

SCR

5

Criminal Procedures ^{SCR}
File on criminal code

PROPOSED AMENDMENT TO CODE OF CRIMINAL PROCEDURE

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An order finally denying a Motion to Suppress Evidence ?
may be reviewed upon an appeal from any ensuing judgment
of conviction notwithstanding the fact that such judgment is
entered upon a plea of guilty. The sentencing judge shall not
inquire as to the defendant's intention to appeal, nor may
such intention be considered in any way in the sentencing
procedure.

COMMENT:

Much judicial time and legal effort is currently wasted because the defendant automatically waives his rights to challenge unlawful police conduct in searches, seizures or wire-tappings if he pleads guilty after the Superior Court denies an initial motion to suppress evidence. Subsequently, if his search and seizure issue appears meritorious, despite an adverse determination by the lower court, the defendant will insist on an expensive, faultless and wasteful trial, since under the present law this is the only way he can take his search and seizure appeal to the Supreme Court.

XX

AN ACT CREATING A COMMISSION ON CORRECTIONS

It is recognized by the legislature that the present system of jails and corrections has largely been a failure in terms of reducing recidivism regardless of the good faith efforts that have been expended. It is believed by the legislature that this failure has resulted primarily from the lack of effective disposition of the convicted criminal in terms of the avowed and mandated goals of rehabilitation, integration and re-integration into our society. The legislature specifically finds that it is desirable to integrate the offender into society rather than isolate him from it. It is also the opinion of the legislature that the Scandinavian concept of small local community institutions and work dormitories has proved successful and is worth investigating further for possible implementation in the State of Alaska. Accordingly, the legislature does hereby establish a Commission on Corrections which shall be charged with the duty to investigate the Scandinavian system of corrections and other such alternative methods and report to the legislature one year from the effective date of this act. The Commission shall be funded in the amount of \$_____. The Commission members, including a chairman, shall be appointed by the Attorney General and shall consist of not less than three (3) members

Comment:

Funding will be necessary for an office, one full-time staff member, one secretary, per diem, travel and the Commission members should be paid for their time.

ACTS RELATING TO PRIVACY

The legislature takes notice that the people of the State of Alaska have passed an amendment to the State Constitution which provides:

Section 22. Right of Privacy. The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section.

Accordingly, the legislature is taking the following action with respect to implementation:

1) The Alaska Criminal Justice Information System Act is amended as follows:

a) The Alaska Criminal Justice Information System shall not be interconnected with any other system which does not provide at least the same safeguards of individual privacy that ACJIS does.

b) The legislature directs the Attorney General's office to be in charge of the enforcement of the present security regulations of ACJIS. The Attorney General is further directed to make an annual report to the legislature concerning the implementation and enforcement of these security regulations.

2) In conjunction with AS 11.60.290 (eavesdropping) the following statute is adopted:

It is unlawful for a telephone company to eavesdrop or to permit the use of their equipment, either intentionally or negligently, for the act of eavesdropping as defined in AS 11.60.290. Telephone utilities have the duty to police

their operations in this regard. A person who is injured by an act of eavesdropping which occurred upon telephone utility equipment shall have a cause of action against the telephone company for treble damages; in no event will the damages awarded be less than \$10,000.

3) Any person, organization, company or corporation which provides credit information concerning others shall be held to strict accountability for the accuracy of their reports. If a credit report for any person is false, inaccurate, or misleading, then the injured person has a cause of action against the credit reporter for treble damages; however, in no event shall the damages awarded be less than \$10,000.

4) In conjunction with AS 11.60.359 (deprivation of rights under color of law) a person whose right, privilege or immunity granted by the Constitution or laws of the State of Alaska are so violated negligently or intentionally, shall have a cause of action against the perpetrator for treble his actual damages; however, in no event shall the damages awarded be less than \$10,000.

5) It is recognized by the legislature that private security officers require regulation in order that the public be adequately protected. The Attorney General is directed to establish regulations for the licensing of private security officers within one year from the effective date of this act.

All activities of a private security officer shall be subject to the same constitutional limitations that are imposed upon public officers, including, but not restricted to, the admissability of evidence in criminal proceedings.

6) In conjunction with AS 23.10.037 no person who is required to, or is subject to Alaska Workmens Compensation Act (Chapter 30, Title 23) may, as a condition of employment, or requirement thereof, inquire into any matters relating to an applicant or employee's personal life, including, but not limited to, personal relations, political affiliation or views, religious affilitation, marital status or sexual activities unless the requirements of the job necessarily require such inquiry. The purpose of this law is to protect the privacy of the citizens from unconstitutional and unnecessary intrusion. Accordingly, the Human Rights Commission is directed to enforce this provision. Any person who violates this provision is guilty of a misdemeanor.

7) No person may employ the use of a dog or other animal for the purpose of detecting contraband in any luggage, package, freight, or any other such item of personalty without first obtaining a warrant, to be issued only upon a showing of probable cause from a court of competent jurisdiction. The use of any evidence so obtained without a warrant in any criminal proceeding is prohibited. The violation of this statute is a misdemeanor.

8) It is recognized that the public law is not properly used when it seeks to enforce standards of morality upon

adult persons who have consented to certain prohibited acts.

Accordingly, the following statutes are repealed:

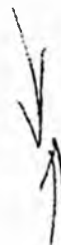
11.40.010	Adultery
11.40.030	Guilt of a Married Man
11.40.040	Cohabitation in the state of Adultery or Fornication
11.40.050	Polygamy
11.40.070	Seduction
11.40.120	Unnatural Crimes
11.40.160	Display, Sale, Offer, Distribution, Lending or Giving Away of Objectionable Comic Books
11.40.220	Prostitution
11.40.230	Solicitation
11.40.240	Receiving for Purposes of Prostitution
11.40.260	Keeping a Bawdy House
11.50.010	Criminal Syndicalism
11.50.030	Assembly to Advocate Criminal Syndicalism
11.50.040	Permitting Use of Place for Assemblage
11.60.210	Vagrancy

AN ACT RELATING TO THE COMMISSIONER OF PUBLIC SAFETY

It is recognized by the legislature that the Attorney General is and should be the chief law enforcement officer in the State of Alaska. The Commissioner of Public Safety, the Department of Public Safety, and their functions are ancillary to his jurisdiction. Article 3 of Title 22 is amended accordingly.

*too autonomous
civilian control*

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AN ACT RELATING TO DECREASING DRUG USE

The legislature recognizes that the first priority in law enforcement is to prevent crimes of violence upon the individual. The legislature feels that there has been a tendency in the past to overemphasize criminal offenses in which there is private and personal possession and use of prohibited drugs. The legislature recognizes that in most cases a medical problem as well as a legal problem exists. The medical problem, if dealt with properly, will serve the public interest. Accordingly, the Commission on Corrections is directed to propose to the legislature alternatives to the present process of the criminalization of drug users.

Council forms & committee

- 6 AB member
- 7 Judge member (SC)
- 8, 9. Regs member (New Grant) Est. - 2000
- Reg. Council - Chairman
- 5 trial Reg. member
- 4 Pub Safety
- 3 H+SS (Chairman) ~~100,000~~ in Budget
- 2 small members
- 1 PA (ex) ~~100,000~~ in Budget (200,000)

Consultant (100,000) in Budget
 full time AG last
 (100,000 in Budget)
 salary (100,000)

100 K = 100,000

100 K = 100,000

100 K = 100,000

AG - staff
Council - "

Harry Sullivan

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1,250

Consultant

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+
Sec

-
1. A.G.
 2. S.C.
 3. trial Bar - Wendell Kay
 4. Public Safety
 5. Corrections
 6. Social workers
 7. D.A. - Monroe Clayton
Kathy Chandler
 8. Ziegler
 9. Brown/Tarr

May 28, 1975

TO: Senator Genie Chance
FROM: Terry Gardiner
SUBJECT: Criminal Code Revision

I would like to suggest that we consider placing John Havelock on our committee for the revision of the criminal code. With his background and as director of legal studies and director of criminal justice studies for the University, I think he could be a great asset to the entire project. Mr. Havelock mentioned that with his five staff positions, one of whom will be a director of research, his program could possibly provide us research and staff help on the criminal code revision. Please let me know what you think about this idea.