

1 IN THE SENATE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 446

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to homicide; and providing for an  
7 effective date."

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

9 \* Section 1. AS 11.15 is amended by adding a new section to read:

10 Sec. 11.15.011. MURDER. (a) A person who causes the death of  
11 another without lawful justification or excuse commits murder if:

12 (1) in performing the acts which cause the death, he intends  
13 to kill or intends to cause serious bodily injury to another, or knows  
14 that his acts will or are substantially certain to cause death or  
15 serious bodily injury to another;

16 (2) in performing the acts which cause the death, he engages  
17 in conduct which creates a grave risk of death, under circumstances  
18 manifesting an extreme indifference to the value of human life; or

19 (3) acting either alone or with one or more other persons,  
20 he commits or attempts to commit arson, rape or other unlawful sexual  
21 contact by force or threat of force, robbery, burglary, kidnapping, or  
22 felonious escape, and in the course of and in furtherance of that crime  
23 or of immediate flight from that crime, he, or another participant in  
24 the crime, if there is one, causes the death of a person other than  
25 one of the participants.

26 (b) In a prosecution under (a)(1) of this section, it is an  
27 affirmative defense that the defendant acted under the influence of a  
28 sudden and intense emotional disturbance resulting from a serious  
29 provocation either by the person he is charged with killing or by

1 another person whom the defendant was attempting to kill or seriously  
2 injure when he negligently or accidentally caused the death of the  
3 person he is charged with killing. A serious provocation is conduct  
4 which is sufficient to excite an intense passion in a reasonable person,  
5 but does not include mere insulting words or gestures or hearsay reports  
6 of provocative conduct by the victim or intended victim. The suffi-  
7 ciency of the provocation shall be determined from the viewpoint of a  
8 person in the defendant's situation under the circumstances as the  
9 defendant actually believe them to be. Nothing in this subsection  
10 precludes a prosecution for or conviction of manslaughter or any other  
11 crime.

12 (c) In a prosecution under (a)(1) of this section, it is an  
13 affirmative defense that the defendant, at the time of the killing,  
14 honestly but unreasonably believed that the circumstances were such  
15 that, had they been as he believed them to be, they would have con-  
16 stituted a legal justification for the killing. Nothing in this  
17 subsection precludes a prosecution for or conviction of manslaughter  
18 or any other crime.

19 (d) In a prosecution under (a)(3) of this section, if the  
20 defendant was not the only participant in the underlying crime, it is  
21 an affirmative defense that the defendant

22 (1) did not commit the homicidal act or in any way solicit  
23 request, command, importune, cause or aid its commission;

24 (2) was not armed with a deadly weapon, or an instrument,  
25 article or substance which is readily capable of causing death or  
26 serious bodily injury and which is of a sort not ordinarily carried in  
27 public places by law-abiding persons;

28 (3) had no reasonable ground to believe that another  
29 participant was armed with a weapon, instrument, article or substance

1 described in (2) of this subsection; and

2 (4) had no reasonable ground to believe that another  
3 participant intended to engage in conduct likely to result in death  
4 or serious bodily injury.

5 (e) A person may not be convicted of murder under (a)(3) of this  
6 section if the only underlying crime is burglary, the sole purpose of  
7 the burglary is a criminal homicide, and the person killed is the  
8 intended victim of the defendant or a person whom the defendant  
9 accidentally or negligently kills instead of or in addition to the  
10 intended victim. However, if the defendant causes the death of any  
11 other person, the defendant may be convicted of murder under (a)(3)  
12 of this section. Nothing in this subsection precludes a prosecution for  
13 or conviction of murder under (a)(1) or (2) of this section or of any  
14 other crime, including manslaughter or burglary.

15 (f) In this section, "serious bodily injury" means physical  
16 pain, illness or an impairment of physical condition which creates  
17 a substantial risk of death or which causes serious, permanent  
18 disfigurement, or protracted loss or impairment of the function of  
19 a bodily member or organ.

20 (g) A person convicted of murder shall be imprisoned for not  
21 less than 10 years and may be imprisoned for a higher term of years or  
22 life.

23 \* Sec. 2. AS 11.15.020 is amended to read:

24 Sec. 11.15.020. OBSTRUCTING OR INJURING RAILROAD OR AIRCRAFT.  
25 A person who maliciously (1) places an obstruction upon a railroad or  
26 street railroad, or displaces or injures anything appertaining to a  
27 railroad or street railroad, or does any other act with intent to  
28 endanger the passage of a locomotive or car, and thereby occasions the  
29 death of another, or (2) causes or attempts to cause damage or injury

1 to, or places obstruction or explosive material on, in or about an  
2 aircraft, or who commits any other act with intent to endanger the  
3 safety of flight, operation or passage of an aircraft and thereby  
4 occasions or implements the death of another, is guilty of murder  
5 [IN THE FIRST DEGREE], and shall be sentenced to imprisonment for not  
6 less than 20 years and may be imprisoned for a higher term of years or  
7 life [TO LIFE].

8 \* Sec. 3. AS 11.15.040 is amended to read:

9 Sec. 11.15.040. MANSLAUGHTER. Except as provided in secs. 11 - 20  
10 [10 - 30] of this chapter a person who unlawfully kills another is  
11 guilty of manslaughter, and is punishable by imprisonment [IN THE  
12 PENITENTIARY] for not less than one year nor more than 20 years.

13 \* Sec. 4. AS 11.15.010 and AS 11.15.030 are repealed.

14 \* Sec. 5. This Act takes effect on the day after its passage and  
15 approval or on the day it becomes law without approval.