7 as a fiduciary, or property of the government or of a financial  
8 institution, in a manner which he knows is unlawful and involves  
9 substantial risk of loss or detriment to the owner of the property or  
10 to a person for whose benefit the property was entrusted. The offense  
11 is a misdemeanor if the amount involved exceeds \$50; otherwise it is  
12 a petty misdemeanor. For the purposes of this section, "fiduciary"  
13 includes trustee, guardian, executor, administrator, receiver and  
14 any person carrying on fiduciary functions on behalf of a corporation  
15 or other organization which is a fiduciary.

16 Sec. 11.21.340. SECURING EXECUTION OF DOCUMENTS BY DECEPTION.  
17 A person commits a misdemeanor if by deception he causes another to  
18 execute an instrument affecting or purporting to affect or likely  
19 to affect the pecuniary interest of a person.

20 Sec. 11.21.350. DEFINITIONS. In secs. 110 - 350

21 (1) "deprive" means

22 (A) to withhold property of another permanently or for  
23 so extended a period as to appropriate a major portion of its  
24 economic value, or with intent to restore only upon payment of  
25 reward or other compensation; or

26 (B) to dispose of the property in such a way to make  
27 it unlikely that the owner will recover it.

28 (2) "financial institution" means a bank, insurance company,  
29 credit union, building and loan association, investment trust or other

1 organization held out to the public as a place of deposit of funds or  
2 medium of savings or collective investment.

3 (3) "government" means the United States, a state, county,  
4 municipality, or other political unit, or a department, agency or  
5 subdivision of the United States or a state, or a corporation or other  
6 association carrying out the functions of government.

7 (4) "movable property" means property the location of which  
8 can be changed, including things growing on, affixed to, or found in  
9 land, and documents although the rights represented by them have no  
10 physical location. "Immovable property" is all other property.

11 (5) "obtain" means

12 (A) in relation to property, to bring about a transfer  
13 or purported transfer of a legal interest in the property,  
14 whether to the person obtaining the property or another; or

15 (B) in relation to labor or service, to secure  
16 performance of it;

17 (6) "property" means anything of value, including real  
18 estate, tangible and intangible personal property, contract rights,  
19 choses-in-action and other interests in or claims to wealth, admission  
20 or transportation tickets, captured or domestic animals, food and drink,  
21 electric or other power;

22 (7) "property of another" includes property in which any  
23 person other than the actor has an interest which the actor is not  
24 privileged to infringe, regardless of the fact that the actor also has  
25 an interest in the property and regardless of the fact that the other  
26 person might be precluded from civil recovery because the property was  
27 used in an unlawful transaction or was subject to forfeiture as contra-  
28 band. Property in possession of the actor is not considered property of  
29 another who has only a security interest in it, even if legal title is

1 in the creditor under a conditional sales contract or other security  
2 agreement.

3 CHAPTER 25. OFFENSES AGAINST THE FAMILY.

4 Sec. 11.25.010. BIGAMY. A married person is guilty of bigamy,  
5 a misdemeanor, if he contracts or purports to contract another marriage,  
6 unless at the time of the subsequent marriage

7 (1) the actor believes that his prior spouse is dead;

8 (2) the actor and his prior spouse have been living apart  
9 for five consecutive years throughout which the prior spouse was not  
10 known by the actor to be alive;

11 (3) a court has entered a judgment purporting to terminate  
12 or annul any prior disqualifying marriage, and the actor does not  
13 know that judgment to be invalid; or

14 (4) the actor reasonably believes that he is legally  
15 eligible to remarry.

16 Sec. 11.25.020. POLYGAMY. A person is guilty of polygamy, a  
17 felony of the third degree, if he marries or cohabits with more than  
18 one spouse at a time in purported exercise of the right of plural  
19 marriage. The offense is a continuing one until all cohabitation and  
20 claim of marriage with more than one spouse terminates. Secs. 10 - 30  
21 of this chapter does not apply to parties to a polygamous marriage,  
22 lawful in the country of which they are residents or nationals, while  
23 they are in transit through or temporarily visiting the state.

24 Sec. 11.25.030. OTHER PARTY TO BIGAMOUS OR POLYGAMOUS MARRIAGE.  
25 A person is guilty of bigamy or polygamy, as the case may be, if he  
26 contracts or purports to contract marriage with another knowing that  
27 the other is thereby committing bigamy or polygamy.

28 Sec. 11.25.040. INCEST. A person is guilty of incest, a felony  
29 of the third degree, if he knowingly marries or cohabits or has sexual

1 intercourse with an ancestor or descendant, a brother or sister of the  
2 whole or half blood or an uncle, aunt, nephew or niece of the whole  
3 blood. "Cohabit" means to live together under the representation or  
4 appearance of being married. The relationships referred to in this  
5 section include blood relationships without regard to legitimacy or the  
6 relationship of parent and child by adoption.

7 Sec. 11.25.050. ABORTIONS. (a) No abortion may be performed  
8 in this state unless

9 (1) the abortion is performed by a physician or surgeon  
10 licensed by the state Medical Board under AS 08.64.200;

11 (2) the abortion is performed in a hospital or other  
12 facility approved for the purpose by the Department of Health and  
13 Social Services or a hospital operated by the federal government or an  
14 agency of the federal government;

15 (3) consent has been received from the parent or guardian  
16 of an unmarried woman less than 18 years of age; and

17 (4) the woman is domiciled or physically present in the  
18 state for 30 days before the abortion. "Abortion" in this section  
19 means an operation or procedure to terminate the pregnancy of a  
20 nonviable fetus. Nothing in this section requires a hospital or  
21 person to participate in an abortion, nor is a hospital or person  
22 liable for refusing to participate in an abortion under this section.

23 (b) A person who knowingly violates a provision of (a) of this  
24 section, upon conviction, is punishable for a felony of the third  
25 degree.

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15       Sec. 11.25.070. PERSISTENT NON-SUPPORT. A person commits a  
16 misdemeanor if he persistently fails to provide support which he can  
17 provide and which he knows he is legally obliged to provide to a  
18 spouse, child or other dependent.

19               CHAPTER 27. OFFENSES AGAINST PUBLIC ADMINISTRATION.

20                     ARTICLE 1. BRIBERY AND CORRUPT INFLUENCE.

21       Sec. 11.27.010. BRIBERY IN OFFICIAL AND POLITICAL MATTERS. (a)  
22 A person is guilty of bribery, a felony of the third degree, if he  
23 corruptly offers, confers or agrees to confer upon another, or corruptly  
24 solicits, accepts or agrees to accept from another

25               (1) a pecuniary benefit as consideration for the recipient's  
26 decision, opinion, recommendation, vote or other exercise of discretion  
27 as a public servant, party official or voter; or

28               (2) a benefit as consideration for the recipient's decision,  
29 vote, recommendation or other exercise of official discretion

1 in a judicial or administrative proceeding; or

2 (3) a benefit as consideration for a violation of a known  
3 legal duty as public servant or party official.

4 (b) It is no defense to prosecution under this section that a  
5 person whom the actor sought to influence was not qualified to act in  
6 the desired way because he had not yet assumed office, or lacked  
7 jurisdiction, or for any other reason.

8 Sec. 11.27.020. THREATS AND OTHER IMPROPER INFLUENCE IN OFFICIAL  
9 AND POLITICAL MATTERS. (a) A person commits an offense of unlawful  
10 threats if he

11 (1) threatens harm to a person with purpose to influence  
12 his decision, opinion, recommendation, vote or other exercise of  
13 discretion as a public servant, party official or voter; or

14 (2) threatens harm to a public servant with purpose to  
15 influence his decision, opinion, recommendation, vote or other exercise  
16 of discretion in a judicial or administrative proceedings; or

17 (3) threatens harm to a public servant or party official  
18 with purpose to influence him to violate his known legal duty.

19 (b) It is no defense to prosecution under this section that a  
20 person whom the actor sought to influence was not qualified to act in  
21 the desired way, because he had not yet assumed office, lacked juris-  
22 diction, or for any other reason.

23 (c) An offense under this section is a misdemeanor unless the  
24 actor threatened to commit a crime or made a threat with purpose to  
25 influence a judicial or administrative proceeding, in which case the  
26 offense is a felony of the third degree.

27 Sec. 11.27.040. RETALIATION FOR PAST OFFICIAL ACTION. A person  
28 commits a misdemeanor if he harms another by an unlawful act in  
29 retaliation for an act lawfully done by the other person in the

1 capacity of public servant.

2 ARTICLE 2. PERJURY AND OTHER  
3 FALSIFICATION IN OFFICIAL MATTERS.

4 Sec. 11.27.100. PERJURY. (a) A person is guilty of perjury, a  
5 felony of the third degree, if in an official proceeding he makes a  
6 false statement under oath or equivalent affirmation, or swears or  
7 affirms the truth of a statement previously made, when the statement  
8 is material and he does not believe it to be true.

9 (b) Falsification is material, regardless of the admissibility  
10 of the statement under rules of evidence, if it could have affected  
11 the course or outcome of the proceeding. It is no defense that the  
12 declarant mistakenly believed the falsification to be immaterial.  
13 Whether a falsification is material in a given factual situation is a  
14 question of law.

15 (c) It is not a defense to prosecution under this section that  
16 the oath or affirmation was administered or taken in an irregular  
17 manner or that the declarant was not competent to make the statement.  
18 A document purporting to be made upon oath or affirmation at any time  
19 when the actor presents it as being so verified is considered to have been  
20 duly sworn or affirmed.

21 (d) No person shall be guilty of an offense under this section  
22 if he retracted the falsification in the course of the proceeding in  
23 which it was made before it became manifest that the falsification  
24 was or would be exposed and before the falsification substantially  
25 affected the proceeding.

26 (e) Where the defendant made inconsistent statements under oath  
27 or equivalent affirmation, both having been made within the period of  
28 the statute of limitations, the prosecution may proceed by setting  
29 forth the inconsistent statements in a single count alleging in the

1 alternative that one or the other was false and not believed by the  
2 defendant. In this case it is not necessary for the prosecution to  
3 prove which statement was false but only that one or the other was  
4 false and not believed by the defendant to be true.

5 (f) No person shall be convicted of an offense under this  
6 section where proof of falsity rests solely upon contradiction by  
7 testimony of a single person other than the defendant.

8 Sec. 11.27.110. FALSE SWEARING. (a) A person who makes a false  
9 statement under oath or equivalent affirmation, or swears or affirms  
10 the truth of such a statement previously made, when he does not believe  
11 the statement to be true, is guilty of a misdemeanor if

- 12 (1) the falsification occurs in an official proceeding; or  
13 (2) the falsification is intended to mislead a public  
14 servant in performing his official function.

15 (b) A person who makes a false statement under oath or equivalent  
16 affirmation, or swears or affirms the truth of such a statement  
17 previously made, when he does not believe the statement to be true,  
18 is guilty of a petty misdemeanor, if the statement is one which is  
19 required by law to be sworn or affirmed before a notary or other  
20 person authorized to administer oaths.

21 (c) Sec. 100(c) - (f) of this chapter apply to this section

22 Sec. 11.27.120. UNSWORN FALSIFICATION TO AUTHORITIES. (a) A  
23 person is guilty of a misdemeanor if, with purpose to mislead a public  
24 servant in performing his official function, he

25 (1) makes a written false statement which he does not  
26 believe to be true;

27 (2) purposely creates a false impression in a written  
28 application for a pecuniary or other benefit, by omitting information  
29 necessary to prevent statements in it from being misleading;

1 (3) submits or invites reliance on a writing which he  
2 knows to be forged, altered or otherwise lacking in authenticity; or

3 (4) submits or invites reliance on a sample, specimen,  
4 map, boundary-mark, or other object which he knows to be false.

5 (b) A person commits a petty misdemeanor if he makes a written  
6 false statement which he does not believe to be true, on or pursuant  
7 to a form bearing notice, authorized by law, to the effect that false  
statements made in it are punishable.

9 (c) Sec. 100(c) - (f) of this chapter apply to this section

10 Sec. 11.27.130. FALSE ALARMS TO AGENCIES OF PUBLIC SAFETY. (a)  
11 A person who knowingly causes a false alarm of fire or other emergency  
12 to be transmitted to or within an organization, official or volunteer,  
13 for dealing with emergencies involving danger to life or property  
14 commits a misdemeanor.

15 (b) In addition to the penalty provided in (a) of this section,  
16 the court may in its discretion require restitution by the convicted  
17 person to the authority involved for any and all expenses incurred as  
a direct result of the false alarm.

19 Sec. 11.27.140. FALSE REPORTS TO LAW ENFORCEMENT AUTHORITIES. (a)  
20 A person who knowingly gives false information to a law enforcement  
21 officer with purpose to implicate another commits a misdemeanor.

22 (b) A person commits a petty misdemeanor if he

23 (1) reports to law enforcement authorities an offense or  
24 other incident within their concern knowing that it did not occur; or

25 (2) pretends to furnish the law enforcement authorities with  
26 information relating to an offense or incident when he knows he has no  
27 information relating to the offense or incident.

28 Sec. 11.27.150. TAMPERING WITH WITNESSES AND INFORMANTS. (a) A  
29 person commits an offense if, believing that an official proceeding or

1 investigation is pending or about to be instituted, he attempts to induce  
2 or otherwise cause a witness or informants to (1) testify or inform  
3 falsely; or (2) withhold any testimony, information, document or thing;  
4 or (3) elude legal process summoning him to testify or supply evidence;  
5 or (4) absent himself from a proceeding or investigation to which  
6 he has been legally summoned.

7 (b) The offense is a felony of the third degree if the actor  
8 employs force, deception, threat or offer of pecuniary benefit.  
9 Otherwise it is a misdemeanor.

10 (c) A person commits a misdemeanor if he harms another by an  
11 unlawful act in retaliation for anything lawfully done in the capacity  
12 of witness or informant.

13 (d) A person commits a felony of the third degree if he solicits,  
14 accepts or agrees to accept any benefit inconsideration of his doing  
15 any of the things specified in (a) of this section.

16 Sec. 11.27.160. TAMPERING WITH OR FABRICATING PHYSICAL EVIDENCE.

17 A person commits a misdemeanor if, believing that an official  
18 proceeding or investigation is pending or about to be instituted, he

19 (1) alters, destroys, conceals or removes any record,  
20 document or thing with purpose to impair its verity or availability  
21 in the proceeding or investigation; or

22 (2) makes, presents or uses a record, document or thing  
23 knowing it to be false and with purpose to mislead a public servant  
24 who is or may be engaged in the proceeding or investigation.

25 Sec. 11.27.170. TAMPERING WITH PUBLIC RECORDS OR INFORMATION.

26 (a) A person commits an offense if he

27 (1) knowingly makes a false entry in, or false alteration  
28 of, a record, document or thing belonging to, or received or kept by,  
29 the government for information or record, or required by law to be

1 kept by others for information of the government;

2 (2) makes, presents or uses a record, document or thing  
3 knowing it to be false, and with purpose that it be taken as a genuine  
4 part of information or records referred to in (1) of this subsection; or

5 (3) purposely and unlawfully destroys, conceals, removes  
6 or otherwise impairs the verity or availability of any such record,  
7 document or thing.

8 (b) An offense under (a) of this section is a misdemeanor unless  
9 the actor's purpose is to defraud or injure anyone, in which case the  
10 offense is a felony of the third degree.

11 Sec. 11.27.180. IMPERSONATING A PUBLIC SERVANT. A person  
12 commits a misdemeanor if he falsely pretends to hold a position in  
13 public service with purpose to induce another to submit to the  
14 pretended official authority or otherwise act in reliance upon that  
15 pretense to his prejudice.

16 ARTICLE 3. OBSTRUCTING GOVERNMENTAL  
17 OPERATIONS AND ESCAPES.

18 Sec. 11.27.190. OBSTRUCTING ADMINISTRATION OF LAW OF OTHER  
19 GOVERNMENTAL FUNCTION. A person commits a misdemeanor if he purposely  
20 obstructs or impairs the administration of law or other governmental  
21 function by force, violence, physical interference or obstacle,  
22 breach of official duty, or other unlawful act, except that this  
23 section does not apply to flight by a person charged with crime,  
24 refusal to submit to arrest, failure to perform a legal duty other  
25 than an official duty, or any other means of avoiding compliance with  
26 law without affirmative interference with governmental functions.

27 Sec. 11.27.200. RESISTING ARREST OR OTHER LAW ENFORCEMENT. A  
28 person commits a misdemeanor if, for the purpose of preventing a  
29 public servant from effecting a lawful arrest or discharging any

1 other official duty, the person creates a substantial risk of bodily  
2 injury to the public servant or another, or employs means justifying  
3 or requiring substantial force to overcome the resistance.

4 Sec. 11.27.210. HINDERING APPREHENSION OR PROSECUTION. (a) A  
5 person commits an offense if, with purpose to hinder the apprehension,  
6 prosecution, conviction or punishment of another for crime, he

7 (1) harbors or conceals the other;

8 (2) provides or aids in providing a weapon, transportation,  
9 disguise or other means of avoiding apprehension or effecting escape;

10 (3) conceals or destroys evidence of the crime, or tampers  
11 with a witness, informant, document or other source of information,  
12 regardless of its admissibility in evidence;

13 (4) warns the other of impending discovery or apprehension,  
14 except that this paragraph does not apply to a warning given in  
15 connection with an effort to bring another into compliance with law;  
16 or

17 (5) volunteers false information to a law enforcement  
18 officer.

19 (b) The offense is a felony of the third degree if the conduct  
20 which the actor knows has been charged or is liable to be charged  
21 against the person aided would constitute a felony of the first  
22 or second degree. Otherwise it is a misdemeanor.

23 Sec. 11.27.220. AIDING CONSUMMATION OF CRIME. A person commits  
24 an offense if he purposely aids another in accomplishing an unlawful  
25 object of a crime, by safeguarding the proceeds of it or converting  
26 the proceeds of it into negotiable funds. The offense is a felony of  
27 the third degree if the principal offense was a felony of the first  
28 or second degree. Otherwise it is a misdemeanor.

29 Sec. 11.27.230. COMPOUNDING. A person commits a misdemeanor if

1 he accepts or agrees to accept a pecuniary benefit in consideration of  
2 refraining from reporting to law enforcement authorities the commission  
3 or suspected commission of an offense or information relating to an  
4 offense. It is an affirmative defense to prosecution under this  
5 section that the pecuniary benefit did not exceed an amount which the  
6 actor believed to be due as restitution or indemnification for harm  
7 caused by the offense.

8 Sec. 11. 27.235. ESCAPE. (a) A person commits an offense if he  
9 unlawfully removes himself from official detention or fails to return  
10 to official detention following temporary leave granted for a specific  
11 purpose or limited period. In this section, "official detention"  
12 means arrest, detention in a facility for custody of persons under  
13 charge or conviction of crime or alleged or found to be delinquent,  
14 detention for extradition or deportation, or any other detention for  
15 law enforcement purposes; but "official detention" does not include  
16 supervision of probation or parole, or constraint incidental to  
17 release on bail.

18 (b) A public servant authorized to enforce detention commits an  
19 offense if he knowingly or recklessly permits an escape. Any person who  
20 knowingly causes or facilitates an escape commits an offense.

21 (c) Irregularity in effecting or maintaining detention, or lack  
22 of jurisdiction of the committing or detaining authority, is not a  
23 defense to prosecution under this section if the escape is from a  
24 prison or other custodial facility or from detention after commitment  
25 by official proceedings. In the case of other detentions, irregularity  
26 or lack of jurisdiction shall be a defense only if

27 (1) the escape involved no substantial risk of harm to the  
28 person or property of anyone other than the detainee; or

29 (2) the detaining authority did not act in good faith under

1 color of law

2 (d) An offense under this section is a felony of the third  
3 degree where

4 (1) the actor was under arrest for or detained on a charge  
5 of felony or following conviction of crime;

6 (2) the actor employs force, threat, deadly weapon or  
7 other dangerous instrumentality to effect the escape; or

8 (3) a public servant concerned in detention of persons  
9 convicted of crime purposely facilitates or permits an escape from a  
10 detention facility.

11 (e) Otherwise an offense under this section is a misdemeanor.

12 Sec. 11.27.240. IMPLEMENTS FOR ESCAPE AND OTHER CONTRABAND.

13 (a) A person commits a misdemeanor if he unlawfully introduces  
14 within a detention facility, or unlawfully provides an inmate with,  
15 a weapon, tool or other thing which may be used in escaping. An  
16 inmate commits a misdemeanor if he unlawfully procures, makes, or  
17 otherwise provides himself with, or has in his possession, an  
18 implement of escape.

19 (b) A person commits a petty misdemeanor if he provides an  
20 inmate with anything which the actor knows it is unlawful for the  
21 inmate to possess.

22 Sec. 11.27.250. BAIL JUMPING OR DEFAULT IN REQUIRED APPEARANCE.

23 A person released by court order, with or without bail, upon  
24 condition that he will subsequently appear at a specified time and  
25 place, commits a misdemeanor if, without lawful excuse, he fails to  
26 appear at that time and place. The offense constitutes a felony of  
27 the third degree where the required appearance was to answer to a  
28 charge of felony, or for disposition of the charge, and the actor  
29 took flight or went into hiding to avoid apprehension, trial or

1 punishment. This section does not apply to obligations to appear  
2 incident to release under suspended sentence or on probation or  
3 parole.

4 Sec. 11.27.260. OFFICIAL OPPRESSION. A person acting or  
5 purporting to act in an official capacity or taking advantage of his  
6 actual or purported capacity commits a misdemeanor if, knowing that  
his conduct is illegal, he

8 (1) subjects another to arrest, detention, search, seizure,  
9 mistreatment, dispossession, assessment, lien or other infringement  
10 of personal or property rights; or

11 (2) denies or impedes another in the exercise or enjoyment  
12 of a right, privilege, power or immunity.

13 ARTICLE 4. DEFINITIONS.

14 Sec. 11.27.280. DEFINITIONS. In this chapter

15 (1) "benefit" means gain or advantage, or anything regarded  
16 by the beneficiary as gain or advantage, including benefit to any  
other person or entity in whose welfare he is interested, but not an  
18 advantage promised generally to a group or class of voters as a  
19 consequence of public measures which a candidate engages to support  
20 or oppose;

21 (2) "government" includes a branch, subdivision or agency  
22 of the government of the state or locality within it;

23 (3) "harm" means loss, disadvantage or injury, or anything  
24 similarly regarded by the person affected, including loss, disadvantage  
25 or injury to another person or entity in whose welfare he is interested;

26 (4) "official proceeding" means a proceeding heard or which  
27 may be heard before a legislative, judicial, administrative or other  
28 governmental agency or official authorized to take evidence under  
29 oath, including a referee, hearing examiner, commissioner, notary

1 or other person taking testimony or deposition in connection with  
2 the proceeding;

3 (5) "party official" means a person who holds an elective  
4 or appointive post in a political party in the United States  
5 in which he directs or conducts, or participates in directing  
6 or conducting party affairs at any level of responsibility;

7 (6) "pecuniary benefit" means benefit in the form of money,  
8 property, commercial interests or anything else the primary signifi-  
9 cance of which is economic gain;

10 (7) "public servant" means an officer or employee of  
11 government, including legislators and judges, and a person participating  
12 as juror, advisor, consultant or otherwise, in performing a governmental  
13 function; but the term does not include witnesses;

14 (8) "administrative proceeding" means a proceeding other  
15 than a judicial proceeding the outcome of which is required to be  
16 based on a record or documentation prescribed by law, or in which law  
17 or regulation is particularized in application to individuals;

18 (9) "statement" means a representation, but includes a  
19 representation of opinion, belief or other state of mind only if the  
20 representation clearly relates to state of mind apart from or in  
21 addition to any facts which are the subject of the representation.

22 CHAPTER 29. OFFENSES AGAINST PUBLIC

23 ORDER AND DECENCY

24 ARTICLE 1. RIOT, DISORDERLY CONDUCT,

25 AND RELATED OFFENSES.

26 Sec. 11.29.010. RIOT. A person is guilty of riot, a felony of the  
27 third degree, if he participates with two or more persons in a course  
28 of disorderly conduct

29 (1) with purpose to commit or facilitate the commission of

1 a felony or misdemeanor;

2 (2) with purpose to prevent or coerce official action; or

3 (3) when the actor or any other participant to the knowledge  
4 of the actor uses or plans to use a firearm or other deadly weapon.

5 Sec. 11.29.030. DISORDERLY CONDUCT. (a) A person is guilty  
6 of disorderly conduct if, with purpose to cause public inconvenience,  
7 or alarm, or recklessly creating a risk of it, he

8 (1) engages in fighting or threatening, or in violent or  
9 tumultuous behavior; or

10 (2) makes unreasonable noise or offensively coarse utterance,  
11 gesture or display, or addresses abusive language to a person present.

12 (b) In this section, "public" means in a place to which the  
13 public has access and "abusive" language and "offensively coarse ut-  
14 terance, gesture or display" shall be judged with reference to  
15 ordinary adults.

16 (c) An offense under (a) of this section is a petty misdemeanor  
17 if the actor's purpose is to cause substantial harm or serious  
18 inconvenience, or if he persists in disorderly conduct after  
19 reasonable warning or request to desist. All other disorderly conduct  
20 is a violation.

21 Sec. 11.29.040. FALSE PUBLIC ALARMS. A person is guilty of a  
22 misdemeanor if he initiates or circulates a report or warning of an  
23 impending bombing or other crime or catastrophe, knowing that the  
24 report or warning is false and that it is likely to cause evacuation  
25 of a building, place of assembly, or facility of public transport,  
26 or to cause public inconvenience or alarm.

27 Sec. 11.29.050. HARASSMENT. A person commits a petty misdemeanor  
28 if, with purpose to harass another, he

29 (1) makes a telephone call without purpose of legitimate

1 communication;

2 (2) insults, taunts or challenges another in a manner  
3 likely to provoke violent or disorderly response;

4 (3) makes repeated communications anonymously or at extremely  
5 inconvenient hours, or in offensively coarse language;

6 (4) subjects another to an offensive touching; or

7 (5) engages in any other course of alarming conduct  
8 serving no legitimate purpose of the actor.

9 Sec. 11.29.060. PUBLIC DRUNKENNESS AND DRUG INCAPACITATION. (a)

10 A person who

11 (1) is manifestly under the influence of alcohol, narcotics  
12 or other drug, not therapeutically administered, in a private place,  
13 not his own property or his usual place of abode, or in a public place,  
14 to the annoyance of another or to the extent that he may endanger other  
15 persons or property; or

16 (2) drinks intoxicating liquor on a public street or sidewalk  
17 or on the premises of a public carrier or business establishment  
18 offering goods or services to the public, which is not licensed to  
19 dispense intoxicating liquor, upon conviction, is guilty of a petty  
20 misdemeanor.

21 (b) Any part of a sentence requiring a person convicted under this  
22 section to serve more than five days in jail shall be suspended  
23 subject to reasonable conditions relating to the rehabilitation of the  
24 offender, which may include commitment to a program or facility ap-  
25 proved or provided by the Department of Health and Social Services for  
26 medical or rehabilitative services, if the court finds

27 (1) that at the time of the offense the defendant was not  
28 under a suspended sentence; and

29 (2) that the defendant was not convicted of another crime

1 arising from the same incident.

2 (c) Notwithstanding the provisions of (b) of this section a court  
3 may continue the confinement imposed under this section for more than  
4 five days if it finds that

5 (1) there is reason to believe that the release of the  
6 defendant would be detrimental to his health or safety or to the safety  
7 of the community; and

8 (2) there is no suitable alternative to jail custody for  
9 the defendant available in the community.

10 (d) Nothing in this section precludes the court from exercising  
11 its discretion to suspend an entire sentence in an appropriate case.

12 Sec. 11.29.070. LOITERING. (a) A person commits a violation  
13 if he loiters, remains, or wanders in and about a place, at a time, or  
14 in a manner and under circumstances that warrants alarm for the safety  
15 of persons or property in the vicinity. Among the circumstances  
16 which may be considered in determining whether alarm is warranted is  
17 the fact that the actor takes flight upon appearance of a peace  
18 officer, refuses to identify himself, or manifestly endeavors to  
19 conceal himself or an object. Unless flight by the actor or other  
20 circumstances makes it impracticable, a peace officer shall, prior  
21 to any arrest for an offense under this section, afford the actor  
22 an opportunity to dispel any alarm which would otherwise be warranted,  
23 by requesting him to identify himself and explain his presence and  
24 conduct.

25 (b) No person shall be convicted on an offense under this  
26 section if the peace officer fails to afford the actor an opportunity  
27 to dispel any alarm, or if it appears at trial that the explanation  
28 given by the actor was true and, if believed by the peace officer at  
29 the time, would have dispelled the alarm.

1           Sec. 11.29.080. OBSTRUCTING HIGHWAYS AND OTHER PUBLIC PASSAGES.

2           (a) A person, who, not legally privileged, purposely or recklessly  
3 obstructs a highway or other public passage, whether alone or with  
4 others, commits a violation, or, if he persists after warning by a  
5 law officer, a petty misdemeanor. In this section, "obstructs" means  
6 renders impassable without unreasonable inconvenience or hazard. No  
7 person shall be guilty of recklessly obstructing in violation of this  
8 section solely because of a gathering of persons to hear him speak  
9 or otherwise communicate, or solely because of being a member of such  
10 a gathering.

11           (b) A person in a gathering commits a violation if he refuses  
12 to obey a reasonable official request or order to move

13                 (1) to prevent obstruction of a highway or other public  
14 passage; or

15                 (2) to maintain public safety by dispersing those gathered  
16 in dangerous proximity to a fire or other hazard.

17           (c) An order to move, addressed to a person whose speech or  
18 other lawful behavior attracts an obstructing audience, is not deemed  
19 reasonable if the obstruction can be readily remedied by police  
20 control of the size or location of the gathering.

21           Sec. 11.29.090. DISRUPTING MEETINGS AND PROCESSIONS. A person  
22 commits a misdemeanor if, with purpose to prevent or disrupt a  
23 lawful meeting, procession or gathering, he does an act which  
24 obstructs or interferes with it physically, or makes an utterance,  
25 gesture or display designed to outrage the sensibilities of the group.

26           Sec. 11.29.100. DESECRATION OF VENERATED OBJECTS. A person  
27 commits a misdemeanor if he purposely desecrates any public monument  
28 or structure, or place of worship or burial, or if he purposely  
29 desecrates the national flag or any other object of veneration by

1 the public or a substantial segment of it in a public place. In this  
2 section, "desecrate" means defacing, damaging, polluting or otherwise  
3 physically mistreating in a way that the actor knows will outrage the  
4 sensibilities of persons likely to observe or discover his action.

5 Sec. 11.29.110. ABUSE OF CORPSE. Except as authorized by law,  
6 a person who treats a corpse in a way that would create public outrage  
7 commits a misdemeanor.

8 Sec. 11.29.120. CRUELTY TO ANIMALS. (a) A person commits a  
9 misdemeanor if he purposely or recklessly

10 (1) subjects an animal to cruel mistreatment;

11 (2) subjects an animal in his custody to cruel neglect; or

12 (3) kills or injures an animal belonging to another without  
13 legal privilege or consent of the owner.

14 (b) (1) and (2) of this section is not applicable to accepted  
15 veterinary practices and activities carried on for scientific research.

16 Sec. 11.29.130. UNLAWFUL EAVESDROPPING OR SURVEILLANCE. (a)  
17 Unless authorized by law, a person commits a misdemeanor if he

18 (1) trespasses on property with purpose to subject a person  
19 to eavesdropping or other surveillance in a private place;

20 (2) installs in a private place, without the consent of  
21 the persons entitled to privacy there, a device for observing, photo-  
22 graphing, recording, amplifying or broadcasting sounds or events in  
23 the place, or uses any other unauthorized installation; or

24 (3) installs or uses outside a private place a device for  
25 hearing, recording, amplifying or broadcasting sounds originating in  
26 the place which would not ordinarily be audible or comprehensible  
27 outside, without the consent of the person or persons entitled to  
28 privacy there.

29 (b) In this section, "private place" means a place where one may

1 reasonably expect to be safe from casual or hostile intrusion or  
2 surveillance.

3 Sec. 11.29.140. OTHER BREACH OF PRIVACY OF MESSAGES. Unless  
4 authorized by law, a person commits a misdemeanor if he

5 (1) intercepts without the consent of the sender or  
6 receiver a message by telephone, telegraph, letter or other means  
7 of communicating privately; however, this paragraph does not extend  
8 to

9 (A) overhearing of messages through a regularly  
10 installed instrument on a telephone party line or on an extension,  
11 or

12 (B) interception by the telephone company or  
13 subscriber incident to enforcement of regulations limiting use of  
14 the facilities or incident to other normal operation and use; or

15 (2) divulges without the consent of the sender or receiver  
16 the existence or contents of a message if the actor knows that the  
17 message was illegally intercepted, or if he learned of the message  
18 in the course of employment with an agency engaged in transmitting it.

19 ARTICLE 2. PUBLIC INDECENCY.  
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22  
23

24 Sec. 11.29.160. PROSTITUTION. (a) A person is guilty of  
25 prostitution, a petty misdemeanor, if he or she

26 (1) is an inmate of a house of prostitution or otherwise  
27 engages in sexual activity as a business; or

28 (2) loiters in or within view of a public place for the  
29 purpose of being hired to engage in sexual activity.

1 (b) For purposes of secs. 160 - 210,

2 (1) "sexual activity" includes homosexual and other deviate  
3 sexual relations;

4 (2) "house of prostitution" is a place where prostitution  
5 or promotion of prostitution is regularly carried on by one person  
6 under the control, management or supervision of another;

7 (3) "inmate" is a person who engages in prostitution in or  
8 through the agency of a house of prostitution;

9 (4) "public place" means a place to which the public has  
10 access.

11 Sec. 11.29.170. PROMOTING PROSTITUTION. (a) A person who  
12 knowingly promotes the prostitution of another commits a misdemeanor  
13 or felony as provided in (b) of this section. The following acts  
14 constitute promoting prostitution:

15 (1) owning, controlling, managing, supervising or otherwise  
16 keeping, alone or in association with others, a house of prostitution  
17 or a prostitution business;

18 (2) procuring an inmate for a house of prostitution or a  
19 place in a house of prostitution for one who would be an inmate;

20 (3) encouraging, inducing, or otherwise purposely causing  
21 another to become or remain a prostitute;

22 (4) soliciting a person to patronize a prostitute; or

23 (5) procuring a prostitute for a patron;

24 (6) transporting a person into or within this state with  
25 purpose to promote that person's engaging in prostitution, or procuring  
26 or paying for transportation with that purpose;

27 (7) leasing or otherwise permitting a place controlled by  
28 the actor, alone or in association with others, to be regularly used  
29 for prostitution or the promotion of prostitution, or failure to make

1 reasonable effort to abate such use by ejecting the tenant, notifying  
2 law enforcement authorities, or other legally available means; or

3 (8) soliciting, receiving, or agreeing to receive any  
4 benefit for doing or agreeing to do anything forbidden by (a) of this  
5 section.

6 (b) An offense under this section constitutes a  
7 felony of the third degree if

8 (1) the offense falls within (1), (2) or (3) of this  
9 section;

10 (2) the actor compels another to engage in or promote  
11 prostitution;

12 (3) the actor promotes prostitution of a child under 16,  
13 whether or not he knows the child's age; or

14 (4) the actor promotes prostitution of his wife, child,  
15 ward or any person for whose care, protection or support he is  
16 responsible.

17 (c) Otherwise the offense is a misdemeanor.

18 Sec. 11.29.180. PRESUMPTION FROM LIVING OFF PROSTITUTES. A  
19 person, other than a prostitute or a prostitute's minor child or  
20 other legal dependant incapable of self-support, who is supported  
21 in whole or substantial part by the proceeds of prostitution is  
22 presumed to be knowingly promoting prostitution in violation of sec.  
23 170 of this chapter.

24 Sec. 11.29.200. EVIDENCE. (a) On the issue of whether a place is  
25 a house of prostitution the following is admissible evidence:

26 (1) the general repute of the place;

27 (2) the repute of the persons who reside in or frequent  
28 the place;

29 (3) the frequency, timing and duration of visits by

1 nonresidents.

2 (b) Testimony of a person against his spouse is admissible to  
3 prove offenses under (a) of this section.

4 Sec. 11.29.210. LOITERING TO SOLICIT DEVIATE SEXUAL RELATIONS.  
5 A person is guilty of a petty misdemeanor if he loiters in or near a  
6 public place for the purpose of soliciting or being solicited to en-  
7 gage in deviate sexual relations. For the purposes of this section  
8 "deviate sexual relations" means contact between the penis and the  
9 anus; or between the mouth or tongue and the penis, the scrotum, the  
10 anus, or the vulva.

11 ARTICLE 3. WEAPONS.

12 Sec. 11.29.320. CARRYING CONCEALED WEAPONS. Unless authorized  
13 under the terms of a permit issued by the Department of Public Safety,  
14 it is unlawful for a person to carry concealed about his person, in  
15 any manner, a revolver, pistol, or other firearm, or knife, other  
16 than an ordinary pocketknife, or a dirk or dagger, slingshot, metal  
17 knuckles, or an instrument by the use of which injury could be  
18 inflicted upon the person or property of another.

19 Sec. 11.29.330. PUNISHMENT FOR CARRYING CONCEALED WEAPONS. A  
20 person violating sec. 320 of this chapter is guilty of a petty  
21 misdemeanor. Section 320 of this chapter and this section do not  
22 apply to a peace officer.

23 Sec. 11.29.340. POSSESSION BY CONVICTS. A person who has been  
24 convicted of a felony, or a misdemeanor involving assault and battery,  
25 or assault with a dangerous weapon by any court, whether inside or  
26 outside the state, may not own or have in his possession or within  
27 his custody or control a pistol, revolver, or other firearm capable  
28 of being concealed about his person, or carry concealed about his  
29 person a knife with a blade over two inches long or a dirk or dagger,

1 slingshot, metal knuckles, or an instrument by the use of which  
2 injury could be inflicted upon the person or property of another.

3 Sec. 11.29.350. PUNISHMENT FOR POSSESSION BY CONVICT. A person  
4 who violates sec. 340 of this chapter is guilty of a felony of the  
5 third degree.

6 Sec. 11.29.360. FLOURISHING, POINTING OR DISCHARGING FIREARM IN  
7 PUBLIC PLACE. A person who flourishes, points or discharges a firearm  
8 in a city, town, village or other community, or in or on a railway  
9 coach, steamboat or steamship, or in or near a park or public grounds,  
10 or at a public place, whether public in itself, or made public at the  
11 time by an assemblage of persons, is guilty of a misdemeanor.

12 Sec. 11.29.370. SHOOTING AT BUILDINGS. A person who discharges  
13 or shoots a pistol or other firearm at, into, in, through or against  
14 a dwelling house, schoolhouse, church building, factory, storehouse,  
15 court house or a house or building used for manufacturing purposes, or  
16 any house or building used for the assembling of people for business  
17 or pleasure, is guilty of a misdemeanor.

18 Sec. 11.29.380. POSSESSION OF FIREARM WHILE UNDER INFLUENCE OF  
19 INTOXICATING LIQUOR OR DRUG. A person who, while under the influence  
20 of intoxicating liquor or drug, the use of which is prohibited under  
21 AS 17, carries, has in his possession or under his control, or uses  
22 or discharges a firearm is guilty of a misdemeanor.

23 Sec. 11.29.390. PURCHASE OF FIREARMS IN CONTIGUOUS STATES. No  
24 resident of this state is prohibited from purchasing a rifle or shotgun  
25 in a contiguous state if he complies with the provisions of PL 90-618.

26 ARTICLE 4. GAMBLING.

27 Sec. 11.29.460. GAMBLING. (a) Unless otherwise provided by law,  
28 no person may:

29 (1) engage in bookmaking, or knowingly engage in conduct

1 which facilitates bookmaking;

2 (2) establish, promote, operate, or knowingly engage  
3 in conduct which facilitates a scheme or game of chance conducted  
4 for profit;

5 (3) knowingly procure, transmit, exchange, or engage in  
6 conduct which facilitates the procurement, transmission, or exchange  
7 of, information for use in establishing odds or determining winners in  
8 connection with bookmaking or with any scheme or game of chance  
9 conducted for profit;

10 (4) engage in betting or in playing any scheme or game of  
11 chance as a substantial source of income or livelihood;

12 (5) with purpose to violate (a)(1) - (4) of this section,  
13 acquire, possess, control, or operate a gambling device.

14 (b) A person who violates this section is guilty of a misdemeanor.  
15 If the offender has previously been convicted of a gambling offense,  
16 he is guilty of a felony of the third degree.

17 Sec. 11.29.470. PUBLIC GAMBLING. (a) No person, while at a hotel,  
18 restaurant, tavern, store, arena, or other place of public accommodation,  
19 business, or amusement, may make a bet or play a game of chance.

20 (b) No person, being the owner or lessee, or having custody,  
21 control, or supervision of a hotel, restaurant, tavern, store, arena,  
22 or other place of public accommodation, business or amusement, may  
23 recklessly permit the premises to be used or occupied in violation of  
24 sec. 460 of this chapter or (a) of this section.

25 (c) A person who violates this section is guilty of a petty  
26 misdemeanor. If the offender has previously been convicted of a  
27 gambling offense, he is guilty of a felony of the third degree.

28 Sec. 11.29.480. PARTICIPANTS IN GAME NOT ACCOMPLICES. A person  
29 engaged in a gambling game is not an accomplice of another participant

1 or of a person carrying on, conducting, concerned or interested in the  
2 game, or of a person who maintains, aids or abets the maintaining of  
3 a gambling nuisance, as defined in sec. 490 of this chapter.

4 Sec. 11.29.490. PLACES WHERE GAMBLING OR UNLICENSED LIQUOR TRAFFIC  
5 CONDUCTED AS NUISANCES. A place where activity prohibited in sec. 460 -  
6 470 of this chapter is carried on or sale or drinking of intoxicating  
7 liquor is allowed, or where persons are permitted to resort for the  
8 purpose of gaming or gambling as prohibited in sec. 460 -- 470 of this  
9 chapter and all implements or property used and kept in maintaining  
10 these places are declared to be common nuisances.

11 Sec. 11.29.500. TEMPORARY INJUNCTION IN ACTION TO ABATE AND  
12 ENJOIN NUISANCE FOLLOWING CONVICTION. The prosecuting attorney may  
13 maintain an action in the superior court whenever a nuisance, as  
14 defined in sec. 490 of this chapter, exists or is maintained to abate  
15 and enjoin it, and upon a showing of notice and good cause a temporary  
16 injunction may be granted after the commencement of the action and no  
17 bond shall be required.

18 Sec. 11.29.510. PUNISHMENT FOR VIOLATION OF INJUNCTION. A person  
19 who violates the terms of the injunction granted under sec. 500 of  
20 this chapter is punishable for contempt by a misdemeanor. No action  
21 may be maintained under this section unless there has been a conviction  
22 under sec. 490 of this chapter.

23 Sec. 11.29.520. DEFINITIONS. In secs. 460 - 520 of this chapter,

24 (1) "bookmaking" means the business of quoting odds, and  
25 receiving and paying off bets;

26 (2) "bet" means the hazarding or anything of value upon the  
27 result of an event, undertaking, or contingency, but does not include  
28 a bona fide business risk;

29 (3) "scheme of chance" means a lottery, numbers game, pool,

1 or other scheme in which a participate gives a valuable consideration  
2 for a chance to win a prize.

3 (4) "game of chance" means poker, craps, roulette, or other  
4 game in which a player gives anything of value for gain, the outcome  
5 of which is determined largely by chance.

6 (5) "gambling device" means

7 (A) a book, totalizer, or other equipment for recording  
8 bets;

9 (B) a ticket, token, or other device representing a  
10 chance, share, or interest in a scheme of chance, or evidencing  
11 a bet;

12 (C) a deck of cards, dice, gaming table, roulette wheel,  
13 slot machine, punch board, or other apparatus designed for use  
14 in connection with a game of chance;

15 (D) any equipment, device, apparatus, or paraphernalia  
16 specially designed for gambling purposes.

17 ARTICLE 5. MISCELLANEOUS OFFENSES.

18 Sec. 11.29.640. CONTRIBUTING TO DELINQUENCY OF CHILD. (a) A  
19 person who commits an act, or omits the performance of a duty, which  
20 causes or tends to cause, encourage or contribute to the delinquency  
21 of a child under the age of 18 years, is guilty of a misdemeanor.

22 (b) A person who by threats, command or persuasion endeavors  
23 to induce a child under the age of 18 years to perform an act or follow  
24 a course of conduct which would cause or manifestly tend to cause him  
25 to become or remain a delinquent is guilty of a felony of the third  
26 degree.

27 Sec. 11.29.650. SUSPENSION OF SENTENCE. The court may suspend  
28 the execution of sentence for a violation of sec. 640 of this chapter  
29 and impose conditions as to conduct on the premises of the person

1 convicted and make suspension depend upon the fulfillment by the  
2 person of the conditions. In case of the breach of the conditions or  
3 any of them the court may order the defendant arrested and placed in  
4 custody as though there had been no suspension.

5 Sec. 11.29.660. DELINQUENT DEFINED. For the purpose of sec. 640  
6 of this chapter a child is a delinquent if he is under the age of 18  
7 years and

8 (1) violates a law of the United States, or the state, or  
9 an ordinance or regulation of a political subdivision of the state;

10 (2) by reason of being wayward or habitually disobedient is  
11 uncontrolled by his parent, guardian or custodian;

12 (3) is habitually truant from school or home, or habitually  
13 so conducts himself as to injure or endanger the morals of himself  
14 or others;

15 (4) associates with vagrant, vicious or immoral people, or  
16 engages in an occupation or is in a situation dangerous to life or limb  
17 or injurious to the health, morals, or welfare of himself or others;

18 (5) is addicted to the habitual use of intoxicating liquor  
19 or a drug.

20 Sec. 11.29.670. USE OF LIVE BIRDS AS TARGETS. A person who

21 (1) uses a live pigeon, fowl or other bird as a target, or  
22 to be shot at either for amusement or as a test of skill in marksmanship

23 (2) shoots at a bird used as a target, for amusement or  
24 as a test of skill in marksmanship, or is a party to a shooting; or

25 (3) leases a building, room, field or premises, or knowingly  
26 permits the use of them for a shooting, is guilty of a petty misdemeanor.  
27 This section does not apply to shooting of game for food.

28 Sec. 11.29.680. IMPROPER USE OF STATE SEAL. (a) It is unlawful  
29 to use or make a die or impression of the state seal for any advertising

1 or commercial purpose, unless written permission has first been obtained  
2 from the lieutenant governor.

3 (b) Violation of this section constitutes a misdemeanor.

4 Sec. 11.29.690. DISCHARGING BALLAST INTO NAVIGABLE WATERS. A  
5 person, whether or not he is an officer of a vessel, who discharges  
6 the ballast of a vessel into the navigable portion or channel of a  
7 bay, harbor, or river of the state, or within the jurisdiction of the  
8 state, so as to injuriously affect the navigable portion or channel,  
9 or to obstruct the navigation of the navigable portion or channel,  
10 upon conviction, is guilty of a misdemeanor.

11 Sec. 11.29.700. INTERFERING WITH BUOYS AND BEACONS. A person  
12 who moors a vessel, boat, skiff, barge, scow, raft, or part of a raft  
13 to a buoy or beacon placed in the navigable waters of the state, or in  
14 a bay, river, or arm of the sea bordering the state by the authority  
15 of the United States Coast Guard, or who hangs on with a vessel, boat,  
16 skiff, barge, scow, raft, or part of a raft to the buoy or beacon, or  
17 who wilfully removes, damages, or destroys the buoy or beacon, or who  
18 cuts down, removes, damages, or destroys a beacon erected on land in the  
19 state by authority of the United States Coast Guard is guilty of a  
20 misdemeanor.

21 Sec. 11.29.710. TAMPERING WITH POSTED NOTICES. A person who  
22 wilfully tears down, alters, or defaces a posted, written or printed  
23 notice, posted or put up under a law requiring or authorizing it to  
24 be done, before the time for which the notice is given has expired,  
25 upon conviction, is guilty of a petty misdemeanor.

26 Sec. 11.29.720. LABELING OF IMITATION GOLD, JADE OR IVORY. (a)  
27 It is unlawful for a person to sell or offer to sell imitation gold  
28 nuggets manufactured of any material other than gold, nuggets manu-  
29 factured of gold, or imitation Alaskan jade or ivory, or jewelry con-

1 taining imitation gold nuggets, or nuggets manufactured of gold or  
2 imitation Alaskan jade or ivory, without having a label affixed, set-  
3 ting out in legible type or writing the material used in the nuggets,  
4 jade or ivory, or jewelry containing the nuggets, jade or ivory.

5 (b) A person violating this section is guilty of a misdemeanor.

6 CHAPTER 30. UNIFORM NARCOTIC DRUG ACT

7 Sec. 11.30.010. ACTS PROHIBITED. It is unlawful for any person  
8 to manufacture, possess, have under his control, sell, prescribe, ad-  
9 minister, dispense, give, barter, supply or distribution in any manner  
10 or compound any narcotic drug except as authorized in this chapter.

11 Sec. 11.30.020. LICENSE FOR MANUFACTURERS AND WHOLESALERS. No  
12 person may manufacture, compound, mix, cultivate, grow, or by any  
13 other process produce or prepare narcotic drugs, and no person as a  
14 wholesaler may supply the same without having first obtained a license  
15 to do so from the Board of Pharmacy.

16 Sec. 11.30.030. QUALIFICATION FOR AND SUSPENSION OR REVOCATION OF  
17 LICENSES. (a) A license shall not be issued under sec. 20 of this  
18 chapter unless and until the applicant has furnished proof satisfactory  
19 to the Board of Pharmacy that

20 (1) the applicant is of good moral character or, if the  
21 applicant is an association or corporation, that the managing officers  
22 are of good moral character;

23 (2) the applicant is equipped as to land, buildings, and  
24 paraphernalia properly to carry on the business described in his  
25 application.

26 (b) A license shall not be granted to a person who has within  
27 five years been convicted of a wilful violation of any law of the  
28 United States or of any state relating to opium, coca leaves, or  
29 other narcotic drugs, or to a person who is a narcotic drug addict.

1 (c) The Board of Pharmacy may suspend or revoke a license for  
2 cause.

3 Sec. 11.30.040. SALE ON WRITTEN ORDER. (a) A licensed manufac-  
4 turer or wholesaler may sell and dispense narcotic drugs to any of  
5 the following persons, but only on an official written order:

6 (1) a manufacturer, wholesaler, or apothecary;

7 (2) a physician, dentist, or veterinarian;

8 (3) a person in charge of a hospital, but only for use by  
9 or in that hospital;

10 (4) a person in charge of a laboratory, but only for use in  
11 that laboratory for scientific and medical purposes.

12 (b) A duly licensed manufacturer or wholesaler may sell narcotic  
13 drugs

14 (1) on a special written order accompanied by a certificate  
15 of exemption, as required by the federal narcotic laws, to a person in  
16 the employ of the United States government or of any state, territorial,  
17 district, county, municipal, or insular government, purchasing,  
18 receiving, possessing, or dispensing narcotic drugs by reason of his  
19 official duties;

20 (2) to a master of a ship or a person in charge of any air-  
21 craft upon which no physician is regularly employed, or to a physician  
22 or surgeon licensed in some state, territory, or the District of  
23 Columbia to practice his profession, or to a retired commissioned  
24 medical officer of the United States Army, Navy or Public Health  
25 Service employed upon such ship or aircraft for the actual medical  
26 needs of persons on board the ship or aircraft when not in port;  
27 however, such narcotic drugs shall be sold to the master of the  
28 ship or person in charge of the aircraft or to a physician, surgeon,  
29 or retired commissioned medical officer of the United States Army,

1 Navy or Public Health Service employed upon the ship or aircraft only  
2 under a special order form approved by a commissioned medical officer  
3 or acting assistant surgeon of the United States Public Health Service;

4 (3) to a person in a foreign country if the provisions of  
5 the federal narcotic laws are complied with.

6 (c) An official written order for a narcotic drug shall be signed  
7 in duplicate by the person giving said order or by his authorized  
8 agent. The original shall be presented to the person who sells or  
9 dispenses the narcotic drug or drugs named therein and each party  
10 to the accepted transaction shall preserve his copy of the order for  
11 a period of two years in such a way as to be readily accessible for  
12 inspection by any public officer or employee engaged in the enforcement  
13 of this chapter. It shall be considered a compliance with this sub-  
14 section if the parties to the transaction have complied with the federal  
15 narcotic laws, respecting the requirements governing the use of order  
16 forms.

17 (d) Possession of or control of narcotic drugs obtained as  
18 authorized by this section shall be lawful if in the regular course of  
19 business, occupation, profession, employment, or duty of the possessor.

20 (e) A person in charge of a hospital or of a laboratory, or in  
21 the employ of this state or of any other state, or of any political  
22 subdivision thereof or a master of a ship or a person in charge of any  
23 aircraft upon which no physician is regularly employed, or a physician  
24 or surgeon licensed in some state, territory, or the District of  
25 Columbia to practice his profession, or a retired commissioned medical  
26 officer of the United States Army, Navy, or Public Health Service  
27 employed upon a ship or aircraft who obtains narcotic drugs under  
28 the provisions of this section or otherwise shall not administer,  
29 or dispense, or otherwise use those drugs inside this state except

1 within the scope of his employment or official duty and then only for  
2 scientific or medicinal purposes and subject to the provisions of  
3 this chapter.

4 Sec. 11.30.050. SALES BY APOTHECARIES. (a) Written prescription.

5 An apothecary may, in good faith, sell and dispense narcotic drugs  
6 to any person upon a written prescription of a physician, dentist,  
7 or veterinarian, dated and signed by the person prescribing on the  
8 day when issued and bearing the full name and address of the patient  
9 for whom, or of the owner of the animal for which the drug is dispensed,  
10 and the full name, address, and registry number under the federal  
11 narcotic laws of the person prescribing, if he is required by those  
12 laws to be so registered. If the prescription is for an animal, it  
13 shall state the species of animal for which the drug is prescribed.  
14 The person filling the prescription shall write the date of filling  
15 and his own signature on the face of the prescription. The prescription  
16 shall be retained on file by the proprietor of the pharmacy in which  
17 it is filled for a period of two years so as to be readily accessible  
18 for inspection by any public officer or employee engaged in the enforce-  
19 ment of this chapter. The prescription shall not be refilled.

20 (b) Oral prescription. An apothecary may, in good faith, sell  
21 and dispense on oral prescription by a physician, dentist, or veteri-  
22 narian those narcotic drugs which the Secretary of the Treasury of  
23 the United States shall find and by way of regulation designate to  
24 possess relatively little or no addiction liability. The oral pre-  
25 scription shall promptly be reduced to writing, and the writing filed  
26 and preserved by the apothecary for a period of two years from the date  
27 on which the prescription is filled so as to be readily accessible  
28 for inspection by a public officer or employee engaged in the enforce-  
29 ment of this chapter. In issuing an oral prescription, the prescriber:

1 shall furnish the dealer with the same information as is required by  
2 law or regulation in case of a written prescription for narcotic drugs  
3 or compounds of a narcotic drug except for the written signature of  
4 the prescriber, and the dealer who fills the prescription shall be  
5 required to inscribe that information on the written record of the  
6 prescription made, filed and preserved by him, and shall inscribe  
7 on the label of the container of the narcotic drug or compound of a  
8 narcotic drug the same information as is required in filling a written  
9 prescription. An oral prescription shall not be refilled.

10 (c) Sale of stock in pharmacy. The legal owner of a stock of  
11 narcotic drugs in a pharmacy, upon discontinuance of dealing in  
12 these drugs, may sell the stock to a manufacturer, wholesaler, or  
13 apothecary, but only on an official written order.

14 (d) Sale of aqueous or oleaginous solutions to physician, dentist,  
15 or veterinarian. An apothecary, only upon an official written order,  
16 may sell to a physician, dentist, or veterinarian, in quantities not  
17 exceeding one ounce at any one time, aqueous or oleaginous solutions  
18 of which the content of narcotic drugs does not exceed a proportion  
19 greater than 20 per cent of the complete solution to be used for  
20 medical purposes.

21 Sec. 11.30.060. PROFESSIONAL USE OF NARCOTIC DRUGS. (a) Physi-  
22 cians and dentists. A physician or a dentist, in good faith and in  
23 the course of his professional practice only, may prescribe, admin-  
24 ister, and dispense narcotic drugs, or he may cause them to be  
25 administered by a nurse or interne under his direction and supervision.

26 (b) Veterinarians. A veterinarian, in good faith and in the  
27 course of his professional practice only and not for use by a human  
28 being, may prescribe, administer, and dispense narcotic drugs, and he  
29 may cause them to be administered by an assistant or orderly under his

1 direction and supervision.

2 (c) Return of unused drugs. A person who has obtained from a  
3 physician, dentist, or veterinarian any narcotic drug for administration  
4 to a patient during the absence of the physician, dentist, or veteri-  
5 narian shall return to the physician, dentist or veterinarian the  
6 unused portion of the drug when it is no longer required by the patient.

7 Sec. 11.30.070. PREPARATIONS EXEMPTED. (a) Except as otherwise  
8 specifically provided in this chapter, this chapter does not apply to  
9 the administering, dispensing, or selling at retail any medicinal  
10 preparation that contains in one fluid ounce, or if a solid or  
11 semi-solid preparation, in one avoirdupois ounce, not more than one  
12 grain of codeine or of any of its salts.

13 (b) The exemption authorized by (a) of this section is subject  
14 to the following conditions:

15 (1) that the medicinal preparation administered, dispensed  
16 or sold contains, in addition to the narcotic drug in it, some drug  
17 or drugs conferring upon it medicinal qualities other than those  
18 possessed by the narcotic drug alone; and

19 (2) that the preparation is administered, dispensed, and  
20 sold in good faith as a medicine and not for the purpose of evading  
21 the provisions of this chapter.

22 (c) Nothing in this section shall be construed to limit the  
23 quantity of codeine or of any of its salts that may be prescribed,  
24 administered, dispensed, or sold, to any person or for the use of any  
25 person or animal, when it is prescribed, administered, dispensed, or  
26 sold, in compliance with the general provisions of this chapter.

27 Sec. 11.30.080. RECORD TO BE KEPT. (a) Every physician, dentist,  
28 veterinarian, or other person who is authorized to administer or  
29 professionally use narcotic drugs shall keep a record of narcotic

1 drugs received by him, and a record of all narcotic drugs adminis-  
2 tered, dispensed, or professionally used by him otherwise than by  
3 prescription. It is a sufficient compliance with this subsection if  
4 the person using small quantities of solutions or other preparations  
5 of the drugs for local application keeps a record of the quantity,  
6 character, and potency of the solutions or other preparations purchased  
7 or made up by him, and of the dates when purchased or made up, without  
8 keeping a record of the amount of the solution or other preparation  
9 applied by him to individual patients. No record need be kept of  
10 narcotic drugs administered, dispensed, or professionally used in the  
11 treatment of any one patient, when the amount administered, dispensed,  
12 or professionally used for that purpose does not exceed in any 48  
13 consecutive hours (1) four grains of opium, or (2) one-half of a grain  
14 of morphine or of any of its salts, or (3) two grains of codeine or  
15 of any of its salts, or (4) one-fourth of a grain of heroin or of any  
16 of its salts, or (5) a quantity of any other narcotic drug or any com-  
17 bination of narcotic drugs that does not exceed in pharmacologic potency  
18 any one of the drugs named above in the quantity stated.

19 (b) Manufacturers and wholesalers shall keep records of all  
20 narcotic drugs compounded, mixed, cultivated, grown, or by any  
21 other process produced or prepared, and of all narcotic drugs received  
22 and disposed of by them, in accordance with the provisions of sec. 90  
23 of this chapter.

24 (c) Apothecaries shall keep records of all narcotic drugs  
25 received and disposed of by them in accordance with the provisions of  
26 sec. 90 of this chapter.

27 (d) Every person who purchases for resale, or who sells narcotic  
28 drug preparations exempted by sec. 70 of this chapter shall keep a  
29 record showing the quantities and kinds thereof received and sold,

1 or disposed of otherwise, in accordance with the provisions of sec. 90  
2 of this chapter.

3       Sec. 11.30.090. FORM AND PRESERVATION OF RECORDS. The form of  
4 records shall be prescribed by the Board of Pharmacy. The record of  
5 narcotic drugs received shall in every case show the date of receipt,  
6 the name and address of the person from whom received, and the kind  
7 and quantity of drugs received; the kind and quantity of narcotic  
8 drugs produced or removed from process of manufacture, and the date  
9 of such production or removal from process of manufacture; and the  
10 record shall in every case show the proportion of morphine, cocaine,  
11 or ecgonine contained in or producible from crude opium or coca  
12 leaves received or produced and the proportion of resin contained in  
13 or producible from the plant Cannabis Sativa L. The record of all  
14 narcotic drugs sold, administered, dispensed, or otherwise disposed  
15 of, shall show the date of selling, administering, or dispensing, the  
16 name and address of the person to whom, or for whose use, or the owner  
17 and species of animal for which the drugs were sold, administered or  
18 dispensed, and the kind and quantity of drugs. Every record shall be  
19 kept for a period of two years from the date of the transaction  
20 recorded. The keeping of a record required by or under the federal  
21 narcotic laws, containing substantially the same information as is  
22 specified above, constitutes compliance with this section except that  
23 the record shall contain a detailed list of narcotic drugs lost,  
24 destroyed, or stolen, if any, the kind and quantity of those drugs,  
25 and the date of the discovery of the loss, destruction, or theft.

26       Sec. 11.30.100. LABELS. (a) Whenever a manufacturer sells or  
27 dispenses a narcotic drug, and whenever a wholesaler sells or dispenses  
28 a narcotic drug in a package prepared by him, he shall securely affix  
29 to each package in which that drug is contained a label showing in

1 legible English the name and address of the vendor and the quantity,  
2 kind, and form of narcotic drug contained therein. No person, except  
3 an apothecary for the purpose of filling a prescription under this  
4 chapter, shall alter, deface, or remove any label so affixed.

5 (b) Whenever an apothecary sells or dispenses any narcotic drug  
6 on a prescription issued by a physician, dentist, or veterinarian,  
7 he shall affix to the container in which the drug is sold or dispensed,  
8 a label showing his own name, address, and registry number, or the name,  
9 address, and registry number of the apothecary for whom he is lawfully  
10 acting; the name and address of the patient or, if the patient is an  
11 animal, the name and address of the owner of the animal and the species  
12 of the animal; the name, address, and registry number of the physician,  
13 dentist, or veterinarian, by whom the prescription was written; and  
14 the directions which may be stated on the prescription. No person  
15 shall alter, deface, or remove any label so affixed.

16 Sec. 11.30.110. AUTHORIZED POSSESSION OF NARCOTIC DRUGS BY  
17 INDIVIDUALS. A person to whom or for whose use any narcotic drug has  
18 been prescribed, sold, or dispensed by a physician, dentist, apothecary,  
19 or other person authorized under the provisions of sec. 40 of this  
20 chapter, and the owner of an animal for which any narcotic drug has  
21 been prescribed, sold, or dispensed by a veterinarian may lawfully  
22 possess it only in the container in which it was delivered to him by  
23 the person selling or dispensing it.

24 Sec. 11.30.120. PERSONS AND CORPORATIONS EXEMPTED. The provisions  
25 of this chapter restricting the possessing and control of narcotic  
26 drugs do not apply to a common carrier or to a warehouseman, while  
27 engaged in lawfully transporting or storing narcotic drugs, or to an  
28 employee of a common carrier or warehouseman acting within the scope  
29 of his employment; or to a public officer or his employee in the

1 performance of his official duties requiring possession or control of  
2 narcotic drugs; or to temporary incidental possession by an employee  
3 or agent of a person lawfully entitled to possession; or by a person  
4 whose possession is for the purpose of aiding a public officer in  
5 performing his official duties.

6 Sec. 11.30.130. COMMON NUISANCES. A store, shop, warehouse,  
7 dwelling house, building, vehicle, boat, aircraft, or any place what-  
8 ever, which is resorted to by narcotic drug addicts for the purpose  
9 of using narcotic drugs or which is used for the illegal keeping or  
10 selling of narcotic drugs, is a common nuisance. No person may keep  
11 or maintain such a common nuisance.

12 Sec. 11.30.140. DISPOSITION OF NARCOTIC DRUGS IN CUSTODY OF  
13 PEACEOFFICER. All narcotic drugs, the lawful possession of which is  
14 not established or the title to which cannot be ascertained, which have  
15 come into the custody of any peace officer, shall be forfeited and  
16 delivered to the United States Commissioner of Narcotics.

17 Sec. 11.30.150. CONVICTION AND SUSPENSION OR REVOCATION OF LICENSE  
18 BY COURT. On the conviction of a person of the violation of any  
19 provision of this chapter, a copy of the judgment and sentence and  
20 of the opinion of the court, if an opinion is filed, shall be sent  
21 by the clerk of the court, or by the judge or magistrate, to the  
22 board or officer, if any, by whom the convicted defendant has been  
23 licensed or registered to practice his profession or to carry on his  
24 business. On the conviction, the court may, in its discretion,  
25 suspend or revoke the license or registration of the convicted defendant  
26 to practice his profession or to carry on his business. On the applica-  
27 tion of any person whose license or registration has been suspended  
28 or revoked, and upon proper showing and for good cause, the board  
29 or officer may reinstate the license or registration.

1           Sec. 11.30.160. RECORDS CONFIDENTIAL. Prescriptions, orders, and  
2 records required by this chapter and stocks of narcotic drugs shall  
3 be open for inspection only to federal, state and municipal officers  
4 whose duty it is to enforce the laws of this state or of the United  
5 States relating to narcotic drugs. No officer having knowledge by  
6 virtue of his office of a prescription, order, or record shall divulge  
7 the knowledge, except in connection with a prosecution or proceeding  
8 in court or before a licensing or registration board or officer, to  
9 which prosecution or proceeding the person to whom the prescriptions,  
10 orders, or records relate is a party.

11           Sec. 11.30.170. FRAUD OR DECEIT. (a) No person may obtain or  
12 attempt to obtain a narcotic drug, or procure or attempt to procure  
13 the administration of a narcotic drug (1) by fraud, deceit, misrep-  
14 resentation, or subterfuge; or (2) by the forgery or alteration of  
15 a prescription or of any written order; or (3) by the concealment  
16 of a material fact; or (4) by the use of a false name or the giving  
17 of a false address.

18           (b) Information communicated to a physician in an effort to  
19 unlawfully procure a narcotic drug or to unlawfully procure the  
20 administration of a narcotic drug is not a privileged communication.

21           (c) No person may wilfully make a false statement in any pre-  
22 scription, order, report, or record required by this chapter.

23           (d) No person may, for the purpose of obtaining a narcotic drug,  
24 falsely assume the title of, or represent himself to be, a manufac-  
25 turer, wholesaler, apothecary, physician, dentist, veterinarian, or  
26 other authorized person.

27           (e) No person may make or utter a false or forged prescription  
28 or false or forged written order.

29           (f) No person may affix a false or forged label to a package or

1 receptacle containing narcotic drugs.

2 (g) The provisions of this section shall apply to all transactions  
3 relating to narcotic drugs under the provisions of sec. 70 of this  
4 chapter in the same way as they apply to transactions under all other  
5 sections.

6 Sec. 11.30.180. EXCEPTIONS AND EXEMPTIONS NOT REQUIRED TO BE  
7 NEGATIVED. In a complaint, information, or indictment, and in an  
8 action or proceeding brought for the enforcement of any provisions  
9 of this chapter, it is not necessary to negative any exception, excuse,  
10 proviso, or exemption, contained in this chapter, and the burden of  
11 proof of an exception, excuse, proviso, or exemption is upon the  
12 defendant.

13 Sec. 11.30.190. ENFORCEMENT AND REIMBURSEMENT. (a) It is the  
14 duty of the commissioner of public safety, officers of the division  
15 of state troopers, and members of the Alaska State Constabulary,  
16 and any officer appointed to enforce narcotic laws in this state or  
17 other state and local government law enforcement officers, the  
18 attorney general and all district attorneys to enforce all provisions  
19 of this chapter and to cooperate with agencies charged with enforcement  
20 of the laws of the United States, of this state, and of all other  
21 states, relating to narcotic drugs.

22 (b) The Department of Public Safety may spend from money  
23 appropriated for the operations of the division of state troopers  
24 and the state constabulary to reimburse employees or agents for  
25 amounts expended without receipt, covering purchases or services  
26 obtained in securing evidence of a violation of this chapter, upon  
27 vouchers certified by the disbursing and certifying officers of the  
28 department. Disbursements authorized by this chapter may not  
29 exceed \$3,000 in a fiscal period.

1           Sec. 11.30.200. PENALTIES. (a) A person who violates any pro-  
2 vision of this chapter except a provision relating to the keeping of  
3 records, upon conviction, is punishable by a felony of the second  
4 degree.

5           (b) A person who violates any provision of this chapter relating  
6 to the keeping of records by persons authorized to administer or  
7 professionally use narcotic drugs, upon conviction, is punishable by  
8 a felony of the third degree.

9           (c) The imposition or execution of sentence shall not be sus-  
10 pended and probation or parole shall not be granted until the  
11 minimum imprisonment provided for the offense is  
12 served.

13           Sec. 11.30.210. EFFECT OF ACQUITTAL OR CONVICTION UNDER FEDERAL  
14 NARCOTIC LAWS. No person shall be prosecuted for a violation of any  
15 provision of this chapter if he has been acquitted or convicted under  
16 the federal narcotic laws of the same act or omission, which, it is  
17 alleged, constitutes a violation of this chapter.

18           Sec. 11.30.212. REWARD. (a) A person providing information  
19 which leads to the arrest and conviction of another on the charge  
20 of unlawfully selling narcotic drugs to a minor is eligible for a  
21 reward of \$1,000.

22           (b) The district attorney in the judicial district where the  
23 prosecution for the unlawful sale of the narcotic drug takes place  
24 shall determine if the person requesting the reward is entitled to  
25 it under this section. If the district attorney determines that the  
26 person is eligible to receive the reward he shall promptly file a  
27 certificate to this effect with the Department of Public Safety.  
28 Upon receiving certification, the Department of Public Safety shall  
29 pay the reward from appropriations made to that department for

1 the purpose of carrying out the provisions of this section.

2 Sec. 11.30.220. INTERPRETATION. This chapter shall be interpreted  
3 and construed to effectuate its general purpose, to make uniform the  
4 laws of those states and territories which enact it.

5 Sec. 11.30.230. DEFINITIONS. In this chapter, unless the context  
6 otherwise requires

7 (1) "physician" means a person authorized by law to practice  
8 medicine in this state and any other person authorized by law to  
9 treat sick and injured human beings in this state and to use nar-  
10 cotic drugs in connection with that treatment;

11 (2) "dentist" means a person authorized by law to practice  
12 dentistry in this state;

13 (3) "veterinarian" means a person authorized by law to prac-  
14 tice veterinary medicine in this state;

15 (4) "manufacturer" means a person who by compounding, mix-  
16 ing, cultivating, growing or other process, produces or prepares  
17 narcotic drugs, but does not include an apothecary who compounds  
18 narcotic drugs to be sold or dispensed on prescriptions;

19 (5) "wholesaler" means a person who supplies narcotic drugs  
20 that he himself has not produced or prepared, on official written  
21 orders, but not on prescriptions;

22 (6) "apothecary" means a licensed pharmacist, as defined by  
23 the laws of this state and, where the context so requires, the owner  
24 of a store or other place of business where narcotic drugs are  
25 compounded or dispensed by a licensed pharmacist; but nothing in this  
26 chapter shall be construed as conferring on a person who is not  
27 registered or licensed as a pharmacist any authority, right, or  
28 privilege that is not granted to him by the pharmacy laws of this  
29 state;

1 (7) "hospital" means an institution for the care and  
2 treatment of the sick and injured, approved by the Board of Pharmacy  
3 as proper to be entrusted with the custody of narcotic drugs and the  
4 professional use of narcotic drugs under the direction of a physician,  
5 dentist, or veterinarian;

6 (8) "laboratory" means a laboratory approved by the Board  
7 of Pharmacy as proper to be entrusted with the custody of narcotic  
8 drugs and the use of narcotic drugs for scientific and medical  
9 purposes and for purposes of instruction;

10 (9) "sale" includes barter, exchange, or gift, or offer  
11 therefor, and each such transaction made by any person, whether as  
12 principal, proprietor, agent, servant, or employee;

13 (10) "coca leaves" includes cocaine and any compound, manu-  
14 facture, salt, derivative, mixture, or preparation of coca leaves,  
15 except derivatives of coca leaves which do not contain cocaine,  
16 ecgonine or substances from which cocaine or ecgonine may be  
17 synthesized or made;

18 (11) "opium" includes morphine, codeine, and heroin, and any  
19 compound, manufacture, salt, derivative, mixture, or preparation of  
20 opium, but does not include apomorphine or any of its salts;

21 (12) Repealed by sec 2 ch 2 SLA 1969;

22 (13) "narcotic drugs" means coca leaves, opium, isonipecaine,  
23 amidone, isoamidone, ketobemidone, and every other substance having  
24 similar physiological effects;

25 (A) "amidone" means any substance identified chemically  
26 as (4-4-Diphenyl-6-Dimethylamino-Heptanone-3), or any salt  
27 thereof, by whatever trade name designated;

28 (B) "isoamidone" means any substance identified  
29 chemically as (4-4-Dyphenyl-5-Methyl-6-Dimethylaminohexanon-3),

1 or any salt thereof, by whatever trade name designated;

2 (C) "keto-Bemidone" means any substance identified  
3 chemically as (4-(3-Hydroxyphenyl)-1 Methyl-4-piperidyl ethyl  
4 ketone hydrochloride), or any salt thereof, by whatever trade  
5 name designated;

6 (14) "federal narcotic laws" means the laws of the United  
7 States relating to opium, coca leaves, and other narcotic drugs;

8 (15) "official written order" means an order written on a  
9 form provided for that purpose by the United States Commissioner of  
10 Narcotics, under any laws of the United States making provision therefor  
11 and if such order forms are authorized and required by federal law,  
12 and if no such order form is provided, then on an official form  
13 provided for that purpose by the Board of Pharmacy;

14 (16) "dispense" includes distribute, leave with, give away,  
15 dispose of, or deliver;

16 (17) "registry number" means the number assigned to each  
17 person registered under the federal narcotic laws;

18 (18) "isonipecaïne" means the substance identified chemically  
19 as 1-methyl-4-phenyl-piperidine-4-carboxylic acid ethyl ester, or  
20 any salt thereof, by whatever trade name identified.

21 CHAPTER 31. DRUGS.

22 ARTICLE 1. SALE OR OTHER TRANSFER OF CERTAIN DRUGS.

23 Sec. 11.31.010. WRITTEN ORDER OR PRESCRIPTION REQUIRED FOR  
24 DISPENSING OF CERTAIN DRUGS. It is unlawful for a person to sell, give  
25 away, barter, exchange or distribute

26 (1) amytal, luminal, veronal, barbital, acid diethyl-  
27 barbituric, or any of their salts, derivatives, or compounds, or a  
28 preparation or compound containing any of these substances, or their  
29 salts, derivatives or compounds, or a registered, trademarked or

1 copyrighted preparation or compound registered in the United States  
2 Patent Office containing more than one grain to the avoirdupois or  
3 fluid ounce of the substances, except upon the written order or  
4 prescription of a physician, surgeon, dentist, or veterinary surgeon  
5 licensed to practice in the state;

6 (2) chloralhydrate and para-aminobenzene, sulfonamide,  
7 sulfanilamid, sulfamidyl, prontylin, prontosil, neo prontosil, neo  
8 protylin, edimalin, sulfonamide or a salt, derivative or compound  
9 of any of them or a registered, trademarked or copyrighted preparation  
10 or compound registered in the United States Patent Office containing  
11 these substances, except upon authority, order or prescription of a  
12 physician, surgeon, dentist or veterinary surgeon duly licensed to  
13 practice in the state.

14 Sec. 11.31.020. AUTHORITY OF PRESCRIBER REQUIRED FOR REFILL.  
15 Prescriptions composed of the substances enumerated in sec. 10 of this  
16 chapter shall not be refilled without the authority of the prescriber.

17 Sec. 11.31.030. EXCEPTIONS. Sections 10 and 20 of this chapter  
18 do not apply to the sale at wholesale by drug jobbers, drug wholesalers  
19 and drug manufacturers to pharmacies, hospitals, physicians, dentists  
20 or veterinary surgeons, nor to each other, nor to the sale at retail  
21 in pharmacies by pharmacists to each other or to physicians, surgeons,  
22 dentists or veterinary surgeons licensed to practice in the state.

23 Sec. 11.31.040. PENALTY FOR VIOLATIONS. A person violating  
24 secs. 10 and 20 of this chapter is punishable by a misdemeanor.

25 Sec. 11.31.050. SELLING POISON WITHOUT LABEL. A person who sells  
26 or delivers arsenic, corrosive sublimate, prussic acid, or other  
27 poison, without having the word "poison" and the true name of it in  
28 English written or printed upon a label attached to the vial, box  
29 or parcel containing it, upon conviction, is punishable by a violation.

1                   ARTICLE 2. SEIZURE OF CONVEYANCES USED IN  
2                                   NARCOTICS VIOLATIONS.

3           Sec. 11.31.060. SEIZURE AND FORFEITURE OF CONVEYANCE. A vessel,  
4 vehicle, aircraft or other conveyance used in the transportation of  
5 an illegally possessed narcotic drug shall be seized and forfeited  
6 to the state.

7           Sec. 11.31.070. ORDER OF SEIZURE AND FORFEITURE. The conveyance  
8 shall be seized and forfeited in a proceeding in rem by order of the  
9 court which issues the process under which the conveyance is seized, or  
10 the court before which the person or the conveyance is taken by the  
11 officer making the seizure.

12           Sec. 11.31.080. HEARING, FORFEITURE AND SALE. The court shall  
13 order an immediate hearing on the question of whether or not the  
14 conveyance was used in the transportation of an illegally possessed  
15 narcotic drug. The court shall hear evidence and determine the  
16 question as in civil cases. If the court finds from a preponderance  
17 of the testimony that the conveyance seized was being used for the  
18 transportation of an illegally possessed narcotic drug, it shall give  
19 judgment accordingly and declare the conveyance forfeited to the  
20 state. The conveyance shall be delivered to the Department of Public  
21 Safety under the court order, and sold at public auction.

22           Sec. 11.31.090. LIMITATIONS ON SEIZURE AND FORFEITURE. (a) No  
23 conveyance used as a common carrier in the transaction of business as  
24 a common carrier may be forfeited under secs. 60 - 110 of this chapter  
25 unless the owner or other person legally in charge of the conveyance  
26 was at the time of the illegal act a consenting party or privy to it.

27           (b) No conveyance may be forfeited because of an act or omission  
28 established by the owner of the conveyance to have been committed  
29 or omitted by another person while the conveyance was unlawfully in

1 the possession of a person who acquired possession of it in violation  
2 of the criminal laws of the United States or this state.

3 (c) No conveyance may be forfeited under secs. 60 - 110 of this  
4 chapter, unless the owner of the conveyance was, at the time of the  
5 illegal act, a consenting party to the illegal act or privy to it.

6 Sec. 11.31.100. PERSON HAVING INTEREST IN CONVEYANCE MAY APPEAR  
7 IN PROCEEDING. A person holding a lien, mortgage or conditional  
8 sales contract on a conveyance seized under secs. 60 - 110 of this  
9 chapter may appear before the court in the proceeding for forfeiture  
10 to petition for remittance or mitigation of the forfeiture. The  
11 court shall remit or mitigate the forfeiture if it finds that the  
12 petitioner has an interest in the conveyance which he acquired in good  
13 faith and without knowledge or reason to believe that the conveyance  
14 was being or would be used in the transportation of an illegally  
15 possessed narcotic drug.

16 Sec. 11.31.110. DEFINITION OF ILLEGALLY POSSESSED NARCOTIC DRUG.  
17 In secs. 60 - 110 of this chapter

18 (1) "conveyance" means a vessel, vehicle, trailer, aircraft  
19 or other conveyance used in the transportation of an illegally possessed  
20 narcotic drug;

21 (2) "illegally possessed narcotic drug" is a narcotic drug

22 (A) possessed with intent to sell or offer for sale  
23 in violation of any law or regulation of the United States or  
24 this state,

25 (B) acquired, possessed, sold, transferred, or offered  
26 for sale in violation of any law of the United States or this  
27 state, or

28 (C) acquired by theft, robbery or burglary;

29 (3) "narcotic drug" means a narcotic drug defined by the

1 federal internal revenue laws and the regulation issued under them.

2 ARTICLE 3. DEPRESSANT, HALLUCINOGENIC AND  
3 STIMULANT DRUGS.

4 Sec. 11.31.120. ACTS PROHIBITED. Except as otherwise provided  
5 in secs. 120 - 260 of this chapter, it is unlawful for a person to  
6 manufacture, compound, counterfeit, possess, have under his control,  
7 sell, prescribe, administer, dispense, give, barter, supply or  
8 distribute in any manner, a depressant, hallucinogenic or stimulant  
9 drug.

10 Sec. 11.31.130. AUTHORIZED POSSESSION. A person may lawfully  
11 possess a depressant, hallucinogenic or stimulant drug that has been  
12 prescribed, sold or dispensed by a practitioner if the drugs are

13 (1) for use by the person in possession or a member of  
14 his household;

15 (2) for administration to an animal owned by him or a  
16 member of his household; or

17 (3) designated by the commissioner for use in laboratories  
18 or institutions for educational or teaching research, or for chemical  
19 analysis; such a laboratory or institution must first obtain a permit  
20 from the commissioner which shall specify the drugs, the possession  
21 of which is allowed, delineate and restrict their use or disposal,  
22 identify the permittee and promulgate the rules and regulations  
23 considered necessary to fulfill the requirements of secs. 10 - 260  
24 of this chapter.

25 Sec. 11.31.140. MANUFACTURE AND SALE. Depressant, hallucinogenic  
26 and stimulant drugs may be manufactured, compounded, processed,  
27 possessed, sold or otherwise disposed of by the following persons acting  
28 in the ordinary and authorized course of their business:

29 (1) manufacturer, compounder or processor, operating in

1 conformance with the laws of this state relating to the manufacture,  
2 compounding or processing of drugs, who is regularly engaged in  
3 preparing pharmaceutical chemicals or prescription drugs for distribution  
4 through branch outlets, through wholesale druggists, or by direct  
5 shipment

6 (A) to pharmacies or to hospitals, clinics, public  
7 health agencies or physicians for dispensing by registered  
8 pharmacists upon prescriptions, or for use by or under the  
9 supervision of practitioners licensed in this state to administer  
10 drugs in the course of their professional practice; or

11 (B) to laboratories or research or educational  
12 institutions for their use in research, teaching or chemical  
13 analysis;

14 (2) a supplier of manufacturers, compounders, and processors  
15 referred to in (1) of this section;

16 (3) a wholesale druggist who maintains his establishment  
17 in conformance with state and local laws relating to the manufacture,  
18 compounding or processing of drugs and is regularly engaged in  
19 supplying prescription drugs

20 (A) to pharmacies, or to hospitals, clinics, public  
21 health agencies, or physicians for dispensing by registered  
22 pharmacists upon prescriptions or for use by or under the  
23 supervision of practitioners licensed in this state to administer  
24 these drugs in the course of their professional practice, or

25 (B) to laboratories or research or educational  
26 institutions for their use in research, teaching, or clinical  
27 analysis;

28 (4) pharmacies, hospitals, clinics and public health agencies  
29 which maintain their establishments in conformance with state and

1 local laws regulating the practice of pharmacy and medicine which are  
2 regularly engaged in dispensing drugs upon prescriptions of  
3 practitioners licensed in this state to administer drugs for patients  
4 under the care of the practitioners in the course of their professional  
5 practice;

6 (5) a practitioner licensed in this state who may prescribe  
7 or administer depressant, hallucinogenic or stimulant drugs, while  
8 acting in the course of his professional practice;

9 (6) a person who uses depressant, hallucinogenic or  
10 stimulant drugs in research, teaching or chemical analysis and not  
11 for sale.

12 Sec. 11.31.150. REGULATIONS. (a) The commissioner may pro-  
13 mulgate regulations necessary to carry out the purposes of secs. 10 -  
14 260 of this chapter and to secure effective enforcement of its  
15 provisions.

16 (b) The commissioner shall, by regulation, promulgate a list of  
17 drugs which contain barbituric acid or a quantity of any other sub-  
18 stance which is habit forming, dangerous, or has a potential for  
19 abuse because of its depressant or stimulant effect on the central  
20 nervous system or because of its hallucinogenic effect.

21 (c) The commissioner shall by regulation exempt any depressant,  
22 hallucinogenic or stimulant drug from the application of secs. 10 - 260  
23 of this chapter if he finds that it includes a substance not having  
24 a depressant or stimulant effect on the central nervous system or a  
25 hallucinogenic effect and the substance is present in such combination  
26 quantity, proportion, or concentration as to prevent the substance  
27 which does have such an effect from being ingested or absorbed in  
28 sufficient amounts or concentrations as to be habit forming, dangerous,  
29 or have a potential for abuse because of its depressant or stimulant

1 effect on the central nervous system or its hallucinogenic effect.  
2 However, no depressant, hallucinogenic or stimulant drug listed as  
3 dangerous by the Secretary of Health and Welfare of the United States  
4 whether defined by statute or regulation, may be exempted by state  
5 regulations.

6 Sec. 11.31.160. RECORDS. A person engaged in manufacturing,  
7 compounding, processing, selling, delivering or otherwise disposing  
8 of a depressant, hallucinogenic or stimulant drug shall, upon August 4,  
9 1968, prepare a complete and accurate record of all stocks of each  
10 drug on hand and shall keep the record for three years. If this record  
11 has already been prepared in accordance with federal law no additional  
12 record is required if all of these records have been retained and are  
13 made available to the department upon request. On and after August 4,  
14 1968, a person manufacturing, compounding, or processing a depressant,  
15 hallucinogenic or stimulant drug shall prepare and keep, for not less  
16 than three years, a complete and accurate record of the kind and  
17 quantity of each drug manufactured, compounded, or processed and the  
18 date of the manufacture, compounding, or processing. A person  
19 selling, delivering, or otherwise disposing of a depressant, hallu-  
20 cinogenic or stimulant drug shall prepare or obtain, and keep for not  
21 less than three years, a complete and accurate record of the kind and  
22 quantity of each drug received, sold, delivered, or otherwise disposed  
23 of, the name and address from whom it was received and to whom it was  
24 sold, delivered, or otherwise disposed of, and the date of the  
25 transaction.

26 Sec. 11.31.170. INSPECTION. (a) A person required by sec. 160  
27 of this chapter to prepare or obtain and keep records, and a carrier  
28 maintaining records with respect to a shipment containing a depressant,  
29 hallucinogenic or stimulant drug, and a person in charge or having

1 custody of the records, shall, upon request of an officer or employee  
2 designated by the commissioner, permit the officer or employee at  
3 reasonable times to have access to and copy the records. For the  
4 purposes of verification of the records and of the enforcement of  
5 secs. 10 - 260 of this chapter, officers or employees designated by  
6 the commissioner are authorized to enter, at reasonable times, a  
7 factory, warehouse, establishment, or vehicle in which a depressant,  
8 hallucinogenic or stimulant drug is manufactured, compounded,  
9 processed, sold, delivered, or otherwise disposed of and to inspect  
10 within reasonable limits and in a reasonable manner, the factory,  
11 warehouse, establishment, or vehicle, and all pertinent equipment,  
12 finished and unfinished material, containers and labeling and to  
13 inventory the stock of these drugs and obtain samples of these drugs.

14 (b) No inspection authorized by (a) of this section extends to  
15 (1) financial data, (2) sales data other than shipment data, (3)  
16 pricing data, (4) personnel data, or (5) research data.

17 (c) The provisions of sec. 160 of this chapter and of (a) of this  
18 section do not apply to a licensed practitioner with respect to a  
19 depressant, hallucinogenic or stimulant drug received, prepared,  
20 processed, administered, or dispensed by him in the course of his  
21 professional practice, unless the practitioner regularly engages in  
22 dispensing these drugs to his patients for which they are charged,  
23 either separately or together with charges for other professional  
24 services.

25 Sec. 11.31.180. PRESCRIPTION REFILL. No prescription for a  
26 depressant, hallucinogenic or stimulant drug may be filled or refilled  
27 more than six months after the date on which the prescription was  
28 issued and no prescription which is authorized to be refilled may be  
29 refilled more than five times. Nothing in secs. 10 - 260 of this

1 chapter prevents a practitioner from issuing a new prescription for  
2 the same drug either in writing or orally. An oral prescription for  
3 the drug shall be promptly reduced to writing on a new prescription  
4 blank and filed by the pharmacist filling it.

5 Sec. 11.31.190. PERSONS EXEMPTED. The provisions of secs. 10 -  
6 260 of this chapter restricting the possessing and control of  
7 depressant, hallucinogenic and stimulant drugs do not apply to

8 (1) a common carrier or to a warehouseman, while engaged  
9 in lawfully transporting or storing these drugs;

10 (2) an employee of a common carrier or warehouseman while  
11 acting within the scope of his employment in lawfully transporting  
12 or storing these drugs;

13 (3) a public officer or his employee in the performance  
14 of his official duties requiring possession or control of these drugs;

15 (4) temporary, incidental possession by an employee or  
16 agent of a person lawfully entitled to possession; or

17 (5) temporary, incidental possession by a person whose  
18 possession is for the purpose of aiding a public officer in performing  
19 his official duties.

20 Sec. 11.31.200. EXEMPTED DRUGS. Depressant, hallucinogenic or  
21 stimulant drugs exempted under federal law or under regulations  
22 promulgated by the commissioner are exempted from the application of  
23 secs. 10 - 260 of this chapter.

24 Sec. 11.31.210. EXEMPTIONS AND EXCEPTIONS NOT REQUIRED TO BE  
25 NEGATIVED. In a complaint, information, or indictment, and in an  
26 action or proceeding brought for the enforcement of any provision of  
27 secs. 10 - 260 of this chapter, it is not necessary to negative any  
28 exception, excuse, proviso, or exemption, contained in secs. 10 - 260  
29 of this chapter, and the burden of proof of an exception, excuse,

1 proviso, or exemption is upon the defendant.

2 Sec. 11.31.220. PENALTIES. (a) A person who violates a  
3 provision of secs. 10 - 260 of this chapter relating to the possession  
4 or control of depressant, hallucinogenic and stimulant drugs, when his  
5 possession or control is for his own use, is guilty of a misdemeanor.

6 (b) A person who violates a provision of secs. 10 - 260 of this  
7 chapter other than one mentioned in (a) of this section, or a person  
8 who violates a provision of secs. 10 - 260 of this chapter relating to  
9 the possession or control of depressant, hallucinogenic and stimulant  
10 drugs, when his possession or control is for the purpose of sale or  
11 other disposal to another person, is guilty of a felony of the first  
12 degree.

13 Sec. 11.31.230. REHABILITATION. A person convicted of violating  
14 a provision of secs. 10 - 260 of this chapter relating to the possession  
15 or control of depressant, hallucinogenic and stimulant drugs, when  
16 his possession or control is for his own use may, in place of a fine  
17 or imprisonment, be committed to the custody of the department for  
18 rehabilitative treatment for not more than one year.

19 Sec. 11.31.240. FORFEITURE. A quantity of a drug or drug  
20 manufacturing equipment or punch, die, plate, or accessories in making  
21 counterfeit drugs with respect to which a violation of secs. 10 - 260  
22 of this chapter has occurred shall be forfeited to the state and upon  
23 conclusion of the trial in which the violation is proved shall be  
24 destroyed or used by the department for medical or scientific purposes.

25 Sec. 11.31.250. ADDITIONAL REMEDIES. In addition to the remedies  
26 provided in secs. 10 - 260 of this chapter, the commissioner is  
27 authorized to apply to the superior court for, and the court shall have  
28 jurisdiction upon hearing and for cause shown to grant, a temporary  
29 or permanent injunction restraining a person from violating a provision

1 of secs. 10 - 260 of this chapter irrespective of whether there exists  
2 an adequate remedy at law.

3 Sec. 11.31.260. DEFINITIONS. In secs. 10 - 260 of this chapter

4 (1) "commissioner" means the commissioner of health and  
5 social services;

6 (2) "department" means the Department of Health and Social  
7 Services;

8 (3) "depressant, hallucinogenic or stimulant drug" means:

9 (A) cannabis, psilocybin, dimethyltryptamine, lysergic  
10 acid diethylamide, and every other substance having similar  
11 physiological effects;

12 (B) a drug which contains barbituric acid or any of  
13 the salts of barbituric acid; or a derivative of barbituric acid  
14 which has been designated by the commissioner under sec. 150  
15 of this chapter as habit forming or dangerous;

16 (C) a drug which contains amphetamine or any of its  
17 optical isomers; or a substance which has been designated by the com-  
18 missioner as habit forming or dangerous because of its stimulant  
19 effect on the central nervous system; or

20 (D) a drug which contains any quantity of a substance  
21 which the commissioner, after investigation, has found to have,  
22 and by regulation designates as having, a potential for abuse  
23 because of its depressant or stimulant effect on the central  
24 nervous system or its hallucinogenic effect;

25 (4) "cannabis" includes all parts of the plant Cannabis  
26 Sativa L., whether growing or not; the seeds of this plant; the resin  
27 extracted from any part of this plant; and every compound, manufacture,  
28 salt, derivative, mixture, or preparation of this plant, its seeds,  
29 or resin; but does not include the mature stalks of this plant, fiber

1 produced from these stalks, oil, or cake made from the seeds of this  
2 plant, any other compound, manufacture, salt, derivative, mixture or  
3 preparation of these mature stalks (except the resin extracted from  
4 them), fiber, oil, or cake, or the sterilized seed of this plant which  
5 is incapable of germination;

6 (5) "manufacture, compound or process" includes repackaging  
7 or otherwise changing the container, wrapper, or labeling of a drug  
8 package in the furtherance of the distribution of the drug from the  
9 original place of manufacture to the person who makes final delivery  
10 or sale to the ultimate consumer, and "manufacturers, compounders,  
11 and processors" refer to persons engaged in these defined activities;

12 (6) "practitioner" means a physician, dentist, veterinarian,  
13 or other person licensed in this state who may prescribe or administer  
14 drugs which are subject to secs. 10 - 260 of this chapter;

15 (7) "sale" includes barter, exchange, gift, or offer for  
16 one of these, made by any person, whether as principal, proprietor,  
17 agent, servant, or employee.

18 \* Sec. 2. AS 33.15.180 is repealed.

19 \* Sec. 3. AS 33.15.230(a) is repealed and re-enacted to read:

20 (a) Except as provided in AS 33.20.040 regarding unconditional  
21 release, a defendant sentenced to an indefinite term of imprisonment  
22 is eligible for release on parole upon completion of his minimum term  
23 less reductions granted in accordance with AS 33.20.010 - 33.20.020.  
24 Except as provided in AS 33.20.040, regarding unconditional release,  
25 if there is no minimum and a definite term is prescribed of more than  
26 180 days he is eligible for release on parole upon completion of the  
27 180 days or on completion of one-third of his sentence, whichever  
28 is greater. If there is no minimum and a definite term is prescribed,  
29 at 180 days or less, he is not eligible for parole.

1 \* Sec. 4. AS 33.20.010 is amended by adding a new subsection to read:

2 (c) In the case of a prisoner sentenced to an indefinite term  
3 in which a minimum sentence is prescribed, the deductions in sentence  
4 specified in (a) of this section, are deducted from the minimum and  
5 maximum term of imprisonment.

6 \* Sec. 5. AS 33.20.020(a) is amended to read:

7 (a) A prisoner may, in the discretion of the commissioner of  
8 health and social services or his designee, be allowed a deduction  
9 from his definite sentence or in the case of an indefinite sentence,  
10 from his minimum and maximum sentence, of not to exceed three days  
11 for each month of actual employment in a prison or camp project or  
12 activity for the first year or any part of it, and not to exceed  
13 five days for each month of any succeeding year or part of it.

14 \* Sec. 6. Except as provided in (1), (2) and (3) of this section, this  
15 Act does not apply to offenses committed prior to the effective date of this  
16 Act and prosecutions for those offenses is governed by the law in effect  
17 before the effective date of this Act. For the purposes of this section, an  
18 offense was committed prior to the effective date of this Act if any of  
19 elements of the offense occurred prior to it. In a case pending on or after  
20 the effective date of this Act, involving an offense committed prior to  
21 the effective date of this Act.

22 (1) procedural provisions of this Act shall govern where justly  
23 applicable if their application does not cause confusion or delay;

24 (2) provisions of this Act according a defense to an offense or  
25 mitigation shall apply, with the consent of the defendant;

26 (3) the court, with the consent of the defendant, may impose  
27 appropriate sentence under this Act.

28 \* Sec. 7. AS 04.15.020 is amended by adding a new paragraph to read:

29 (h) The sale of intoxicating liquor does not exclude the sale

of intoxicating liquor on credit.

\* Sec. 8. AS 12.15.020 is amended to read:

Sec. 12.15.020. ACCESSORIES AFTER THE FACT. All persons who, after the commission of any felony, conceal or aid the offender with knowledge that he has committed a felony and with intent that he may avoid or escape from arrest, trial, conviction, or punishment are accessories. There are no accessories in misdemeanors and petty misdemeanors.

\* Sec. 9. AS 12.20.050(a) is amended to read:

(a) It is a bar to another prosecution for the same crime if the crime is a misdemeanor or petty misdemeanor, but it is not a bar if the crime charged is a felony when a person is

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

(2) held to answer to the grand jury and the court dismisses the charge because the indictment is not found against him at the next session of the grand jury; or

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

\* Sec. 10. AS 12.25.035 is amended to read:

Sec. 12.25.035. ARREST WITHOUT WARRANT BY STATE TROOPER WHEN JUDICIAL OFFICER IS UNAVAILABLE. A state trooper may arrest a person without a warrant for a misdemeanor or a petty misdemeanor or for the violation of an ordinance when

(1) the officer has reasonable grounds to believe that the person to be arrested has committed a misdemeanor or a petty misdemeanor

1 or has violated an ordinance;

2 (2) personal or property damage is likely to be done unless  
3 the person is immediately arrested; and

4 (3) there is no known judicial officer empowered to issue a  
5 warrant within a radius of 25 miles of the person to be apprehended.

6 \* Sec. 11. AS 12.30.060 is amended by adding a new paragraph to read:

7 (4) if he was released in connection with a charge of petty  
8 misdemeanor, is guilty of a petty misdemeanor.

9 \* Sec. 12. AS 12.45.120 is amended to read:

10 Sec. 12.45.120. AUTHORITY TO COMPROMISE MISDEMEANORS AND PETTY  
11 MISDEMEANORS FOR WHICH VICTIM HAS CIVIL ACTION. When a defendant is  
12 held to answer on a charge of misdemeanor or petty misdemeanor for  
13 which the person injured by the act constituting the crime has a remedy  
14 by a civil action, the crime may be compromised except when it was  
15 committed

16 (1) by or upon a peace officer, judge or magistrate while  
17 in the execution of the duties of his office;

18 (2) riotously;

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

20 (4) larcenously.

21 \* Sec. 13. AS 12.45.150 is amended to read:

22 Sec. 12.45.150. ORDER FOR PRIVATE PROSECUTOR TO PAY COSTS FOR  
23 MALICIOUS PROSECUTION WITHOUT PROBABLE CAUSE. The name of a person who  
24 voluntarily appears before a judge, magistrate or grand jury to  
25 prosecute a person in a criminal action, [EITHER] for a misdemeanor,  
26 petty misdemeanor, or felony, shall be endorsed upon the complaint,  
27 information, or indictment as a private prosecutor. If it is found by  
28 a judge, magistrate or court trying the action or hearing the proceed-  
29 ing that the prosecution is malicious or without probable cause, those

1 facts shall be entered upon the record in the action or proceeding by  
2 the judge, magistrate or court. Upon making the entry, the judge,  
3 magistrate or court shall immediately render judgment against the  
4 private prosecutor for the costs and disbursements of the action or  
5 proceeding, which may be enforced by execution in the same manner as a  
6 judgment in a civil action.

7 \* Sec. 14. AS 12.05.010 and AS 12.55.040 - 12.55.050 are repealed.

8 \* Sec. 15. AS 18.65 is amended by adding a new section to read:

9 ARTICLE 2. PERMITS FOR THE CARRYING OF  
10 CONCEALED WEAPONS.

11 Sec. 18.65.120. CONCEALED WEAPONS. The Department of Public  
12 Safety shall promulgate regulations establishing a system for the  
13 issuance of nontransferable permits for the carrying of concealed  
14 weapons under AS 11.29.320.

15 \* Sec. 16. This Act takes effect July 1, 1973.  
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COMPARATIVE ANALYSIS BETWEEN  
PROPOSED CRIMINAL CODE AND PRESENT ALASKA LAW

CHAPTER 07. GENERAL PROVISIONS.

SECTION

- 010 Statement of GENERAL PURPOSES and objectives to aid in the interpretation of substantive provisions. Not in present AS 11.
- 015 PRINCIPLES OF CONSTRUCTION. Not in present AS 11.
- 020 APPLICABILITY OF COMMON LAW. (Section 1.05 on MPC) The purpose of this section is to complete the process of replacing the common-law definitions of offenses with statutory definitions (this does not mean that the large mass of interpretative rules developed under the common law is superceded -- just the definitions of particular offenses). This reflects the judgment that any jurisdiction that enacts a comprehensive penal code should abolish common-law crimes.
- 030 CIVIL REMEDIES PRESERVED. Same as present AS 11.75.110.
- 040 TERRITORIAL APPLICABILITY. (Sec. 1.03 MPC)(1.03(5) "state" was put with general definitions -- see sec. 11.07.160) This general section not present in AS 11 but Cf. AS 12.05.010. Procedural provision but greatly expands AS 12.05.010. Requires reference to AS 11.11.080.
- 050 COMPUTATION OF TERM OF IMPRISONMENT AND STAY. Same as present AS 11.05.040. Amended to provide exception for authorized labor (p. 4, lines 1 and 2).
- 060 DUTY OF COURT TO DETERMINE AND IMPOSE PUNISHMENT. Same as present AS 11.05.140.
- 070 JUDGMENT OF IMPRISONMENT. Similar to present AS 11.05.060, with deletion of material that judgment need specify the "place of confinement" in view of AS 33.30.100 - 33.30.130. Also deletion of word "penitentiary."
- 080 CONSECUTIVE SENTENCES. Consecutive sentencing of defendants

1 convicted of two or more crimes is authorized. Same as present  
2 AS 11.05.050.

3 090--102 PROVISIONS RELATING TO LOSS AND RESTORATION OF CIVIL RIGHTS.

4 Adoption of Model Penal Code Art. 306 (with procedural deletions).  
5 Clarification of confusion in present Alaska law. Under revision  
6 provisions, unless provided for in the revised title itself  
7 (secs. 93 - 102) or in statutes in other titles (i.e. AS 08,  
8 AS 15, AS 13) no person, because of conviction of a felony loses  
9 his civil rights, except during the period of his actual imprison-  
10 ment.

11 110 FORFEITURE OF PROPERTY UPON CONVICTION AND LIEN FOR FINE AND  
12 COSTS. Same as present AS 11.05.130.

13 120 IMPOSING LESS THAN PRESCRIBED PENALTY. Same as present AS 11.-  
14 05.150.

15 130 PROOF BEYOND A REASONABLE DOUBT. (Sec. 1.12 MPC) Revision sec-  
16 tion prescribes the conventional requirement that the prosecution  
17 prove a charge of crime beyond a reasonable doubt. Basically,  
18 procedural as are secs. 140 - 150, but involves fundamental  
19 policy. Also, affirmative defenses subsection. Not in present  
20 AS 11.

21 140 BURDEN OF PROVING FACT WHEN NOT AN ELEMENT OF AN OFFENSE. Not  
22 in present AS 11. (Was Sec. 1.12(4) of MPC)

23 150 PRESUMPTIONS. Not in present AS 11. (Was Sec. 1.12(5) and (6)  
24 of MPC).

25 160 DEFINITIONS. Expanded definitions section (present AS 11 defin-  
26 ition of "person" is included) "Signature" has been deleted as  
27 unnecessary. ("Signature" appears in AS 01.)

28 - - - - -  
29 CHAPTER 09. CLASSES OF CRIMES AND DISPOSITION OF OFFENDERS

1 SECTION

2 010 CRIMES. Classifies three main categories of crimes. (Felonies,  
3 misdemeanors, and petty misdemeanors) Changes existing AS 11 by  
4 reclassifying misdemeanors as (1) misdemeanors, and (2) petty  
5 misdemeanors, in order to provide for a classification that more  
6 appropriately identifies minor crimes. Adds a fourth category of  
7 "violation" to provide for public sanction calculated to secure  
8 enforcement in situations where it would be unjust to condemn the  
9 conduct involved as criminal. For this category the only autho-  
10 rized sentence is a fine or a fine and a forfeiture or other civil  
11 penalty, i.e., cancellation or suspension of a license. No im-  
12 prisonment may be imposed for a violation.

13 020 FELONY. Same minimum punishment as existing AS 11, but offenses  
14 categorized by three degrees (see secs. 80 - 90 of this chapter).  
15 Note minimum and maximum sentence and specification of fines.

16 030 MISDEMEANOR. Changes in present AS 11 by prescribing a maximum  
17 fine of \$1,000 instead of \$500 in cases where no maximum is  
18 specified in present AS 11, or a minimum confinement of 30 days  
19 with a maximum of one year, instead of just "imprisonment in a  
20 jail for not more than one year".

21 040 PETTY MISDEMEANOR. (Section 1.04(3) MPC) New classification of  
22 secs. 40 - 50 reflects the purpose of the code to employ penal  
23 sanctions only with respect to conduct warranting the moral con-  
24 demnation implicit in the concept of a crime. Maximum 30 days  
25 imprisonment or fine of not more than \$500 (in present AS 11 full  
26 misdemeanor is imprisonment for up to a year or a maximum  
27 of \$1,000, or both.)

28 050 VIOLATION. New classification to reflect conduct which merits  
29 considerably less social condemnation. Is not technically a

1 "crime" within the meaning of the revision since no possibility of  
2 imprisonment; only a fine or a fine and forfeiture or other civil  
3 penalty, i.e., cancellation or suspension of a driver's license.  
4 Model code writers felt conduct of violations not warranted as  
5 "criminal" and that fines serve as adequate enforcement for  
6 deterrent purposes.

7 060 CRIME WITHOUT SPECIFICATION OR OFFENSE. Makes unnamed "crimes"  
8 misdemeanors.

9 070 OFFENSES DESIGNATED IN OTHER TITLES. It was not contemplated in  
10 this revision to revise the penalties in all criminal provisions  
11 in all 47 titles. Sec. 70 clarifies that whatever exists now is  
12 to be retained and not superceded by the sentencing provisions of  
13 the revision.

14 080 FINES. Sets out maximum fines for crimes. Raises standard  
15 present AS 11 misdemeanor maximum when no amount is specified to  
16 \$1,000. General punishment for felonies in present AS 11 unspeci-  
17 fied -- court may determine -- see present AS 11.05.140.

18 090 DEGREES OF FELONIES. Classification for the purpose of sentence.  
19 But also note special provisions for extended terms (misdemeanors  
20 and felonies).

21 100 "ORDINARY TERM" MAXIMUM AND MINIMUM SENTENCES OF IMPRISONMENT FOR  
22 FELONY. Not in present AS 11 (it's either definitely specified  
23 within each offense, or left to the determination of the court to  
24 fix a definite term.) (See present AS 11.75.030 & 11.05.140)  
25 Revision provides for indefinite sentencing via "minimum and  
26 maximum" terms. Necessitates amendment of parole provisions  
27 (present AS 33.15.180, 33.15.230(a), 33.20.010, 33.20.020) so that  
28 parole eligibility occurs after serving the minimum term.

29 110 "EXTENDED TERM" MAXIMUM AND MINIMUM SENTENCES OF IMPRISONMENT.

- 1 Cf. present AS 12.55.040 - 12.55.050 "increased punishment for
- 2 habitual criminals". Note (b) of this section.
- 3 120 CRITERIA FOR EXTENDED FELONY TERMS. Leaves extended term within
- 4 discretion of the court, as in present AS 11, but lists specific
- 5 criteria, any of which may be sufficient for an extended term.
- 6 Incorporation of Alaska age of majority.
- 7 130 ORDINARY SENTENCE OF IMPRISONMENT, MISDEMEANORS AND PETTY MIS-
- 8 DEMEANORS. Virtually the same as in general classes of crimes
- 9 (revision AS 11.09.030 - 11.09.040). Directs court to fix
- 10 definite terms.
- 11 140 EXTENDED TERMS; MISDEMEANORS AND PETTY MISDEMEANORS. (see 110 above)
- 12 150 CRITERIA. (see 120 above) Note adoption of Alaska age of
- 13 majority.
- 14 155 FORMER CONVICTION IN ANOTHER JURISDICTION. Not in present AS 11.
- 15 Necessary in relation to criteria for extended terms.
- 16 160 CRITERIA FOR IMPOSING FINES. Not in present AS 11. Purpose to
- 17 retard routine imposition of a fine. Seeks to outlaw fines that
- 18 a defendant can't pay.
- 19 170 CIVIL COMMITMENT IN LIEU OF PROSECUTION OR OF SENTENCE. Not in
- 20 present AS 11, but see AS 17.12.120. Offers substitute for con-
- 21 viction when power to commit is conferred. Commentary affirms
- 22 that prevailing law is moving in this direction, but reserves
- 23 recommendation on whether this alternate is appropriate.

- - - - -

CHAPTER 11. GENERAL PRINCIPLES OF LIABILITY.

26 General statement of the minimum elements of an offense (generally a certain

27 voluntary act and a certain state of mind -- except where a provision

28 defines a specific offense as imposing absolute liability). Attempt to

29 codify basic common-law provision, with the goal of clarifying the defin-

1 itions of specific crimes and to dispel the obscurity with which the  
2 culpability requirement is often treated when such general concepts as  
3 "general criminal intent", "mens rea", "malice", "wilfulness", "scienter",  
4 etc. are employed.

5 SECTION

6 010--040 Not in present AS 11. States essential elements for voluntary act  
7 or omission to perform an act for criminal liability. Specific  
8 definitions of "purposely", "knowingly", "recklessly", or "negli-  
9 gently", i.e., the four types of culpability acknowledged by the  
10 revision.

11 050 Undertakes to define the causality relationship required to  
12 establish liability for certain offenses where causing a particu-  
13 lar result is a material element of the offense. Treats the  
14 "but-for" cause, variations between the actual result and the one  
15 contemplated by the actor. Not in present AS 11.

16 060 IGNORANCE OR MISTAKE. States conventional position under which  
17 the significance of ignorance or mistake on the part of the de-  
18 fendant is determined by the mental state required for the com-  
19 mission of the offense involved. (Mistake may negate the  
20 requisite intention.) One innovation occurs where the section  
21 provides that a mistake as to the illegality of certain conduct  
22 constitutes an affirmative defense when based upon reasonable  
23 reliance upon official conduct. Parts "b" and "c" not adopted  
24 by other jurisdictions considering MPC.

25 070 WHEN CULPABILITY REQUIREMENTS INAPPLICABLE. Excludes noncriminal  
26 "violations" generally, and cases of absolute liability.  
27 Reference to statutes other than in the title deleted (MPC Sec.  
28 2.05(2)) so that specific penalties will not be arbitrarily  
29 superceded.

1 080 LIABILITY FOR CONDUCT OF ANOTHER. Resolves many issues relating  
2 to accomplice liability. The basic thrust is to focus on each  
3 individual involvement. Delineates all situations in which  
4 criminal activity may rest in whole or in part upon behavior of  
5 another. Common-law principles. For detailed analysis, see com-  
6 mentary in tentative draft No. 1, pp. 13 - 39. Also Cf. present  
7 AS 11.10. Expansion of AS 12.15.010 - 12.15.030.

8 090 INTOXICATION. Affirmative defense if it negates an "element of  
9 the offense." Varies present AS 11.70.030, which refers to jury  
10 consideration of intoxication when the existence of a particular  
11 motive, purpose, or intent is a necessary element to constitute a  
12 particular species or degree of crime.

13 100 DURESS. Affirmative defense of coercion, unlawful force. Not in  
14 present AS 11.

15 110 CONSENT. Affirmative defense of what constitutes effective or  
16 ineffective consent. Not in present AS 11.

17 120 DE MINIMUS INFRACTIONS. Interesting innovation on the courts'  
18 power to dismiss for noncriminal infractions. Not in present  
19 AS 11.

20 130 ENTRAPMENT. Articulates rules of most jurisdictions and rule of  
21 Alaska Supreme Court case of Grossman v. State (1969) where in-  
22 ducement must be effective to persuade the average person to com-  
23 mit the offense, not one "ready and willing to do it". Note  
24 specific exception provided by (c), however, in cases of extreme  
25 gravity.

26 - - - - -

27 CHAPTER 13. GENERAL PRINCIPLES OF JUSTIFICATION.

28 SECTION

29 010--130 Attempt to comprehensively codify general principles of necessity

1 which afford the affirmative defense of justification for conduct  
2 that would otherwise constitute an offense. Main distinction to  
3 be noted is that justification as articulated by the revision is  
4 not limited to cases where the evil sought to be avoided is death  
5 or bodily injury. Revision sees no need to specify a particular  
6 harm. Rather, it affirms the principle as one of general validity.  
7 Present AS 11 considers the principle narrowly in its relation to  
8 homicide. See present AS 11.15.090 - 11.15.100. In addition, the  
9 chapter attempts to eliminate much of the confusion that has re-  
10 sulted in sporadic case-by-case development of the common law in  
11 the area of justification as a defense. This chapter, when  
12 relevant, seeks to distinguish between the use of force and the  
13 use of deadly force and to provide rational principles for the use  
14 of each type of force depending on the varying contexts in which  
15 the issue of justification may arise. Reflects principles of law  
16 relating to the use of force enumerated in the following: Gray v.  
17 State, Op. No. 595, Sup. Ct. Jan. 16, 1970. Person committing  
18 unlawful act forfeits right to claim self-defense to protect  
19 himself against excessive force (see AS 11.13.040); Miller v.  
20 State Op. No. 589, Ak Sup. Ct., Dec. 15, 1969. No right to  
21 resist a peaceful arrest, even though the arrest was unlawful  
22 (AS 11.13.040(b)(1) and (3)). Note general addition of "reason-  
23 ably" before "believes" in situations where the actor is under-  
24 taking a course of conduct to avoid harm. Taken from proposed  
25 Criminal Code revision of Washington. Rationale was behavior  
26 should be based on more than a "good faith" belief in its  
27 necessity.

28 - - - - -  
29 CHAPTER 15. RESPONSIBILITY.

1 SECTION

2 010--030 This revised standard attempts to bring penal law relating to  
3 competence and responsibility into step with current scientific  
4 and medical knowledge. It is basically a rejection of the  
5 "McNaughten test", focusing on the defendant's ability to know  
6 the "quality" of his acts and to know their wrongfulness, asks  
7 two basic questions: (1) Did the defendant know the nature and  
8 quality of his act?, and (2) If he did, did he know what he was  
9 doing was wrong? That test (which has been applied in Alaska in  
10 Chase v. State, 369 P.2d 997 (1962), has been overthrown in all  
11 but the First Circuit on the federal level, and there is nearly  
12 universal dissatisfaction with it on the part of scholars, jurists,  
13 and psychiatrists. It remains the rule in most states at present,  
14 although much modification of it has occurred. An extensive  
15 comment on the McNaughten Rule is to be found in Justice Conner's  
16 dissent in Pope v. State 478 P.2d 806 (1970). Briefly, it is  
17 pointed out in that opinion that the main failure of the  
18 McNaughten test is that it focuses exclusively on the cognitive  
19 element in mental life, i.e., the knowledge of right and wrong  
20 or of the nature of one's act. It is felt that this is insuffi-  
21 cient in treating mental illness as an integrated whole. The  
22 revision provision departs from this and examines the defendant  
23 as a whole man, leaving to the court and the jury the ultimate  
24 legal pronouncement. It imposes a test whereby the effect of  
25 mental illness on one's capacity to conform his conduct to law  
26 is stressed. The Sixth Circuit adopted the "A.L.I." definition,  
27 taking the view that there are many forms of mental illness in  
28 which the illness may be serious enough to deprive this person  
29 concerned of any real choice of conduct, but in which he

1 nontheless possesses knowledge of what is right or wrong. See  
2 U.S. v. Smith, 404 F.2d 720 (6th Cir. 1968). As Chief Justice  
3 Haynesworth said of the A.L.I. Model Penal Code test:

4 "With appropriate balance between cognition and volition, it  
5 demands an unrestricted inquiry into the whole personality of a  
6 defendant who surmounts the threshold question of doubt of his  
7 responsibility. Its verbiage is understandable by psychiatrists  
8 it imposes no limitation upon their testimony, and yet, to a  
9 substantial extent, it avoids a diagnostic approach and leaves  
10 the jury free to make its findings in terms of a standard which  
11 society prescribes and juries may apply." [Footnotes omitted]  
12 United States v. Chandler, 393 F.2d at 926.

13 It might be pointed out that in Hawaii's proposed penal code this  
14 Model Penal Code provision is employed with the added provision  
15 of physical disease, disorder, or defect on the same par with  
16 mental disease or defect, i.e., arteriosclerosis which affects  
17 behavior but is not a mental disorder. For treatment of subject  
18 see Alaska Law Journal Vol. 8, August 1970, at p. 152. Also  
19 refer to Morris, "Criminal Insanity", 43 Wash. L. Rev. (1968).

20 - - - - -  
21 CHAPTER 17. INCHOATE CRIMES. (ATTEMPTS).

22 SECTION

23 010 ATTEMPT. Elaborated versions of present AS 11. See present  
24 AS 11.05.020 which states that "any act toward the commission of  
25 the crime" is sufficient for an attempt. Revised code adds (1)  
26 and (2) and states that "an act or omission constituting a sub-  
27 stantial step in a course of conduct planned to culminate in his  
28 commission of the crime." "Substantial step" is further clari-  
29 fied. Note conduct in (d) which will afford a defendant an

1 affirmative defense.

2 020 SOLICITATION. An elaboration of present AS 11.10.070. Note  
3 defense provided in (c).

4 030 CONSPIRACY (TO COMMIT A CRIME). Not in present AS 11, but related  
5 Conspiracy Against Rights of Persons, present sec. 11.60.340.  
6 Also, conspiracy to kidnap -- present AS 11.15.270. Joinder and  
7 Venue in Conspiracy; Prosecutions, 5.03(4), deleted as procedural.  
8 In all crimes, except felonies of the first and second degree,  
9 necessity of an overt act in furtherance of the conspiracy be  
10 performed.

11 040 DURATION OF CONSPIRACY. Not in present AS 11. See general  
12 material on limitations of actions in present AS 12.10.010 -  
13 12.10.040.

14 050 INCAPACITY, IRRESPONSIBILITY...TO SOLICITATION OR CONSPIRACY. Not  
15 in present AS 11.

16 060 GRADING OF CRIMINAL ATTEMPT, SOLICITATION AND CONSPIRACY. Elabor-  
17 ation. Changes present AS 11.05.020, and generally treats at-  
18 tempts as the same grade and class as the substantive offense.  
19 Present AS 11.05.020 prescribes punishment of only half the  
20 longest period prescribed as a punishment for the substantive  
21 crime.

22 070 POSSESSING INSTRUMENTS OF CRIME. Variation of present AS 11.55.-  
23 010 - 11.55.020. Speaks to "possession" rather than "concealment".  
24 Considers specific situation of weapons in automobiles. Penalties  
25 for possession increased over existing law. Present AS 11.55.010 -  
26 11.55.080 have been retained (see revision AS 11.29.320 - 11.29.-  
27 390).

28 080 PROHIBITED OFFENSIVE WEAPONS. Attempts to specify "offensive  
29 weapons". Not in present AS 11. See related provision AS 11.55.-

010.

CHAPTER 19. OFFENSES AGAINST THE PERSON.

SECTION

010 CRIMINAL HOMICIDE. Defines criminal homicide as purposely, knowingly, recklessly or negligently causing the death of another human being. No definition of criminal homicide in present AS 11.

020 MURDER. Under revised code all criminal homicide constitutes murder when it is committed (1) purposely or knowingly or (2) recklessly under such serious circumstances as to manifest extreme indifference to the value of human life. Eliminates present AS 11 distinction between first and second degree murder and makes all murder a felony of the first degree. Present AS 11 first degree murder includes "malice aforethought" and embraces the felony murder rule. The revision reduces the minimum penalty from 20 years to one to 10, as fixed by the court. For second degree, five year difference in maximum penalty -- requirement that killing be purposely and maliciously. Revision in (2) above would expand felony murder rule to include kidnapping or felonious escape and deviate sexual intercourse by force or threat of force is tied in with rape. List then is composed of "forcible felonies". Note that embraced within the revision offense of "murder" is both the concept of "specific intent", i.e., purposefully as in present AS 11.15.010, and the felony murder concept, as applied in other jurisdictions and which is also found in AS 11.15.010. However, under the recent case of Gray v. State, the court found that Alaska's felony-murder requires the element of "specific intent" also (an unusual requirement as only two states have it, and it is counter to commonly-accepted views of felony-murder). Therefore,

1 the revision treatment of "murder" brings Alaska back into line  
2 with most jurisdictions, except for a retention of the distinction  
3 between first and second degree murder. The imposition of degrees  
4 was, according to the commentary of the proposed Illinois Criminal  
5 Code (ICC), to facilitate the imposition of different penalties.  
6 The "malice aforethought" concept as a mental state has been  
7 reduced in most states (and Alaska) to actual homicidal intent,  
8 with no particular length of premeditation specified. Draft  
9 intends to eliminate confusion in murder prosecutions, and to  
10 abolish the distinction of degrees formerly in existence as a  
11 result of capital punishment. See also present statutory murder  
12 provision AS 11.15.020 (not provided for in revision).

13 030 MANSLAUGHTER. In present AS 11, a "catch-all", manslaughter is  
14 defined in general terms (AS 11.15.040) as any unlawful killing  
15 that does not amount to first and second degree murder. Also  
16 see AS 11.15.080 for specific "species" of manslaughter and special  
17 provision AS 11.15.070. Revision provision embraces two concepts;  
18 one of involuntary conduct (reckless but not to the degree of  
19 sec. 20(a)(2)), and the other of voluntary conduct (heat of passion).  
20 Revision similarly embraces both concepts with specific enumeration.  
21 Present AS 11 leaves it to court interpretation, rather than  
22 strict statutory definition. See 6.06(2) for comparison of  
23 penalties. Reduces maximum penalty from 20 to 10 years. Com-  
24 mentary emphasizes flexibility of the provision.

25 040 NEGLIGENT HOMICIDE. Revision offense of general application.  
26 Presumably committed with ordinary negligence; a substantial  
27 deviation from the standard of care that would be exercised by a  
28 reasonable man in his situation. Cf. present AS 11.15.080 which  
29 although titled similarly is based on "culpable negligence" --

1 a reckless disregard -- more than just slight negligence.

2 050

3 CAUSING OR AIDING SUICIDE. Cf. present AS 11.15.050. Revision  
4 makes crime a felony of the second degree punishable as with  
5 manslaughter (except for mere solicitation which is a misdemeanor)  
6 -- present AS 11 makes no distinction for misdemeanor.

6 060

7 ASSAULT. Revision treats assault as an entity with the intent to  
8 impose some order on a varying array of present statutes. The  
9 basic emphasis is on "bodily injury". Present AS 11 (AS 11.15.-  
10 140 - 11.15.160, AS 11.15.190, AS 11.15.220 - 11.15.230 is a  
11 piecemeal carryover from 1949 pre-statehood provisions. Revision  
12 classifies assault into (1) simple (misdemeanor or petty mis-  
13 demeanor), and (2) aggravated (second or third degree felony  
14 depending on type of recklessness) -- see comment p. 135 (MPC).  
15 Present AS 11 provides no unarmed "aggravated" class of assault.  
16 Revision includes "attempts at assault" as within traditional  
17 scope of the "assault" concept. Also "recklessly endangering" and  
18 "terroristic threats". Penalties: Generally reduces penalties,  
19 except that revision imposes maximum penalty of imprisonment for  
20 one year instead of six months in the case of simple assault and  
21 battery.

21 070

22 RECKLESSLY ENDANGERING ANOTHER PERSON. Modification of MPC  
23 provision. Covers general conduct which creates a substantial  
24 risk of death or serious physical injury to another person.  
25 Usually dealt with under existing law on an ad hoc basis. See  
26 related provisions AS 11.55.050 - 11.55.070.

26 080

27 CARELESS USE OF FIREARMS. New ch. 11 SLA 1971. (ties in with  
28 sec. 70 above).

28 090

29 TERRORISTIC THREATS. A class of threats that can be narrowly de-  
fined, i.e., letters or anonymous phone calls, threatening serious

1           bodily harm. Purpose is to provide expanded assault coverage.  
2           100    KIDNAPPING. Basic revision provision similar to present AS 11.-  
3           15.260. Both have felony classifications, with maximum of life  
4           imprisonment. One noteworthy revision innovation is a reduction  
5           of punishment in cases where the victim is released voluntarily.  
6           Incorporation of suggested change of "before apprehension" and  
7           "prior to payment of ransom or other benefit", rather than before  
8           "trial". See 110(b) of the revision. Also elaborates on what  
9           constitutes unlawful removal (i.e., from one place to another  
10          place) and confinement. Present AS 11.15.280 (receiving, posses-  
11          sing, or disposing of ransom) not included in revision.  
12          110    FELONIOUS RESTRAINT. Lesser offense of knowingly restraining --  
13          not in present AS 11.  
14          120    FALSE IMPRISONMENT. Not in present AS 11.  
15          130    REASONABLE DETENTION AS DEFENSE. New ch. 111 SLA 1971.  
16          140    INTERFERENCE WITH CUSTODY OF CHILDREN. Cf. present AS 11.15.290  
17          (child stealing). Different age classifications (revision, 18;  
18          present law, 12); treatment of interference with custody of com-  
19          mitted persons in revision. Reduces punishment to maximum of five  
20          years confinement. Deletion of suggested Model Penal Code af-  
21          firmative defense.  
22          150    CRIMINAL COERCION. Cf. AS 11.15.300. Distinguished by treating  
23          broad categories of threats; newly added categories; statement of  
24          defense.  
25          160    RAPE. Changes present AS 11 by reducing existing age of consent  
26          from 16 to 14 (Model Penal Code suggested age 10); and adding pro-  
27          visions which clarify what constitutes force, and what constitutes  
28          "against a female's will", i.e., see (a)(2) of revised section.  
29          Classified as felony of second degree if no additional bodily in-

1 jury and the victim was voluntary social companion who has  
2 previously permitted him sexual liberties. Otherwise it's felony  
3 of first degree. No such distinction in present AS 11. Revision  
4 clarifies terms; present AS 11 speaks of "carnal knowledge".

5 170 GROSS SEXUAL IMPOSITION. Felony of third degree; not in present  
6 AS 11. Gist is "taking advantage" or "threat" rather than force,  
7 or serious threat of injury or substantial impairment.

8 180 DEVIATE SEXUAL INTERCOURSE BY FORCE OR IMPOSITION. (a) of this  
9 section constitutes "by force" and (c) of this section constitutes  
10 "by imposition". Would be covered by present AS 11 rape provision,  
11 but revision makes it a felony of the second or third degree,  
12 depending on the degree of force involved. Revised section does  
13 not prohibit the following: deviate sexual relations between con-  
14 senting adults, and private homosexuality not involving force,  
15 imposition or corruption of the young. Rationale is no harm to  
16 the community; and is an area of private morals more properly with-  
17 in the spiritual sphere. Impracticalities of enforcement, etc.  
18 Thrust of revision in this area by Model Penal Code given favor-  
19 able comment in Harris v. State, 457 P.2d 638 (Alaska 1969). See  
20 comment at 457 P.2d 648 where indication that private consensual  
21 conduct with no harm to others may be covered by a right to  
22 privacy claim as one of the penumbral emanations of the Bill of  
23 Rights and the 14th Amendment. See present AS 11.40.120 which  
24 renders consensual conduct punishable.

25 190 CORRUPTION OF MINORS. No force involved here; treats consensual  
26 relations with children. Age differentiations designed to  
27 restrict offenses to non-peer group activity. Cf. related  
28 present provisions AS 11.15.134, AS 11.40.070.

29 200 SEXUAL ASSAULT. Special category of sex assault not involving

1 penetration. Cf. vague treatment of subject by present AS 11.-  
2 15.134. Purpose to cover unauthorized fondling or sadistic or  
3 masochistic acts. Gist of the offense is the sexual imposition.  
4 210 INDECENT EXPOSURE. Essentially identical to present AS 11.40.080.  
5 Emphasis on "public" nature of offense.  
6 220 GENERAL PROVISIONS. Covering applicable defenses. Note special  
7 statute of limitations necessitating promptness of a complaint;  
8 necessity of corroboration. Not in present AS 11. Note that  
9 reasonable belief of age is an affirmative defense in all cases  
10 above critical age of 14 (AS 11.19.220(a)).  
11 230 DEFINITIONS. Clarification.

12 - - - - -  
13 CHAPTER 21. OFFENSES AGAINST PROPERTY.

14 ARTICLE 1. ARSON AND RELATED CRIMES.

15 Main emphasis is on the extent to which the element of personal danger  
16 exists as a result of the offense.

17 SECTION

18 010 ARSON. Revision consolidates arson into one main offense of  
19 purposely setting afire a building or occupied structure of  
20 another or purposely setting afire any property to collect  
21 insurance. Defense if no one is placed in danger of death or  
22 bodily injury. Cf. present AS 11.20.010 (arson in the first  
23 degree) which includes "aiding, counseling or procuring the  
24 burning of a dwelling, house or part of it, whether occupied,  
25 unoccupied or vacant." Maximum punishment reduced from two-to-20  
26 to one-to-10. Also Cf. present AS 11.20.070, burning to defraud  
27 insurer (one-to-three or \$3,000 or both). Present AS 11 has  
28 three other degrees of arson as follows: (Cf. present AS 11.20.-  
29 020 - 11.20.030, 11.20.050.)

1           1. second degree arson - wilful burning of a building or  
2 structure of any kind. One-to-10 or \$5,000, or both.

3           2. third degree arson - wilful setting fire to the personal  
4 property of another of the value of \$100. One-to-three or \$3,000,  
5 or both.

6           3. fourth degree arson - an attempt to wilfully burn or to  
7 aid, counsel, or procure burning of a building or property  
8 mentioned in the other degrees of arson. (This would be covered  
9 under the general attempt provisions of the revision)

10 020       RECKLESS BURNING OR EXPLODING. Third degree felony - to start  
11 a fire or cause an explosion purposely, thereby placing a person  
12 or building or occupied structure of another in danger of damage  
13 or destruction. Not in present AS 11.

14 030       FAILURE TO CONTROL OR REPORT DANGEROUS FIRE. Not in present  
15 AS 11, Misdemeanor when fire is endangering life or a substantial  
16 amount of property and actor either (1) started it or (2) was  
17 under a legal duty to prevent it.

18 040       DEFINITION OF OCCUPIED STRUCTURE AND PROPERTY. Specific  
19 enumeration of the former.

20 050       CAUSING CATASTROPHE. Not in present AS 11. Severe penalty. Ex-  
21 clusion added for those acting under legal authority.

22 060       CRIMINAL MISCHIEF. Not in present AS 11. Defines behavior that  
23 is punishable because it harms or threatens to harm tangible  
24 property of another. Grading of offenses by amount of harm.  
25 Covers miscellaneous mischief provisions in present AS 11.20.520 -  
26 11.20.590. Also covers present AS 11.55.060.

27                   ARTICLE 2. BURGLARY.

28 070       BURGLARY. Both provisions of present AS 11 and revision similar.  
29 Deletion of recommended code provision relating to commission

1 of offense "in the nighttime". Both require a purpose to commit  
2 a crime in a structure - revision states: "in a building or  
3 occupied structure"; AS 11.20.080 states: "dwelling house".  
4 Revision provides felonies of two degrees for burglary: second  
5 degree felony if bodily injury or with explosives or a deadly  
6 weapon, all other burglary is a felony of the third degree.  
7 (Revision reduces punishment, maximum of 10 years imprisonment  
8 compared to maximum of 20 years in present AS 11 when human  
9 being is within building.) Revision has rejected traditional  
10 concept of grading based on the gravity of the ultimate offense.  
11 Present AS 11.20.100: "burglary not in a dwelling house" (two-  
12 to-five years imprisonment) conforms to third degree burglary  
13 in revision.

14 080 CRIMINAL TRESPASS. No required proof of purpose to commit a crime  
15 Cf. present 11.20.135. Present AS 11 makes it a misdemeanor. Re-  
16 vision punishes as petty misdemeanor. Note special provision of  
17 present AS 11 for suspension of sentence if restitution. In-  
18 corporation of present AS 11.20.135 (unlawful entry, use, or  
19 occupancy of property).

20 090 DEFINITIONS.

22 ARTICLE 3. ROBBERY.

23 100 ROBBERY. Essential elements the same as present AS 11. Punish-  
24 ment is one-to-15 in present AS 11. Revision reduced maximum to  
25 one-to-10 (except when an attempted killing occurs in the course  
26 of committing the theft or the actor purposely inflicts serious  
27 bodily injury). Note lesser offense in present AS 11 of larceny  
28 from the person (AS 11.15.250) which is covered under revision  
29 AS 11.21.110.

ARTICLE 4. THEFT.

Revision attempt to provide a single unified treatment of theft rather than the traditional piecemeal variety of offenses designed to cover various forms of taking or appropriating the property of another. Note revision sec. 190 which treats theft specifically as one offense. Three degrees of theft are provided for depending largely on the amount involved.

110 THEFT BY UNLAWFUL TAKING. Covers movable or immovable property in general. Present AS 11 enumerates items. Essential elements of basic offense the same. Note statutory crimes of "concealment of merchandise", AS 11.20.275 - 11.20.276, "Larceny of minerals", AS 11.20.190, "Larceny of animals", AS 11.20.160.

120 THEFT BY DECEPTION. Cf. present AS 11.20.200, AS 11.20.360 - 11.20.410. Note broad revision language of "creating or reinforcing a false impression" under (a)(1).

130 THEFT BY EXTORTION. Clarifies coercion rather than deception as the force employed to make the victim transfer his property. Cf. present AS 11.15.300 (Blackmail). Expands present AS 11.15.300 by covering threats to "anyone", not just threats to harm the person from whom property is demanded, or members of his family.

140 THEFT OF PROPERTY, LOST, MISLAID, OR DELIVERED BY MISTAKE. Cf. present AS 11.20.260. Revision covers mislaid or delivered property. Present law specifies only that which is "lost". Procedure for restoring it to its rightful owner more detailed in present AS 11.20.260.

150 RECEIVING STOLEN PROPERTY. Cf. present AS 11.20.350. Revision seeks to express the essential ingredient of the offense as the "acquisition of control" whether in the sense of physical dominion or legal power to dispose. Broad definition of "receiving" giving special significance to the dealer of stolen goods.

1 160 THEFT OF SERVICES. General treatment of theft of services. Cf.  
2 present limited statutory offenses of AS 11.20.480 - 11.20.495.

3 170 THEFT BY FAILURE TO MAKE THE REQUIRED DISPOSITION OF FUNDS  
4 RECEIVED. Consolidation of present embezzlement provisions:  
5 AS 11.20.280 - 11.20.340, covering employees, servants, bailees,  
6 public money, trustees and fiduciaries. Note presumption operat-  
7 ing in the case of public officials and others who are likely to  
8 be familiar with legal obligations. Also exclusion covering  
9 credit transactions when transaction limited to a promise or other  
10 duty to be performed in the future without any present duty. (Not  
11 previously in Model Penal Code recommendations.)

12 180 UNAUTHORIZED USE OF AUTOMOBILES AND OTHER VEHICLES. Attempts to  
13 cover all motor-propelled vehicles (present AS 11.20.145 is re-  
14 stricted to watercraft and aircraft). Note addition of (b), in-  
15 cluded within sec. 185 (previous Alaska law).

16 190 CONSOLIDATION OF THEFT OFFENSES. Specifies consolidation of theft  
17 as a single offense rather than series of traditionally distinct  
18 offenses. Unifying concept being the "involuntary transfer of  
19 property". The purpose is to prevent procedural difficulties re-  
20 sulting from the fact that the boundaries between the traditional  
21 offenses are obscure and from the rule that a defendant who is  
22 charged with one offense cannot be convicted by proving another.

23 200 GRADING OF THEFT OFFENSES.

24 Revision: Article worth more than \$500 in value, ) 3rd degree  
25 or firearm or motor-propelled vehicle ) felony up to  
26 or dealer receiving stolen property.... ) \$5,000,  
 ) 1 - 5 years  
 ) in prison  
27 Property not taken from a person or )  
28 threat, or breach of fiduciary obliga- ) petty  
 ) misdemeanor  
29 tion and amount was less than \$50..... )

1 All other theft ..... misdemeanor  
2 Present: Article worth more than \$100 ..... 1 - 10 years  
3 AS 11: Article worth less than \$100 ..... ) 1 mo. - 1 yr.  
4 ) or \$25 - \$100  
5 ) fine  
6 Animals (1) if more than \$50 ..... 1 - 10 years  
7 (2) if less than \$50 ..... ) 1 mo. - 1 yr.  
8 ) or \$25 - \$100  
9 ) fine  
10 But Note: Larceny in a building or vessel )  
11 (AS 11.20.150)..... )  
12 Larceny of minerals (AS 11.20.190)..... 1 - 10 years  
13 Embezzlement: if worth more than \$100.. 1 - 10 years  
14 if worth less than \$100..) 1 mo. - 1 yr.  
15 ) or \$25 - \$100  
16 ) fine  
17 Obtaining money or property by false )  
18 pretenses..... ) 1 - 5 years

(c) of this section specifies standard of value to be considered  
in evaluating the stolen property. Not in present AS 11.

210 DEFENSE TO PROSECUTION FOR THEFT. Not in present AS 11.

ARTICLE 5. FORGERY AND FRAUDULENT PRACTICES.

No detailed comparison has been made with existing provisions relating to  
fraud found in AS 11.20.360 - 11.20.470 and ch. 25. Forgery and Counter-  
feiting. Cross references are indicated where obviously related. Revision  
introduces several new provisions. Penalties generally reduced by revision.

220 FORGERY. Comprehensive provision without present AS 11 distinc-  
tions i.e. AS 11.25.010 and 020. Covers literally "any writing  
or object". Rejection of prevailing pattern to enumerate all  
documents having legal significance. Section therefore covers  
doctors' prescriptions, trademarks, I.D. cards, and professional  
certificates. Cf. AS 11.25.010 which punishes by imprisonment

1 from two-to-20 years. Revision separates forgery for purposes  
2 of punishment. See (b) -- second degree felony for forgery of  
3 government instruments; third degree for other legal documents;  
4 misdemeanor for all else. Note definition of writing contained  
5 in (c) which makes unnecessary separate offenses of counterfeit-  
6 ing.

7 230 SIMULATING OBJECTS OF ANTIQUITY. Not specifically in present  
8 AS 11, but see AS 11.25.010(2).

9 240 FRAUDULENT DESTRUCTION, REMOVAL OR CONCEALMENT OF RECORDABLE  
10 INSTRUMENTS. Cf. present AS 11.25.010 and 11.25.060.

11 250 TAMPERING WITH RECORDS. Cf. present AS 11.25.011, AS 11.20.430 -  
12 440.

13 260 BAD CHECKS. Cf. present AS 11.20.210 - 11.20.250. Note pre-  
14 sumption operable.

15 265 CREDIT CARDS. Cf. present Alaska Credit Card Crimes Act (AS 11.-  
16 22.010 - 11.22.140). Greatly abbreviated version of present AS  
17 11. Basic felony-misdemeanor distinction at \$500 value if money,  
18 property, or services retained. Revision section limited only to  
19 fraudulent use, whereas present AS 11 covers full gamut of theft,  
20 sale, forgery, etc. as it relates to credit cards. Revision  
21 covers such under main headings of those offenses.

22 280 DECEPTIVE BUSINESS PRACTICES. Attempt to bring the various cate-  
23 gories of deceptive practices together. Burden on defendant to  
24 prove his conduct was without knowledge. Not in present AS 11,  
25 but see related statutory crimes: AS 11.25.120 - 11.25.130. Also  
26 AS 17.

27 290 COMMERCIAL BRIBERY AND BREACH OF DUTY TO ACT DISINTERESTEDLY. Not  
28 in present AS 11 but (c) of revision section corresponds to  
29 present AS 11 in area of commercial bribery. AS 11.30.040 - 070

1 confines application of bribery specifically to judicial and  
2 executive officers.

3 300 RIGGING PUBLICLY EXHIBITED CONTEST. Not in present AS 11.

4 310 DEFRAUDING SECURED CREDITORS. Cf. present AS 11.20.390 and  
5 AS 11.20.400.

6 320 FRAUD IN INSOLVENCY. Cf. present AS 11.20.430 - 11.20.440.

7 330 RECEIVING DEPOSITS IN A FAILING FINANCIAL INSTITUTION. Not in  
8 present AS 11, but see related AS 11.20.440.

9 340 MISAPPLICATION OF ENTRUSTED PROPERTY AND PROPERTY OF GOVERNMENT  
10 OR FINANCIAL INSTITUTION. Cf. present AS 11.30.240 - 11.30.250.

11 350 SECURING EXECUTION OF DOCUMENTS BY DECEPTION. Not in present  
12 AS 11.

13 360 DEFINITIONS. General application.

14 - - - - -  
15 CHAPTER 25. OFFENSES AGAINST THE FAMILY.

16 SECTION

17 010 BIGAMY. Cf. present AS 11.40.050 - 11.40.060. Revision reduces  
18 present severe penalty in the case of bigamy from a felony (one-  
19 to-seven years maximum) to a misdemeanor. Note exemption (4).  
20 Revision re-examines basic policy in this area, adopting reason-  
21 ing (counter to prevailing view of Williams cases) that laymen  
22 should not be subject to criminal penalties for good faith  
23 mistakes for which they have no reasonable ground. Note sub-  
24 sections (3) and (4) in this regard.

25 020 POLYGAMY. Cf. present AS 11.40.050 - 11.40.060. Polygamy in  
26 revision differentiated from bigamy in one case prohibiting  
27 successive marriages and in the other prohibiting simultaneous  
28 marriages and given a one-to-five year maximum term. Revision  
29 specifically exempts parties to a polygamous marriage if in

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transit from a place where the practice is lawful.

030 OTHER PARTY TO BIGAMOUS OR POLYGAMOUS MARRIAGE. Not in present AS 11. Attempt to clarify what might otherwise be left to law of accessories.

040 INCEST. Cf. present AS 11.40.110. Revision reduces penalty of imprisonment from three-to-15 years maximum to one-to-five. Enumerates blood relations; present AS 11 prohibits relations within the fourth degree (in direct ascending or descending line).

050 ABORTIONS. Same as present AS 11.15.060 but note penalty redesignation so maximum fine is \$5,000 instead of \$1,000; maximum "ordinary" term of imprisonment is five years (same as present AS 11.15.060).

070 PERSISTENT NONSUPPORT. Cf. present AS 11.35.010 - 11.35.110. Revision emphasis on "persistent" nonsupport of a spouse. A continued defiance. Object that single offense prosecution not in best interests of the perpetuation of family solidarity.

- - - - -  
CHAPTER 27. OFFENSES AGAINST PUBLIC ADMINISTRATION.  
(Generally Cf. present AS 11.30)  
ARTICLE 1. BRIBERY AND CORRUPT INFLUENCE.

SECTION

010 BRIBERY IN OFFICIAL AND POLITICAL MATTERS. Cf. present AS 11.30.040 - 11.30.050. Revision reduces maximum penalty from two-to-10 years to one-to-five. Present AS 11 specifies bribed party as being judicial or executive officer - revision does not limit it to those persons. Present AS 11.30.050 distinguishes "offering" from "accepting" a bribe for the purpose of punishment treating the latter more severely (five-to-15 years). Revision covers both in same section.

020 THREATS OR OTHER IMPROPER INFLUENCE.... Cf. related present AS 11.15.300.

040 RETALIATION FOR PAST OFFICIAL ACTION. Cf. present AS 11.30.320(4) and (5).

045 CORRUPT INFLUENCE IN OFFICIAL PROCEEDINGS. Prohibits, under misdemeanor penalties, corrupt influence by means short of bribery or intimidation.

060 COMPENSATING PUBLIC SERVANT FOR ASSISTING PRIVATE INTERESTS IN RELATION TO MATTERS BEFORE HIM. Cf. present AS 11.30.230. Broader category of "public servant" covered in revision. Limited to "services". Attempt to reach lawyer members of legislature that are retained professionally in relation to impending bills.

ARTICLE 2. PERJURY AND OTHER FALSIFICATION  
IN OFFICIAL MATTERS.

(Generally Cf. present AS 11.30)

100 PERJURY. Revision modifies present AS 11.30.010 in requiring that the false statement be "material". (Materiality is elaborated) This conforms generally with the common law. Present AS 11 has enlarged the common law in this respect. Present AS 11 includes "subornation of perjury" (AS 11.30.010(b) and AS 11.30.030).

1 The revision does not. Also, present AS 11 penalty varies in  
2 severity according to the nature of the criminal action or pro-  
3 ceeding in which it was committed, with a maximum of 20 years.  
4 Revision requires only that a statement be made in an official  
5 proceedings and penalty for perjury is a third degree felony  
6 (one-to-five years). Also, revision treats: defenses (c), re-  
7 traction (d), necessity of proof when inconsistent statements  
8 made (e), and requirements of corroboration (f).

9 110 FALSE SWEARING. Lesser offense classified as a misdemeanor --  
10 offense lacks elements required for a felony, i.e., lacks neces-  
11 sity of statement being material or if it is material, it is not  
12 made in an official proceeding. Covered under general AS 11.-  
13 30.010 in present AS 11. Also reduction to petty misdemeanor  
14 when no "official" function is involved.

15 120 UNSWORN FALSIFICATION TO AUTHORITIES. Not in present AS 11.  
16 Section includes provision for retraction, affording an incentive  
17 to correction of a previous wrongdoing.

18 130 FALSE ALARMS TO AGENCIES OF PUBLIC SAFETY. Cf. present AS 11.-  
19 45.050 (Narrower in scope). Generalized principle to cover all  
20 dangerous present emergency alarms. However, present AS 11.45.-  
21 050(b) has been included in new revision section as "b".

22 140 FALSE REPORTS TO LAW ENFORCEMENT AGENCIES. Not in present AS 11.

23 150 TAMPERING WITH WITNESSES AND INFORMANTS. Cf. present AS 11.30.-  
24 320(1) and (2). Punishment prescribed by revision and present  
25 AS 11 the same. Present AS 11 includes judges and jurors and  
26 refers to general acts which impede the administration of justice.  
27 (Attempting to influence judges is covered in revision sec. 20  
28 of this chapter.)

29 160 TAMPERING WITH OR FABRICATING PHYSICAL EVIDENCE. Cf. present

1 AS 11.30.290 - 11.30.315. Note also other provisions dealing with  
2 "obstructing justice".

3 170 TAMPERING WITH PUBLIC RECORDS OR INFORMATION. Cf. present AS 11.-  
4 30.270 which provides from one-to-two years. (Purposely defraud-  
5 ing in revision results in maximum of one-to-five years.)

6 180 IMPERSONATING A PUBLIC SERVANT. Revision broader than present  
7 AS 11 by including a person in public service. Present AS 11.30.-  
8 220 covers impersonating a police officer.

9 ARTICLE 3. OBSTRUCTING GOVERNMENTAL  
10 OPERATIONS AND ESCAPES.

11 190 OBSTRUCTING ADMINISTRATION OF LAW OR OTHER GOVERNMENTAL FUNCTION.

12 General treatment. Language is limited to (1) violent or physical  
13 interference; (2) breach of official duty; (3) other acts which  
14 are unlawful independently of the purpose to obstruct the govern-  
15 ment. Read in conjunction with AS 11.50. Covers present AS pro-  
16 visions dealing with syndicalism.

17 200 RESISTING ARREST. Cf. present AS 11.30.210 (obstructing an of-  
18 ficer) Revision increases maximum penalty to one year imprison-  
19 ment rather than 30 days.

20 210 HINDERING APPREHENSION OF PROSECUTION. Revision is very broad  
21 offense. Cf. related present AS 11.30.080. Also AS 12.15.020.

22 220 AIDING CONSUMMATION OF CRIME. Cf. present AS 11.10.010 - 11.10.-  
23 050.

24 230 COMPOUNDING. Cf. present AS 11.30.190. Revision punishes as  
25 misdemeanor. Present AS 11 differentiates according to nature  
26 of the crime and its penalty. Note affirmative defense not pro-  
27 vided for in present AS 11.30.190. Will necessitate repeal of  
28 AS 12.15.040.

29 235 ESCAPE. Cf. present AS 11.30.090 - 11.30.110 and present

1 AS 11.30.120 - 11.30.180. Also Cf. present AS 11.30.120 with  
 2 revision AS 11.27.230(b).  
 3 240 IMPLEMENTS FOR ESCAPE AND OTHER CONTRABAND. Broad provision.  
 4 Cf. AS 11.30.130.  
 5 250 BAIL JUMPING OR DEFAULT IN REQUIRED APPEARANCE. Not in present  
 6 AS 11.  
 7 260 OFFICIAL OPPRESSION. Not in present AS 11. Cf. AS 12.25.  
 8 280 DEFINITIONS. Generally applicable to ch. 27.

9 - - - - -

10 CHAPTER 29. OFFENSES AGAINST PUBLIC ORDER AND DECENCY.  
 11 ARTICLE 1. RIOT, DISORDERLY CONDUCT, AND RELATED OFFENSES.

12 SECTION

13 010 RIOT. Cf. present AS 11.45.010 - 11.45.020 based on the common  
 14 law. Revision defines offenses as two or more persons acting to-  
 15 gether, whereas present AS 11 defines as three or more acting  
 16 together. Revision offense is a felony of the third degree.  
 17 Present AS 11 punishes more severely (as a principal) if felony  
 18 committed in the course of the riot, or if dangerous weapon car-  
 19 ried (three to 15 years) but otherwise punishes as a misdemeanor.  
 20 Revision emphasis on restraining grant of "unfettered" discretion  
 21 to public servants and retaining right of peaceful assembly for  
 22 lawful purpose.  
 23 030 DISORDERLY CONDUCT. Cf. present AS 11.45.030 which punishes with  
 24 maximum of six months in jail. Revision punishes as a petty  
 25 misdemeanor or a violation, giving flexibility to law enforcement  
 26 officers by introducing a lesser offense with which to charge  
 27 petty violators. Note deletion of "annoyance" in (a) in an at-  
 28 tempt to square with recent Supreme Court language in Coates v.  
 29 Cincinnati, 29 L.Ed 2d 214, July 1, 1971, the deletion of (3), and

1 the addition to (b).

2 040 FALSE PUBLIC ALARMS. Revision offense of general application.  
3 Cf. AS 11.45.050 which applies to fire fighting authorities or  
4 ambulance operators.

5 050 HARASSMENT. Revision offense of general application but Cf.  
6 present AS 11.45.035 on illegal use of telephones. Revision dif-  
7 fers re telephones by punishing the "single abusive call", not  
8 just "repeated calls". An aggravated form of disturbing the peace

9 060 PUBLIC DRUNKENNESS AND DRUG INCAPACITATION. Essentially the same  
10 as present AS 11.45.032 (ch. 225 SLA 1970) with addition of drug  
11 incapacitation. It was felt that existing law improves the MPC  
12 in this area. See Vick v. Alaska 453 P.2d 342 (Alaska 1969) where  
13 court upheld conviction, relying on Powell v. Texas, 392 U.S. 514,  
14 20 L.ed 2d, 1254 (1968). Criticized in Alaska Law Journal, Vol.  
15 7, December 1969

16 070 LOITERING. Cf. related present vagrancy statute AS 11.60.210.  
17 Revision provides for fine only -- no potential jail term. Note  
18 requirement of "alarm" for safety, rather than mere "suspicion".  
19 Language clarification taken from New York Penal Law 240.35.6 in  
20 line 9, substituting "remains or wanders in and about" for "prowls  
21 in".

22 080 OBSTRUCTING HIGHWAYS AND OTHER PUBLIC PASSAGES. Separate section  
23 in revision not handled under unlawful assembly or disorderly con-  
24 duct. Intended to satisfy constitutional objections to usual  
25 unlawful assembly statutes.

26 090 DISRUPTING MEETINGS AND PROCESSIONS. Elimination of indefinite  
27 and vague "tending" from sec. 250.8 of MPC in favor of definite  
28 language.

29 100 DESECRATION OF VENERATED OBJECT. Of present AS 11.40.460. Note:

1  
2  
3  
4  
5  
6  
7  
8  
Street v. N.Y. 394 U.S. 576 (1969) held that accused could not be constitutionally punished for publicly defiling or casting contempt on the flag by words. Majority opinion did not reach the question of whether a conviction would be upheld for the actual burning of the flag. Constitutionality would depend on the nature of the conduct proscribed. Also Cf. related AS 41.35 (Alaska Historic Preservation Act) concerned with private antiquities. No apparent conflict.

9 110 ABUSE OF CORPSE. Cf. present AS 11.40.440. Proposed Model Penal Code section revised so that the actor's knowledge that his actions create outrage in others is not a requisite for the offense. Also "public outrage" substituted for "ordinary family sensibilities".

14 120 CRUELTY TO ANIMALS. Cf. present AS 11.40.480 - 11.40.550. Revision increases penalty to a misdemeanor.

16 130 UNLAWFUL EAVESDROPPING OR SURVEILLANCE. Cf. present AS 11.60.290 - 11.60.320. In both revision and present AS 11 the offense is a misdemeanor. Note revision of proposed definition of "private place" to be in conformity with Katz v. U.S. 389 U.S. 347 (1967), although many cases have distinguished Katz. Language eliminates Model Penal Code exclusion of all "places to which the public has access".

23 140 OTHER BREACH OF PRIVACY OF MESSAGES. Expansion encompassing all places where a person would reasonably expect privacy. Not in present AS 11.

26 ARTICLE 2. PUBLIC INDECENCY.

27 (Generally see AS 11.40.200 - 11.40.430)

1  
2  
3  
4 160 PROSTITUTION. Petty misdemeanor rather than misdemeanor, as  
5 punished by existing AS 11. Unlike present AS 11, revision in-  
6 cludes homosexual activity as prohibited, and does not specify  
7 "sexual intercourse". Cf. present AS 11.40.210 - 11.40.250.  
8 Revision attempts to meet the views of those who are skeptical of  
9 the utility of using the criminal law to repress individual im-  
10 morality. But section does adhere to position that professional  
11 prostitution is criminal if carried on in private or if manifested  
12 in public solicitation.

13 170 PROMOTING PROSTITUTION. Penalty of either misdemeanor or felony  
14 depending on (b) of this section. Cf. present AS 11.40.260,  
15 11.40.290 - 11.40.300, and 11.40.330 - 11.40.420.

16 180 PRESUMPTION FROM LIVING OFF PROSTITUTES. Not in present AS 11.  
17 200 EVIDENCE. Cf. present AS 11.40.270 and Cf. (b) of section with  
18 AS 11.40.310.

19 210 LOITERING TO SOLICIT DEVIATE SEXUAL RELATIONS. Directed to  
20 indiscriminate seeking or making one's self available for deviate  
21 sexual relations. Not in present AS 11. Note definition of  
22 deviate sexual relations taken from California proposed Criminal  
23 Code, sec. 900.

24 ARTICLE 3. WEAPONS.

25 320 CARRYING CONCEALED WEAPONS. Basically same as present AS 11 but  
26 authorizes carrying of a concealed weapon under the terms of a  
27 permit issued by the Department of Public Safety (separate bill to  
28 be introduced providing enabling legislation).

29 330 PUNISHMENT. Same as present AS 11 with penalty redesignation.

1 340 POSSESSION BY CONVICTS. Basically same prohibition as present  
2 AS 11 with clarification.

3 350---390 Same as present AS 11 with penalty redesignations.

4 ARTICLE 4. GAMBLING.

5 460 GAMBLING. A major change from existing Alaska law; permits  
6 private gambling for amusement, prohibiting the "business of  
7 gambling".

8 470 Prohibits any bet or game of chance in a public place, thereby  
9 eliminating opportunity for business of gambling. Enforcement  
10 problems, etc.

11 480--510 Same as present AS 11.

12 520 DEFINITIONS. Applicable to secs. 460 - 520.

13 ARTICLE 5. MISCELLANEOUS OFFENSES.

14 640 CONTRIBUTING TO DELINQUENCY OF CHILD. Basically same as present  
15 AS 11. Revision changes penalty; felony of the third degree in-  
16 cludes a maximum \$5,000 fine as well as imprisonment.

17 660 Eliminates outmoded and constitutionally suspect sub-definitions  
18 of delinquent. The recent case of Hanby v. State, Op. No. 662,  
19 Alaska Supreme Court, December 23, 1970, brought into serious  
20 question the constitutionality of present AS 11.40.130 - 11.40.150  
21 on the basis of vague and imprecise language. The court, however,  
22 did not rule it unconstitutional on its face, but held that the  
23 application of such a statute to prosecutions for films claimed  
24 to be obscene was entirely too imprecise to be constitutional.  
25 Attempt to conform definitions with AS 47.10.010.

26 670 Same as present AS 11 with penalty redesignation.

27 680 Same as present AS 11 with penalty redesignation.

28 690 Same as present AS 11 with penalty redesignation.

29 700 Same as present AS 11 with penalty redesignation.

1 710 Same as present AS 11 with penalty redesignation.

2 720 Same as present AS 11 with penalty redesignation.

3 CHAPTER 30. UNIFORM NARCOTIC DRUG ACT.

4 010--230 Carryover of present AS 17.10. Note substantial change in  
5 penalties section (revised AS 17.30.200).

6 - - - - -

7 CHAPTER 31. DRUGS.

8 010--260 Carryover of present AS 17.12 and AS 17.15 with revision of  
9 penalties providing greater flexibility.

10 - - - - -

11 Section 2 - Section 5 of the bill reflect amendments to present parole  
12 provisions necessitated by the employment of indefinite term sentencing  
13 provisions (maximum and minimum ordinary and extended terms). See revision  
14 AS 11.09.100 - 11.09.110.

15  
16 Section 6 of the bill is temporary law providing for nonapplication of  
17 offenses committed before the effective date of the Act unless they fall  
18 under (1) - (3) of the section.

19  
20 Section 7 of the bill amends AS 04 to authorize the sale of intoxicating  
21 liquor on credit.

22  
23 Secs. 8 - 13 -- Amendments to Title 12, Code of Criminal Procedure, to  
24 conform to revised AS 11 (primarily addition of new classification of petty  
25 misdemeanor where necessary).

26  
27 Sec. 15 -- Amendment to Title 18 authorizes the Department of Public Safety  
28 to adopt regulations providing for a system of permits to carry concealed  
29 weapons.