

Introduced: 5/1/81
Referred: Judiciary and
Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 535

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 AS 11.41.210(a) is repealed and reenacted to read: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; or

17 (2) he recklessly causes serious physical injury to another
18 person.

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

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

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

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

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

27 (3) by words or other conduct he recklessly [INTENTIONALLY]
28 places another person in fear of imminent physical injury.

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

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

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

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

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

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

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

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

16 (b) The justification provided in (a) of this section is an
17 affirmative defense.

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 AS 11.81.400 is repealed and reenacted to read:

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

25 * Sec. 9. AS 11.81 is amended by adding a new section to read:

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

27 (a) In any prosecution for a crime, it is an affirmative defense that
28 when the defendant engaged in the criminal conduct, that as a result of
29 a mental disease or defect, he lacked substantial capacity either to

1 appreciate the wrongfulness of his conduct or to conform his conduct to
2 the requirements of law.

3 (b) Evidence solely of an abnormality which is manifested only by
4 repeated criminal or otherwise antisocial conduct is not sufficient to
5 establish the affirmative defense specified in (a) of this section.

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

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

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

13 (37) "organization" means a legal entity, including a
14 corporation, company, association, firm, partnership, joint stock
15 company, foundation, institution, government, society, union, club,
16 church, or any other group of persons organized for any purpose;

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

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

27 * Sec. 13. AS 11.81.900(b)(49) is repealed and reenacted to read:

28 (49) "serious physical injury" means

29 (A) physical injury caused by an act performed under

1 circumstances which create a substantial risk of death; or

2 (B) physical injury which causes serious and protracted
3 disfigurement, protracted impairment of health, or protracted loss
4 or impairment of the function of a body member or organ, or which
5 unlawfully terminates a pregnancy;

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

7 (50) "services" includes labor, professional services,
8 transportation, telephone or other communications services, entertain-
9 ment including cable, microwave, subscription, or pay television or any
10 other telecommunications service, the supplying of food, lodging, or
11 other accommodations in hotels, restaurants, or elsewhere, the use of
12 a computer program, system, or network, admission to exhibitions, and
13 the supplying of equipment for use;

14 * Sec. 15. AS 12.30.040(b) is repealed and reenacted to read:

15 (b) Notwithstanding the provisions of (a) of this section, if a
16 person has been convicted of an offense which is an unclassified felony
17 or a class A felony, he may not be released on bail either before
18 sentencing or pending appeal.

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

20 (1) if the offense is a first felony conviction, other than
21 for manslaughter, and the defendant possessed [OR USED] a firearm,
22 used a deadly weapon, or caused serious physical injury during the
23 commission of the offense, eight [SIX] years;

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

25 (c) A defendant convicted of assault in the fourth [THIRD] degree
26 committed in violation of the provisions of an order issued under
27 AS 09.55.600 or 09.55.610 shall be sentenced to a minimum term of im-
28 prisonment of 10 days. The execution of sentence may not be suspended
29 and probation or parole may not be granted until the minimum term of

1 imprisonment has been served. Imposition of sentence may not be sus-
2 pended, except upon condition that the defendant be imprisoned for no
3 less than the minimum term of imprisonment provided in this section,
4 and the minimum sentence provided for in this section may not be other-
5 wise reduced.

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

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

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

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

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

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

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

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

23 * Sec. 22. AS 12.45.083 is repealed.
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