

Introduced: 1/15/76
Referred: Judiciary

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 517

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to homicide."

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

8 * Section 1. AS 11.15.010 is repealed and re-enacted to read:

9 Sec. 11.15.010. MURDER. (a) A person who causes the death of
10 another without lawful justification or excuse commits murder if:

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

15 (2) in performing the acts which cause the death, he en-
16 gages in conduct which creates a grave risk of death, under circum-
17 stances manifesting an extreme indifference to the value of human
18 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
23 crime or of immediate flight from that crime, he, or another partici-
24 pant in the crime if there is one, causes the death of a person other
25 than 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 per-
5 son, but does not include mere insulting words or gestures or hearsay
6 reports of provocative conduct by the victim or intended victim. The
7 sufficiency of the provocation shall be determined from the viewpoint
8 of a person in the defendant's situation under the circumstances as
9 the defendant actually believed them to be. Nothing in this sub-
10 section precludes a prosecution for or conviction of manslaughter or
11 any other 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 defen-
20 dant was not the only participant in the underlying crime, it is an
21 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 partici-
29 pant was armed with a weapon, instrument, article or substance described

1 in (2) of this subsection; and

2 (4) had no reasonable ground to believe that another parti-
3 cipant intended to engage in conduct likely to result in death or
4 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. However, if the defendant causes
9 the death of any other person, the defendant may be convicted of
10 murder under (a)(3) of this section. Nothing in this subsection
11 precludes a prosecution for or conviction of murder under (a)(1) or
12 (2) of this section or of any other crime, including manslaughter or
13 burglary.

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

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

22 * Sec. 2. AS 11.15.040 is amended to read:

23 Sec. 11.15.040. MANSLAUGHTER. (a) Except as provided in secs.
24 10 and 85 [10--30] of this chapter, a person who unlawfully kills
25 another is guilty of manslaughter, and is punishable by imprisonment
26 [IN THE PENITENTIARY] for not less than one year nor more than 20
27 years.

28 (b) Every killing of a human being by the gross negligence
29 of another, when the killing is not murder, or is not justifiable or

1 excusable, is manslaughter.

2 * Sec. 3. AS 11.15 is amended by adding a new section to read:

3 Sec. 11.15.085. VEHICULAR HOMICIDE. (a) A person who, in
4 driving a motor vehicle without gross negligence, causes the death of
5 another by the commission of an unlawful act not amounting to a felony,
6 is guilty of a misdemeanor and, upon conviction, is punishable by a
7 fine of not less than \$500 nor more than \$1,000, or by imprisonment
8 for not more than one year, or by both. In addition, the court shall
9 revoke his operator's license in accordance with AS 28.15.210.

10 (b) A person who, in driving a motor vehicle with gross negli-
11 gence, causes the death of another by the commission of an unlawful
12 act not otherwise amounting to a felony, is guilty of a felony and,
13 upon conviction, is punishable by imprisonment for not less than one
14 year nor more than 10 years. In addition, the court shall revoke his
15 operator's license in accordance with AS 28.15.210.

16 * Sec. 4. AS 28.15.210(a) is amended to read:

17 (a) The following offenses are grounds for the immediate revoca-
18 tion of an operator's license:

19 (1) vehicular homicide or manslaughter [OR NEGLIGENT HOMI-
20 CIDE] resulting from the operation of a motor vehicle;

21 (2) a felony in the commission of which a motor vehicle is
22 used;

23 (3) failure to stop and give aid as required under the laws
24 of this state when a motor vehicle accident results in the death or
25 personal injury of another;

26 (4) perjury or the making of a false affidavit or statement
27 under oath to the department under a law relating to the ownership or
28 operation of a motor vehicle;

29 (5) operating or driving an automobile, motorcycle or other

1 motor vehicle while under the influence of intoxicating liquor,
2 dangerous or narcotic drugs.

3 * Sec. 5. AS 11.15.020, 11.15.030, 11.15.070, 11.15.080, 11.15.170, and
4 11.15.210 are repealed.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29