

Introduced: 5/6/81
Referred: Judiciary

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE
BY REQUEST

2 HOUSE BILL NO. 553

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the criminal laws of the state."

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

8 * Section 1. AS 11.41.200(a)(1) is amended to read:

9 (1) he recklessly causes [WITH INTENT TO CAUSE] serious
10 physical injury to another person [, HE CAUSES PHYSICAL INJURY TO ANY
11 PERSON] by means of a dangerous instrument;

12 * Sec. 2. AS 11.41.210(a) is amended to read:

13 (a) A person commits the crime of assault in the second degree if

14 (1) with intent to cause physical injury to another person,
15 he causes physical injury to any person by means of a dangerous instru-
16 ment;

17 [(2) WITH INTENT TO CAUSE PHYSICAL INJURY TO ANOTHER PERSON,
18 HE CAUSES SERIOUS PHYSICAL INJURY TO ANY PERSON;] or

19 (3) he recklessly causes serious physical injury to another
20 person [BY MEANS OF A DANGEROUS INSTRUMENT].

21 * Sec. 3. AS 11.41.220(a) is amended to read:

22 (a) A person commits the crime of assault in the third degree if
23 he recklessly

24 (1) places another person in fear of imminent serious physi-
25 cal injury by means of a dangerous instrument; or

26 (2) causes physical injury to another person by means of a
27 dangerous instrument.

28 * Sec. 4. AS 11.41.230(a)(3) is amended to read:

29 (3) by words or other conduct he recklessly [INTENTIONALLY]

1 places another person in fear of imminent physical injury.

2 * Sec. 5. AS 11.46.482(a) is amended by adding a new paragraph to read:

3 (5) he sells, leases, trades, or offers for sale, lease, or
4 trade, any device designed to intercept cable, microwave, subscription,
5 or pay television, or any other telecommunications service, with intent
6 to defraud another of the lawful charges for the service.

7 * Sec. 6. AS 11.56.540(b) is amended to read:

8 (b) Tampering with a witness is a class C felony [A MISDEMEANOR].

9 * Sec. 7. AS 11.81.320 is amended to read:

10 Sec. 11.81.320. JUSTIFICATION: NECESSITY. (a) Conduct which
11 would otherwise be an offense is justified by reason of necessity to
12 the extent permitted by common law when

13 (1) neither this title nor any other statute defining the
14 offense provides exemptions or defenses dealing with the justification
15 of necessity in the specific situation involved; and

16 (2) a legislative intent to exclude the justification of
17 necessity does not otherwise plainly appear.

18 (b) The justification allowed in (a) of this section is an
19 affirmative defense.

20 * Sec. 8. AS 11.81.400 is repealed and reenacted to read:

21 Sec. 11.81.400. JUSTIFICATION: USE OF FORCE IN RESISTING OR IN-
22 TERFERING WITH ARREST. A person may not use force to resist the arrest
23 of himself or interfere with the arrest of another by a peace officer
24 who is known by him, or who reasonably appears to him, to be a peace
25 officer, whether the arrest is lawful or unlawful, unless the force
26 used by the peace officer exceeds that allowed under AS 11.81.370.

27 * Sec. 9. AS 11.81 is amended by adding a new section to article 5 to
28 read:

29 Sec. 11.81.650. MENTAL DISEASE OR DEFECT EXCLUDING RESPONSIBILITY.

1 (a) In a prosecution for a crime, it is an affirmative defense that,
2 when the defendant engaged in the criminal conduct he lacked substantial
3 capacity, as a result of a mental disease or defect, either to appre-
4 ciate the wrongfulness of his conduct or to conform his conduct to the
5 requirements of law.

6 (b) Evidence of a mental disease or defect which is manifested
7 only by repeated criminal or other antisocial conduct is not sufficient
8 to establish an affirmative defense under (a) of this section.

9 * Sec. 10. AS 11.81.900(a)(1) is amended to read:

10 (1) a person acts "intentionally" with respect to a result
11 described by a provision of law defining an offense when his conscious
12 objective is to cause that result; when intentionally causing a parti-
13 cular result is an element of an offense, that intent need not be the
14 person's only objective;

15 * Sec. 11. AS 11.81.900(b)(37) is amended to read:

16 (37) "organization" means a legal entity, including a corpora-
17 tion, company, association, firm, partnership, joint stock company,
18 foundation, institution, government, society, union, club, church, or
19 any other group of persons organized for any purpose;

20 * Sec. 12. AS 11.81.900(b)(44) is amended to read:

21 (44) "property" means an article, substance, or thing of
22 value, including money, tangible and intangible personal property
23 including data or information stored in a computer program, system, or
24 network, real property, a credit card, choses-in-action, and evidence
25 of debt or of contract; [,] a commodity of a public utility such as
26 gas, electricity, steam, or water constitutes property but the supply-
27 ing of such a commodity to premises from an outside source by means of
28 wires, pipes, conduits, or other equipment is considered a rendition of
29 a service rather than a sale or delivery of property;

1 * Sec. 13. AS 11.81.900(b)(49) is amended to read:

2 (49) "serious physical injury" means

3 (A) physical injury caused by an act performed under
4 circumstances which create [CREATES] a substantial risk of death,
5 or

6 (B) physical injury which causes serious and protracted
7 disfigurement, protracted impairment of health, [OR] protracted
8 loss or impairment of the function of a body member or [BODILY]
9 organ, or [PHYSICAL INJURY] which unlawfully terminates a preg-
10 nancy;

11 * Sec. 14. AS 11.81.900(b)(50) is amended to read:

12 (50) "services" includes labor, professional services, trans-
13 portation, telephone or other communications services [SERVICE], enter-
14 tainment including cable, microwave, subscription, pay television or
15 any other telecommunications services, the supplying of food, lodging,
16 or other accommodations in hotels, restaurants, or elsewhere, the use
17 of a computer program, system, or network, admission to exhibitions,
18 and the supplying of equipment for use;

19 * Sec. 15. AS 12.30.040(b) is amended to read:

20 (b) Notwithstanding the provisions of (a) of this section, if
21 [THE OFFENSE] a person has been convicted of an offense which is an
22 unclassified felony or a class A felony [MURDER IN THE FIRST DEGREE,
23 ROBBERY IN THE FIRST DEGREE, KIDNAPPING, OR SEXUAL ASSAULT IN THE FIRST
24 DEGREE UNDER AS 11.41.410(a)(1)], he may not be released on bail either
25 before sentencing or pending appeal.

26 * Sec. 16. AS 12.55.125(c)(1) is amended to read:

27 (1) if the offense is a first felony conviction, other than
28 for manslaughter, and the defendant possessed [OR USED] a firearm,
29 used a deadly weapon, or caused serious physical injury during the

1 commission of the offense, eight [SIX] years;

2 * Sec. 17. AS 12.55.135(c) is amended to read:

3 (c) A defendant convicted of assault in the fourth [THIRD] degree
4 committed in violation of the provisions of an order issued under
5 AS 09.55.600 or 09.55.610 shall be sentenced to a minimum term of im-
6 prisonment of 10 days. The execution of sentence may not be suspended
7 and probation or parole may not be granted until the minimum term of
8 imprisonment has been served. Imposition of sentence may not be sus-
9 pended, except upon condition that the defendant be imprisoned for no
10 less than the minimum term of imprisonment provided in this section,
11 and the minimum sentence provided for in this section may not be other-
12 wise reduced.

13 * Sec. 18. AS 12.55.145 is amended by adding a new subsection to read:

14 (f) When a defendant is convicted of a felony by a court of this
15 state he shall place his thumbprints on the judgment of conviction in
16 open court, on record, at the time of sentencing. The defendant and
17 the person administering the fingerprinting shall sign their names
18 under the thumbprints.

19 * Sec. 19. AS 12.55.155(c)(8) is repealed and reenacted to read:

20 (8) the defendant's prior criminal history includes conduct
21 involving aggravated or repeated instances of assaultive behavior;

22 * Sec. 20. AS 12.55.155(c) is amended by adding a new paragraph to read:

23 (19) the defendant's prior criminal history includes an ad-
24 judication as a delinquent for conduct that would have been a felony if
25 committed by an adult.

26 * Sec. 21. AS 28.35.045(c) is amended to read:

27 (c) A person convicted of negligent driving is guilty of an
28 infraction as provided under AS 28.35.230 [, AND IN ADDITION, THE COURT
29 MAY LIMIT OR SUSPEND HIS DRIVER'S LICENSE UNDER AS 28.15.220(b)].

1 * Sec. 22. AS 12.45.083 is repealed.

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