

Original sponsor: Judiciary Committee

Offered: 4/13/78  
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 661

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act revising the criminal laws of the state; and  
7 providing for an effective date."

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

9 \* Section 1. AS 11 is amended by adding a new chapter to read:

10 CHAPTER 16. PARTIES TO CRIME.

11 Sec. 11.16.100. LEGAL ACCOUNTABILITY BASED UPON CONDUCT. A person  
12 is guilty of an offense if it is committed by his own conduct or by the  
13 conduct of another person for which he is legally accountable, or by  
14 both.

15 Sec. 11.16.110. LEGAL ACCOUNTABILITY BASED UPON THE CONDUCT OF  
16 ANOTHER: COMPLICITY. A person is legally accountable for the conduct  
17 of another person constituting an offense if

18 (1) he is made legally accountable by a provision of law  
19 defining the offense;

20 (2) with intent to promote or facilitate the commission of  
21 the offense,

22 (A) he solicits the other person to commit the offense;

23 (B) he aids or abets the other person in planning or  
24 committing the offense; or

25 (C) having a duty imposed by court rule, statute, ordi-  
26 nance, or regulation to prevent the commission of the offense, he  
27 fails to make an effort to prevent the commission of the offense;

28 or

29 (3) acting with the culpable mental state that is sufficient

1 for the commission of the offense, he causes an innocent person or a  
2 person who lacks criminal responsibility to engage in the proscribed  
3 conduct.

4 Sec. 11.16.120. EXEMPTIONS TO LEGAL ACCOUNTABILITY FOR CONDUCT OF  
5 ANOTHER. (a) Except as otherwise provided by a provision of law de-  
6 fining an offense, a person is not legally accountable for the conduct  
7 of another constituting an offense if

8 (1) he is the victim of that offense;

9 (2) the offense is so defined that his conduct is inevitably  
10 incidental to its commission; or

11 (3) under circumstances manifesting a voluntary and complete  
12 renunciation of his criminal intent, he

13 (A) terminated his complicity before the commission of  
14 the offense;

15 (B) wholly deprived his complicity of its effectiveness  
16 in the commission of the offense; and

17 (C) gave timely warning to law enforcement authorities  
18 or, if timely warning could not be given to law enforcement author-  
19 ities by reasonable efforts, otherwise made proper effort to pre-  
20 vent the commission of the offense.

21 (b) In a prosecution for an offense in which legal accountability  
22 is based upon the conduct of another person, it is not a defense that

23 (1) the other person has not been prosecuted for or convicted  
24 of an offense based upon the conduct in question or has been convicted  
25 of a different offense or degree of offense;

26 (2) the offense, as defined, can be committed only by a  
27 particular class or classes of persons to which the defendant does not  
28 belong, and he is for that reason legally incapable of committing the  
29 offense in an individual capacity; or

1 (3) the other person is not guilty of the offense.

2 (c) In a prosecution for an offense in which legal accountability  
3 is based upon the conduct of another person,

4 (1) lack of legal accountability under (a)(1) or (2) of this  
5 section is a defense;

6 (2) lack of legal accountability under (a)(3) of this section  
7 is an affirmative defense.

8 Sec. 11.16.130. LEGAL ACCOUNTABILITY OF ORGANIZATIONS. (a)  
9 Except as otherwise expressly provided, an organization is legally  
10 accountable for conduct constituting an offense if the conduct

11 (1) is the conduct of its agent and

12 (A) is engaged in while the agent is acting within the  
13 scope of his employment and in behalf of the organization; or

14 (B) is subsequently ratified or adopted by the organiza-  
15 tion; or

16 (2) consists of an omission to discharge a specific duty of  
17 affirmative performance imposed on organizations by law.

18 (b) In this section "agent" means a director, officer, or employee  
19 of an organization or any other person who is authorized to act in  
20 behalf of the organization.

21 Sec. 11.16.140. LEGAL ACCOUNTABILITY OF AN INDIVIDUAL FOR ORGANI-  
22 ZATION CONDUCT. A person is legally accountable for conduct consti-  
23 tuting an offense which he performs or causes to be performed in the  
24 name of or in behalf of an organization to the same extent as if that  
25 conduct were performed in his own name or behalf.

26 \* Sec. 2. AS 11 is amended by adding a new chapter to read:

27 CHAPTER 31. ATTEMPT AND SOLICITATION.

28 Sec. 11.31.100. ATTEMPT. (a) A person commits the crime of  
29 attempt if, with intent to commit a crime, he engages in conduct which

1 constitutes a substantial step toward the commission of that crime.

2 (b) In a prosecution under this section, it is not a defense that  
3 it was factually or legally impossible to commit the crime which was the  
4 object of the attempt if the conduct engaged in by the defendant would  
5 be a crime had the circumstances been as he believed them to be.

6 (c) In a prosecution under this section, it is an affirmative  
7 defense that the defendant, under circumstances manifesting a voluntary  
8 and complete renunciation of his criminal intent, prevented the commis-  
9 sion of the attempted crime.

10 (d) Attempt is a

11 (1) class A felony if the crime attempted is murder in any  
12 degree or kidnapping in the first degree;

13 (2) class B felony if the crime attempted is a class A  
14 felony;

15 (3) class C felony if the crime attempted is a class B  
16 felony;

17 (4) class A misdemeanor if the crime attempted is a class C  
18 felony;

19 (5) class B misdemeanor if the crime attempted is a class A  
20 or class B misdemeanor.

21 Sec. 11.31.110. SOLICITATION. (a) A person commits the crime of  
22 solicitation if, with intent to cause another to engage in specific  
23 conduct constituting a crime, he solicits the other person to engage in  
24 that conduct.

25 (b) In a prosecution under this section, it is not a defense

26 (1) that the defendant belongs to a class of persons who by  
27 definition are legally incapable in an individual capacity of committing  
28 the crime that is the object of the solicitation; or

29 (2) that a person whom the defendant solicits could not be

1 guilty of the crime that is the object of the solicitation.

2 (c) It is a defense to a prosecution under this section that, if  
3 the criminal objective were achieved, the defendant would not be legally  
4 accountable under AS 11.16.120(a)(1) or (2) for the conduct of the  
5 person he solicited.

6 (d) In a prosecution under this section, it is an affirmative  
7 defense that the defendant, under circumstances manifesting a voluntary  
8 and complete renunciation of his criminal intent, after soliciting  
9 another person to engage in specific conduct constituting a crime,  
10 prevented the commission of the crime.

11 (e) Solicitation is a

12 (1) class A felony if the crime solicited is murder in any  
13 degree or kidnapping in the first degree;

14 (2) class B felony if the crime solicited is a class A  
15 felony;

16 (3) class C felony if the crime solicited is a class B  
17 felony;

18 (4) class A misdemeanor if the crime solicited is a class C  
19 felony;

20 (5) class B misdemeanor if the crime solicited is a class A  
21 or class B misdemeanor.

22 Sec. 11.31.140. MULTIPLE CONVICTIONS BARRED. (a) It is not a  
23 defense to a prosecution under sec. 100 or 110 of this chapter that the  
24 crime that is the object of the attempt or solicitation was actually  
25 committed pursuant to the attempt or solicitation.

26 (b) A person may not be convicted of more than one crime defined  
27 by sec. 100 or 110 of this chapter for conduct designed to commit or  
28 culminate in commission of the same crime.

29 (c) A person may not be convicted on the basis of the same course

1 of conduct of both (1) a crime defined by sec. 100 or 110 of this chap-  
2 ter; and (2) the crime that is the object of the attempt or sollicita-  
3 tion.

4 (d) This section does not bar inclusion of multiple counts in a  
5 single indictment or information charging commission of a crime or  
6 crimes defined by sec. 100 or 110 of this chapter and commission of the  
7 crime that is the object of the attempt or solicitation, provided that  
8 the penal conviction is consistent with (a), (b), and (c) of this sec-  
9 tion.

10 Sec. 11.31.150. SUBSTANTIVE CRIMES INVOLVING ATTEMPT OR SOLICITATION.  
11 Notwithstanding sec. 140(d) of this chapter,

12 (1) a person may not be charged under sec. 100 of this chap-  
13 ter if the crime allegedly attempted by the defendant is defined in such  
14 a way that an attempt to engage in the proscribed conduct constitutes  
15 commission of the crime itself;

16 (2) a person may not be charged under sec. 110 of this chap-  
17 ter if the solicitation in question is defined as a specific crime under  
18 other provisions of law.

19 \* Sec. 3. AS 11 is amended by adding a new chapter to read:

20 CHAPTER 41. OFFENSES AGAINST THE PERSON.

21 ARTICLE 1. HOMICIDE.

22 Sec. 11.41.100. MURDER IN THE FIRST DEGREE. (a) A person commits  
23 the crime of murder in the first degree if, with intent to cause the  
24 death of another person, he causes the death of any person.

25 (b) Murder in the first degree is an unclassified felony and is  
26 punishable as provided in AS 12.55.

27 Sec. 11.41.110. MURDER IN THE SECOND DEGREE. (a) A person com-  
28 mits the crime of murder in the second degree if

29 (1) with intent to cause serious physical injury to another

1 person or knowing that his conduct is substantially certain to cause  
2 death or serious physical injury to another person, he causes the death  
3 of any person;

4 (2) he intentionally performs an act that results in the  
5 death of another person under circumstances manifesting an extreme  
6 indifference to the value of human life; or

7 (3) acting either alone or with one or more persons, he com-  
8 mits or attempts to commit arson in the first degree, kidnapping in the  
9 first degree, sexual assault in the first degree under sec. 410(a)(1) or  
10 (2) of this chapter, sexual assault in the second degree, burglary in  
11 the first degree, escape in the first degree, or robbery in any degree  
12 and, in the course of or in furtherance of that crime, or in immediate  
13 flight from that crime, any person causes the death of a person other  
14 than one of the participants.

15 (b) Murder in the second degree is an unclassified felony and is  
16 punishable as provided in AS 12.55.

17 Sec. 11.41.115. DEFENSES TO MURDER. (a) In a prosecution under  
18 sec. 100 or 110(a)(1) of this chapter, it is a defense that

19 (1) the defendant acted in a heat of passion, before there  
20 had been a reasonable opportunity for the passion to cool, when the heat  
21 of passion resulted from a serious provocation by the intended victim;  
22 or

23 (2) the defendant's conduct consisted of aiding, without the  
24 use of duress or deception, another person to commit suicide.

25 (b) In a prosecution under sec. 110(a)(3) of this chapter, it is  
26 an affirmative defense that

27 (1) the defendant

28 (A) did not commit the homicidal act or in any way  
29 solicit or aid in its commission;

1 (B) was not armed with a dangerous instrument;

2 (C) had no reasonable ground to believe that another  
3 participant, if any, was armed with a dangerous instrument; and

4 (D) had no reasonable ground to believe that another  
5 participant, if any, intended to engage in conduct likely to result  
6 in death or serious physical injury; or

7 (2) the only underlying crime was burglary in the first  
8 degree, and the defendant intended to kill or cause serious physical  
9 injury to the person he is charged with killing.

10 (c) In a prosecution under sec. 100 or 110(a)(1) of this chapter,  
11 it is an affirmative defense that, at the time of the homicidal act, the  
12 defendant honestly but unreasonably believed that the circumstances were  
13 such that, had they been as he believed them to be, they would have con-  
14 stituted a justification for the killing under AS 11.81.300 - 11.81.430  
15 or would have constituted duress under AS 11.81.440.

16 (d) In this section,

17 (1) "intended victim" means a person whom the defendant was  
18 attempting to kill or to whom the defendant was attempting to cause  
19 serious physical injury when he caused the death of the person he is  
20 charged with killing;

21 (2) "serious provocation" means conduct which is sufficient  
22 to excite an intense passion in a reasonable person, other than one who  
23 is intoxicated, in the defendant's situation under the circumstances as  
24 he reasonably believed them to be; insulting words, insulting gestures,  
25 or hearsay reports of conduct engaged in by the intended victim do not,  
26 alone or in combination solely with each other, constitute serious  
27 provocation.

28 Sec. 11.41.120. MANSLAUGHTER. (a) A person commits the crime of  
29 manslaughter if he

1 (1) intentionally, knowingly, or recklessly causes the death  
2 of another person under circumstances not amounting to murder in the  
3 first or second degree; or

4 (2) intentionally aids another person to commit suicide.

5 (b) Manslaughter is a class A felony.

6 Sec. 11.41.130. CRIMINALLY NEGLIGENT HOMICIDE. (a) A person  
7 commits the crime of criminally negligent homicide if, with criminal  
8 negligence, he causes the death of another person.

9 (b) Criminally negligent homicide is a class C felony.

10 Sec. 11.41.140. DEFINITION. As used in secs. 100 - 140 of this  
11 chapter, "person", when referring to the victim of a crime, means a  
12 human being who has been born and was alive at the time of the criminal  
13 act. A person is "alive" if he has spontaneous respiratory or cardiac  
14 function or, when respiratory and cardiac functions are maintained by  
15 artificial means, he has spontaneous brain function.

16 ARTICLE 2. ASSAULT AND RELATED OFFENSES.

17 Sec. 11.41.200. ASSAULT IN THE FIRST DEGREE. (a) A person com-  
18 mits the crime of assault in the first degree if

19 (1) with intent to cause serious physical injury to another  
20 person, he causes physical injury to any person by means of a dangerous  
21 instrument;

22 (2) with intent to cause serious physical injury to another  
23 person, he causes serious physical injury to any person; or

24 (3) he intentionally performs an act that results in serious  
25 physical injury to another person under circumstances manifesting ex-  
26 treme indifference to the value of human life.

27 (b) Assault in the first degree is a class A felony.

28 Sec. 11.41.210. ASSAULT IN THE SECOND DEGREE. (a) A person  
29 commits the crime of assault in the second degree if

1 (1) with intent to cause physical injury to another person,  
2 he causes serious physical injury to any person;

3 (2) he intentionally places another person in fear of immi-  
4 nent serious physical injury by means of a dangerous instrument; or

5 (3) he recklessly causes serious physical injury to another  
6 person by means of a dangerous instrument.

7 (b) Assault in the second degree is a class B felony.

8 Sec. 11.41.230. ASSAULT IN THE THIRD DEGREE. (a) A person com-  
9 mits the crime of assault in the third degree if

10 (1) he intentionally or recklessly causes physical injury to  
11 another person;

12 (2) with criminal negligence he causes physical injury to  
13 another person by means of a dangerous instrument; or

14 (3) by words or other conduct he intentionally places another  
15 person in fear of imminent physical injury.

16 (b) Assault in the third degree is a class A misdemeanor.

17 Sec. 11.41.250. RECKLESS ENDANGERMENT. (a) A person commits the  
18 crime of reckless endangerment if he recklessly engages in conduct which  
19 creates a substantial risk of serious physical injury to another person.

20 (b) Reckless endangerment is a class A misdemeanor.

21 ARTICLE 3. KIDNAPPING AND RELATED OFFENSES.

22 Sec. 11.41.300. KIDNAPPING IN THE FIRST DEGREE. (a) A person  
23 commits the crime of kidnapping in the first degree if he abducts a-  
24 nother person with intent to

25 (1) hold him for ransom;

26 (2) use him as a shield or hostage;

27 (3) inflict physical injury upon him;

28 (4) sexually assault him;

29 (5) place the victim or a third person in apprehension that

1 the victim will receive serious physical injury or will be sexually  
2 assaulted;

3 (6) interfere with the performance of a governmental or  
4 political function; or

5 (7) facilitate the commission of a felony or flight after  
6 commission of a felony.

7 (b) It is an affirmative defense to a prosecution under this  
8 section that the defendant voluntarily caused the release of the victim  
9 alive in a safe place before trial, without having caused serious physi-  
10 cal injury to the victim and without having sexually assaulted him.

11 (c) Kidnapping in the first degree is an unclassified felony and  
12 is punishable as provided in AS 12.55.

13 Sec. 11.41.310. KIDNAPPING IN THE SECOND DEGREE. (a) A person  
14 commits the crime of kidnapping in the second degree if he abducts  
15 another person.

16 (b) It is an affirmative defense to a prosecution under this  
17 section that

18 (1) the defendant was a relative of the victim;

19 (2) the victim was a child under 18 years of age or an incom-  
20 petent person;

21 (3) the primary intent of the defendant was to assume custody  
22 of the victim; and

23 (4) the abduction was not coupled with intent to

24 (A) cause or threaten to cause death or serious physical  
25 injury to the victim; or

26 (B) sexually assault or threaten to sexually assault the  
27 victim.

28 (c) Kidnapping in the second degree is a class A felony.

29 Sec. 11.41.320. CUSTODIAL INTERFERENCE IN THE FIRST DEGREE. (a)

1 A person commits the crime of custodial interference in the first degree  
2 if he violates sec. 330 of this chapter and

3 (1) causes the victim to be removed from the state; or

4 (2) exposes the victim to a substantial risk of illness or  
5 physical injury.

6 (b) Custodial interference in the first degree is a class C felony.

7 Sec. 11.41.330. CUSTODIAL INTERFERENCE IN THE SECOND DEGREE. (a)

8 A person commits the crime of custodial interference in the second  
9 degree if, knowing that he has no legal right to do so, he takes, en-  
10 tices, or keeps a person from his lawful custodian with intent to hold  
11 him permanently or for a protracted period.

12 (b) Custodial interference in the second degree is a class B  
13 misdemeanor.

14 Sec. 11.41.340. UNLAWFUL IMPRISONMENT. (a) A person commits the  
15 crime of unlawful imprisonment if he restrains another person under  
16 circumstances which expose him to a risk of serious physical injury.

17 (b) Unlawful imprisonment is a class C felony.

18 Sec. 11.41.360. COERCION. (a) A person commits the crime of co-  
19 ercion if, by means of a threat, he compels or induces another person to

20 (1) engage in conduct from which he has a legal right to  
21 abstain; or

22 (2) abstain from conduct in which he has a legal right to en-  
23 gage.

24 (b) Coercion is a class A misdemeanor.

25 Sec. 11.41.370. DEFINITIONS. In secs. 300 - 370 of this chapter,  
26 unless the context requires otherwise,

27 (1) "abduct" means to restrain a person with intent to pre-  
28 vent his liberation by either

29 (A) secreting or holding him in a place where he is not

1           likely to be found; or

2                       (B) causing or threatening to cause death or serious  
3           physical injury;

4           (2) "lawful custodian" means a parent, guardian, or other  
5           person responsible by authority of law for the care, custody, or control  
6           of another;

7           (3) "relative" means a parent, stepparent, ancestor, descen-  
8           dant, sibling, uncle, or aunt, including a relative of the same degree  
9           through marriage or adoption;

10           (4) "restrain" means to restrict a person's movements unlaw-  
11           fully and without consent, so as to interfere substantially with his  
12           liberty by moving him from one place to another or by confining him  
13           either in the place where the restriction commences or in a place to  
14           which he has been moved; a restraint is "without consent" if it is  
15           accomplished

16                       (A) by any means, including acquiescence of the victim,  
17           if the victim is under 13 years of age or is an incompetent person  
18           and his lawful custodian has not acquiesced in the movement or  
19           confinement; or

20                       (B) by force, threat, or deception.

21                               ARTICLE 4. SEXUAL OFFENSES.

22           Sec. 11.41.410. SEXUAL ASSAULT IN THE FIRST DEGREE. (a) A person  
23           commits the crime of sexual assault in the first degree if,

24                       (1) being any age, he engages in sexual penetration with  
25           another person without consent of that person;

26                       (2) being any age, he attempts to engage in sexual penetra-  
27           tion with another person without consent of that person and causes  
28           serious physical injury to that person;

29                       (3) being any age, he engages in sexual penetration with

1 another person under 13 years of age; or

2 (4) being 18 years of age or older, he engages in sexual  
3 penetration with another person who is under 18 years of age and who

4 (A) is entrusted to his care by authority of law; or

5 (B) is his son or daughter, whether adopted, illegiti-  
6 mate, or stepchild.

7 (b) Sexual assault in the first degree is a class A felony.

8 Sec. 11.41.420. SEXUAL ASSAULT IN THE SECOND DEGREE. (a) A  
9 person commits the crime of sexual assault in the second degree if he  
10 coerces another person to engage in sexual contact by the express or  
11 implied threat of imminent death, imminent physical injury, or imminent  
12 kidnaping in any degree to be inflicted on anyone or by causing physi-  
13 cal injury to any person, regardless of whether the victim resists.

14 (b) Sexual assault in the second degree is a class B felony.

15 Sec. 11.41.430. SEXUAL ASSAULT IN THE THIRD DEGREE. (a) A person  
16 commits the crime of sexual assault in the third degree if he engages in  
17 sexual penetration with a person who he knows

18 (1) is suffering from a mental disorder or defect which  
19 renders him incapable of appraising the nature of the conduct under cir-  
20 cumstances in which a person who is capable of appraising the nature of  
21 the conduct would not engage in sexual penetration; or

22 (2) is incapacitated.

23 (b) Sexual assault in the third degree under (a)(1) of this sec-  
24 tion is a class B felony. Sexual assault in the third degree under  
25 (a)(2) of this section is a class C felony.

26 Sec. 11.41.440. SEXUAL ABUSE OF A MINOR. (a) A person commits  
27 the crime of sexual abuse of a minor if,

28 (1) being 16 years of age or older, he engages in

29 (A) sexual penetration with a person, other than his

1 legal spouse, who is under 16 years of age but 13 years of age or  
2 older;

3 (B) sexual contact with a person who is under 13 years  
4 of age; or

5 (2) being 19 years of age or older, he engages in sexual con-  
6 tact with a person who is under 16 years of age but 13 years of age or  
7 older.

8 (b) Sexual abuse of a minor under (a)(1) of this section is a  
9 class C felony. Sexual abuse of a minor under (a)(2) of this section is  
10 a class A misdemeanor.

11 Sec. 11.41.445. AFFIRMATIVE DEFENSE. In a prosecution under secs.  
12 410 - 440 of this chapter, whenever the criminality of conduct depends  
13 upon a victim's being under a certain age, it is an affirmative defense  
14 that, at the time of the alleged offense, the defendant reasonably be-  
15 lieved the victim to be that age or older; this belief may not be con-  
16 sidered reasonable if the victim was under 13 years of age at the time  
17 of the alleged offense.

18 Sec. 11.41.450. INCEST. (a) A person commits the crime of incest  
19 if, being 18 years of age or older, he engages in sexual penetration  
20 with a person who is related to him, either legitimately or illegiti-  
21 mately, as

22 (1) his ancestor or descendant of the whole or half blood;

23 (2) his brother or sister of the whole or half blood; or

24 (3) his uncle, aunt, nephew, or niece by blood.

25 (b) Incest is a class C felony.

26 Sec. 11.41.455. UNLAWFUL EXPLOITATION OF A MINOR. (a) A person  
27 commits the crime of unlawful exploitation of a minor if, in this state  
28 and with the intent of producing for any commercial purpose a live per-  
29 formance, film, photograph, negative, slide, book, newspaper, or maga-

1 zine that depicts such conduct, he knowingly induces or employs a child  
2 under 16 years of age to engage in, or photographs, films, or televises  
3 a child under 16 years of age engaged in

4 (1) sexual penetration;

5 (2) the obscene touching of another person's genitals, anus,  
6 or female breast;

7 (3) the obscene touching by another person of the child's  
8 genitals, anus, or female breast;

9 (4) masturbation;

10 (5) bestiality; or

11 (6) the obscene exhibition of the child's genitals.

12 (b) Unlawful exploitation of a minor is a class B felony.

13 Sec. 11.41.470. DEFINITIONS. For purposes of secs. 410 - 470 of  
14 this chapter, unless the context requires otherwise,

15 (1) "incapacitated" means that a person is temporarily in-  
16 capable of appraising the nature of his conduct and is physically unable  
17 to express unwillingness to act;

18 (2) "victim" means the person alleged to have been subjected  
19 to sexual assault in any degree or sexual abuse of a minor;

20 (3) "without consent" means that a person

21 (A) with or without resisting, is coerced by the use of  
22 force against a person or property, or by the express or implied  
23 threat of imminent death, imminent physical injury, or imminent  
24 kidnapping in any degree to be inflicted on anyone; or

25 (B) is incapacitated as a result of an act of the de-  
26 fendant.

27 ARTICLE 5. ROBBERY.

28 Sec. 11.41.500. ROBBERY IN THE FIRST DEGREE. (a) A person com-  
29 mits the crime of robbery in the first degree if he violates sec. 510 of

1 this chapter and, in the course of violating that section or in immedi-  
2 ate flight thereafter, he or another participant

3 (1) is armed with a deadly weapon or represents by words or  
4 other conduct that he or another participant is so armed;

5 (2) uses or attempts to use a dangerous instrument or repre-  
6 sents by words or other conduct that he or another participant is armed  
7 with a dangerous instrument; or

8 (3) causes or attempts to cause a serious physical injury to  
9 any person.

10 (b) Robbery in the first degree is a class A felony.

11 Sec. 11.41.510. ROBBERY IN THE SECOND DEGREE. (a) A person  
12 commits the crime of robbery in the second degree if, in the course of  
13 taking or attempting to take property from the immediate presence and  
14 control of a person, he uses or threatens the immediate use of force  
15 upon any person with intent to

16 (1) prevent or overcome resistance to his taking the property  
17 or his retention of the property after taking; or

18 (2) compel any person to deliver the property or engage in  
19 other conduct which might aid in the taking of the property.

20 (b) Robbery in the second degree is a class B felony.

21 \* Sec. 4. AS 11 is amended by adding a new chapter to read:

22 CHAPTER 46. OFFENSES AGAINST PROPERTY.

23 ARTICLE 1. THEFT AND RELATED OFFENSES.

24 Sec. 11.46.100. THEFT DEFINED. A person commits theft if

25 (1) with intent to deprive another of property or to appro-  
26 priate property of another to himself or a third person, he obtains the  
27 property of another;

28 (2) he commits theft of lost or mislaid property under sec.  
29 160 of this chapter;

1 (3) he commits theft by deception under sec. 180 of this  
2 chapter;

3 (4) he commits theft by receiving under sec. 190 of this  
4 chapter; or

5 (5) he commits theft of services under sec. 200 of this  
6 chapter.

7 Sec. 11.46.110. CONSOLIDATION OF THEFT OFFENSES: PLEADING AND  
8 PROOF. (a) Each instance of conduct defined as theft under sec. 100 of  
9 this chapter constitutes theft in the first, second, or third degree.

10 (b) An accusation of theft is sufficient if it alleges that the  
11 defendant committed theft of property or services of the nature or value  
12 required for the commission of the crime charged without designating the  
13 particular way or manner in which the theft was committed.

14 (c) Proof that the defendant engaged in conduct constituting theft  
15 as defined in sec. 100 of this chapter is sufficient to support a con-  
16 viction based upon any indictment, information, or complaint for theft.

17 Sec. 11.46.130. THEFT IN THE FIRST DEGREE. (a) A person commits  
18 the crime of theft in the first degree if he commits theft as defined in  
19 sec. 100 of this chapter and

20 (1) the value of the property or services is \$500 or more;

21 (2) the property is a firearm or explosive; or

22 (3) the property is taken from the person of another.

23 (b) Theft in the first degree is a class C felony unless the value  
24 of the property or services is \$25,000 or more, in which case theft in  
25 the first degree is a class B felony.

26 Sec. 11.46.140. THEFT IN THE SECOND DEGREE. (a) A person commits  
27 the crime of theft in the second degree if he commits theft as defined  
28 in sec. 100 of this chapter and

29 (1) the value of the property or services is \$50 or more but

1 less than \$500; or

2 (2) the property is a credit card.

3 (b) Theft in the second degree is a class A misdemeanor.

4 Sec. 11.46.150. THEFT IN THE THIRD DEGREE. (a) A person commits  
5 the crime of theft in the third degree if he commits theft as defined in  
6 sec. 100 of this chapter and the value of the property or services is  
7 less than \$50.

8 (b) Theft in the third degree is a class B misdemeanor.

9 Sec. 11.46.160. THEFT OF LOST OR MISLAID PROPERTY. (a) A person  
10 commits theft of lost or mislaid property if he obtains property of  
11 another knowing that the property was lost, mislaid, or delivered under  
12 a mistake as to the nature or amount of the property or the identity of  
13 the recipient and, with intent to deprive the owner of the property, he  
14 fails to take reasonable measures to restore the property to the owner.

15 (b) As used in this section "reasonable measures" includes but is  
16 not necessarily limited to notifying the identified owner or a peace  
17 officer.

18 Sec. 11.46.180. THEFT BY DECEPTION. (a) A person commits theft  
19 by deception if, with intent to deprive another of property or to appro-  
20 priate property of another to himself or a third person, he obtains the  
21 property of another by deception.

22 (b) In a prosecution based on theft by deception, if the state  
23 seeks to prove that the defendant used deception by promising perfor-  
24 mance which he did not intend to perform or knew would not be performed,  
25 that intent or knowledge may not be established solely by or inferred  
26 solely from the fact that the promise was not performed.

27 (c) As used in this section, "deception" has the meaning ascribed  
28 to it in AS 11.81.900 but does not include falsity as to matters having  
29 no pecuniary significance or "puffing" by statements unlikely to deceive

1 ordinary persons in the group addressed.

2 Sec. 11.46.190. THEFT BY RECEIVING. (a) A person commits theft  
3 by receiving if he buys, receives, retains, conceals, or disposes of  
4 stolen property with reckless disregard that the property was stolen.

5 (b) As used in this section,

6 (1) "receives" includes acquiring possession, control, or  
7 title, or lending on the security of the property;

8 (2) "stolen property" means property of another that was  
9 obtained unlawfully.

10 Sec. 11.46.200. THEFT OF SERVICES. (a) A person commits theft of  
11 services if

12 (1) he obtains services, known by him to be available only  
13 for compensation, by deception, force, threat, or other means to avoid  
14 payment for the services; or

15 (2) having control over the disposition of services of others  
16 to which he is not entitled, he knowingly diverts those services to his  
17 own benefit or to the benefit of another not entitled to them.

18 (b) Absconding without paying or offering to pay for hotel, res-  
19 taurant, or other services for which compensation is customarily paid  
20 immediately upon the receiving of them is prima facie evidence that the  
21 services were obtained by deception.

22 Sec. 11.46.205. EXTORTION. (a) A person commits the crime of  
23 extortion if, with intent to deprive another of property or to appro-  
24 priate property of another to himself or a third person, he obtains the  
25 property of another by threat.

26 (b) Extortion is a class B felony.

27 Sec. 11.46.210. THEFT BY FAILURE TO MAKE REQUIRED DISPOSITION OF  
28 FUNDS RECEIVED OR HELD. (a) A person commits the crime of theft by  
29 failure to make required disposition of funds received or held if

1 (1) he obtains property from anyone or personal services from  
2 an employee upon an agreement or subject to a known legal obligation to  
3 make specified payment or other disposition to a third person, whether  
4 from that property or its proceeds or from his own property to be re-  
5 served in equivalent amount; and

6 (2) he exercises control over the property or services as his  
7 own and recklessly fails to make the required payment or disposition.

8 (b) It is not a defense to a prosecution under this section that  
9 it may be impossible to identify particular property as belonging to the  
10 victim at the time of the defendant's failure to make the required  
11 payment or disposition.

12 (c) In a prosecution under this section, the fact that the defen-  
13 dant was a fiduciary or an officer or employee of a government or a fi-  
14 nancial institution is prima facie evidence

15 (1) that he exercised control over property or services as  
16 his own if he failed to pay or account upon lawful demand or if an audit  
17 reveals a shortage or falsification of accounts; and

18 (2) that he knew any legal obligation relevant under (a)(1)  
19 of this section.

20 (d) Theft by failure to make required disposition of funds re-  
21 ceived or held is

22 (1) a class B felony if the value of the property or services  
23 is \$25,000 or more;

24 (2) a class C felony if the value of the property or services  
25 is \$500 or more but less than \$25,000;

26 (3) a class A misdemeanor if the value of the property or  
27 services is \$50 or more but less than \$500;

28 (4) a class B misdemeanor if the value of the property or  
29 services is less than \$50.

1           Sec. 11.46.220. CONCEALMENT OF MERCHANDISE. (a) A person commits  
2 the crime of concealment of merchandise if without authority he know-  
3 ingly conceals on or about his person the merchandise of a commercial  
4 establishment, not purchased by the person, while still upon the pre-  
5 mises of the commercial establishment, with intent to deprive the owner  
6 of the merchandise.

7           (b) Merchandise found concealed upon or about the person which has  
8 not been purchased by the person is prima facie evidence of a knowing  
9 concealment.

10           (c) Concealment of merchandise is

11           (1) a class C felony if the value of the merchandise is \$500  
12 or more;

13           (2) a class A misdemeanor if the value of the merchandise is  
14 \$50 or more but less than \$500;

15           (3) a class B misdemeanor if the value of the merchandise is  
16 less than \$50.

17           Sec. 11.46.230. REASONABLE DETENTION AS DEFENSE. (a) In a civil  
18 or criminal action upon the complaint of a person who has been detained  
19 in or in the immediate vicinity of a commercial establishment for the  
20 purpose of investigation or questioning as to the ownership of merchan-  
21 dise, it is a defense that

22           (1) the person was detained in a reasonable manner and for  
23 not more than a reasonable time to permit investigation or questioning  
24 by a peace officer or by the owner of the commercial establishment, his  
25 authorized employee, or his agent; and

26           (2) the peace officer, owner, employee, or agent had reason-  
27 able grounds to believe that the person detained was committing or  
28 attempting to commit concealment of merchandise.

29           (b) As used in this section,

1 (1) "reasonable grounds" includes knowledge that a person has  
2 concealed on or about his person unpurchased merchandise of the commer-  
3 cial establishment; and

4 (2) "reasonable time" means the time necessary to permit the  
5 person detained to make a statement or refuse to make a statement, and  
6 any additional time necessary to examine employees and records of the  
7 commercial establishment relative to the ownership of the merchandise.

8 Sec. 11.46.240. UNAUTHORIZED USE OF A PROPELLED VEHICLE. (a) A  
9 person commits the crime of unauthorized use of a propelled vehicle if,

10 (1) knowing that he does not have the consent of the owner,  
11 he drives, tows away, or takes the propelled vehicle of another;

12 (2) having custody of a propelled vehicle under an agreement  
13 between himself or another person and the owner of the vehicle by which  
14 he or another person performs for compensation a specific service in-  
15 volving the maintenance, repair, or use of the vehicle for the owner, he  
16 uses or operates it for his own purpose in a manner which constitutes an  
17 unreasonable deviation from the agreed purpose, knowing that his use or  
18 operation of the vehicle does not have the consent of the owner; or

19 (3) having custody of a propelled vehicle under a written  
20 agreement with the owner of the vehicle by which he has agreed to return  
21 the vehicle to the owner at a specified time, he knowingly retains or  
22 withholds possession of the vehicle without the consent of the owner for  
23 so long a period beyond the time specified as to render the retention or  
24 possession of the vehicle an unreasonable deviation from the agreement.

25 (b) The consent of the owner of a propelled vehicle to its use may  
26 not be inferred solely because of the owner's consent on previous occa-  
27 sions to its use by the same or a different person.

28 (c) Unauthorized use of a propelled vehicle is a class C felony.

29 Sec. 11.46.250. UNAUTHORIZED OCCUPANCY OF A PROPELLED VEHICLE. (a)

1 A person commits the crime of unauthorized occupancy of a propelled  
2 vehicle if he rides in a propelled vehicle that has been stolen or is  
3 being used or is to be used in violation of sec. 240 of this chapter.

4 (b) Unauthorized occupancy of a propelled vehicle is a class A  
5 misdemeanor.

6 Sec. 11.46.260. REMOVAL OF IDENTIFICATION MARKS. (a) A person  
7 commits the crime of removal of identification marks if, with intent to  
8 cause interruption to the ownership of another, he defaces, erases, or  
9 otherwise alters or attempts to deface, erase, or otherwise alter any  
10 serial number or identification mark placed or inscribed on a propelled  
11 vehicle, bicycle, firearm, movable or immovable construction tool or  
12 equipment, appliance, merchandise, or other article or its component  
13 parts.

14 (b) Removal of identification marks is

15 (1) a class C felony if the value of the property on which  
16 the serial number or identification mark appeared is \$500 or more;

17 (2) a class A misdemeanor if the value of the property on  
18 which the serial number or identification mark appeared is \$50 or more  
19 but less than \$500;

20 (3) a class B misdemeanor if the value of the property on  
21 which the serial number or identification mark appeared is less than  
22 \$50.

23 Sec. 11.46.270. UNLAWFUL POSSESSION. (a) A person commits the  
24 crime of unlawful possession if he possesses a propelled vehicle, bi-  
25 cycle, firearm, movable or immovable construction tool or equipment,  
26 appliance, merchandise or other article or its component parts knowing  
27 that the serial number or identification mark placed on it by the manu-  
28 facturer or owner for the purpose of identification has been defaced,  
29 erased, or otherwise altered with the intent of causing interruption to

1 the ownership of another.

2 (b) Unlawful possession is

3 (1) a class C felony if the value of the property on which  
4 the serial number or identification mark appeared is \$500 or more;

5 (2) a class A misdemeanor if the value of the property on  
6 which the serial number or identification mark appeared is \$50 or more  
7 but less than \$500;

8 (3) a class B misdemeanor if the value of the property on  
9 which the serial number or identification mark appeared is less than  
10 \$50.

11 Sec. 11.46.280. ISSUING A BAD CHECK. (a) A person commits the  
12 crime of issuing a bad check if he issues a check knowing that it will  
13 not be honored by the drawee.

14 (b) In a prosecution under this section, it is prima facie evi-  
15 dence that the drawer knew the check would not be honored by the drawee  
16 if

17 (1) payment of the check was refused by the drawee for lack  
18 of funds upon presentation within 30 days after issue, and the drawer  
19 failed to make full satisfaction of the amount due within 15 days after  
20 notice of dishonor was deposited as first class mail, addressed to the  
21 drawer at the address appearing on the dishonored check or his last  
22 known address; or

23 (2) the drawer had no account with the drawee at the time the  
24 check was issued.

25 (c) In this section,

26 (1) "amount due" means the face amount of the dishonored  
27 check plus all costs and protest fees assessed by the drawee;

28 (2) "check" means a draft, check, or similar sight order for  
29 the payment of money;

1 (3) a person "issues" a check when as a drawer he delivers it  
2 or causes it to be delivered to a person who thereby acquires a right  
3 against the drawer with respect to the check; a person who draws a check  
4 with the intent that it be so delivered is considered to have issued it  
5 if the delivery occurs.

6 (d) Issuing a bad check is a class A misdemeanor.

7 Sec. 11.46.285. FRAUDULENT USE OF A CREDIT CARD. (a) A person  
8 commits the crime of fraudulent use of a credit card if, with intent to  
9 defraud, he uses a credit card to obtain property or services with  
10 knowledge that

11 (1) the card is stolen or forged;

12 (2) the card is expired or has been revoked or cancelled; or

13 (3) for any other reason his use of the card is unauthorized  
14 by either the issuer or the person to whom the credit card is issued.

15 (b) Fraudulent use of a credit card is

16 (1) a class C felony if the value of the property or services  
17 obtained is \$500 or more;

18 (2) a class A misdemeanor if the value of the property or  
19 services obtained is \$50 or more but less than \$500;

20 (3) a class B misdemeanor if the value of the property or  
21 services obtained is less than \$50.

22 Sec. 11.46.290. OBTAINING A CREDIT CARD BY FRAUDULENT MEANS. (a)  
23 A person commits the crime of obtaining a credit card by fraudulent  
24 means if

25 (1) he buys a credit card from a person other than the issuer  
26 or, as other than the issuer, he sells a credit card;

27 (2) with intent to defraud, he obtains control of a credit  
28 card as a security for debt; or

29 (3) with intent to defraud, he makes a false statement in an

1 application for a credit card.

2 (b) Obtaining a credit card by fraudulent means in a class A mis-  
3 demeanor.

4 ARTICLE 2. BURGLARY AND CRIMINAL TRESPASS.

5 Sec. 11.46.300. BURGLARY IN THE FIRST DEGREE. (a) A person  
6 commits the crime of burglary in the first degree if he violates sec.  
7 310 of this chapter and

8 (1) the building is a dwelling; or

9 (2) in effecting entry or while in the building or immediate  
10 flight from the building, he

11 (A) is armed with a deadly weapon;

12 (B) causes or attempts to cause physical injury to a  
13 person; or

14 (C) uses or threatens to use a dangerous instrument.

15 (b) Burglary in the first degree is a class B felony.

16 Sec. 11.46.310. BURGLARY IN THE SECOND DEGREE. (a) A person  
17 commits the crime of burglary in the second degree if he enters or  
18 remains unlawfully in a building with intent to commit a crime in the  
19 building.

20 (b) Burglary in the second degree is a class C felony.

21 Sec. 11.46.320. CRIMINAL TRESPASS IN THE FIRST DEGREE. (a) A  
22 person commits the crime of criminal trespass in the first degree if he  
23 enters or remains unlawfully in a dwelling.

24 (b) Criminal trespass in the first degree is a class A misde-  
25 meanor.

26 Sec. 11.46.330. CRIMINAL TRESPASS IN THE SECOND DEGREE. (a) A  
27 person commits the crime of criminal trespass in the second degree if he  
28 enters or remains unlawfully

29 (1) in or upon premises; or

1 (2) in a propelled vehicle.

2 (b) Criminal trespass in the second degree is a class B misde-  
3 meanor.

4 Sec. 11.46.340. DEFENSE: EMERGENCY USE OF PREMISES. In a pro-  
5 secution under sec. 300, 310, 320, or 330(a)(1) of this chapter, it is a  
6 defense that

7 (1) the entry, use, or occupancy of premises or use of per-  
8 sonal property on the premises is for an emergency in the case of imme-  
9 diate and dire need; and

10 (2) as soon as reasonably practical after the entry, use, or  
11 occupancy, the person contacts the owner of the premises, the owner's  
12 agent or, if the owner is unknown, the nearest state or local police  
13 agency, and makes a report of the time of the entry, use, or occupancy  
14 and any damage to the premises or personal property, unless notice  
15 waiving necessity of the report is posted on the premises by the owner  
16 or the owner's agent.

17 Sec. 11.46.350. DEFINITION. (a) As used in secs. 300 - 350 of  
18 this chapter, unless the context requires otherwise, "enter or remain  
19 unlawfully" means to

20 (1) enter or remain in or upon premises or in a propelled  
21 vehicle when the premises or propelled vehicle, at the time of the entry  
22 or remaining, is not open to the public and when the defendant is not  
23 otherwise privileged to do so; or

24 (2) fail to leave premises or a propelled vehicle that is  
25 open to the public after being lawfully directed to do so personally by  
26 the person in charge.

27 (b) For purposes of this section, a person who enters or remains  
28 upon unimproved and apparently unused land, which is neither fenced nor  
29 otherwise enclosed in a manner designed to exclude intruders, is privi-

1 leged to do so unless

2 (1) notice against trespass is personally communicated to him  
3 by the owner of the land or some other authorized person; or

4 (2) notice against trespass is given by posting in a reason-  
5 ably conspicuous manner under the circumstances.

6 ARTICLE 3. ARSON, CRIMINAL MISCHIEF, AND RELATED OFFENSES.

7 Sec. 11.46.400. ARSON IN THE FIRST DEGREE. (a) A person commits  
8 the crime of arson in the first degree if he intentionally damages any  
9 property by starting a fire or causing an explosion and by that act  
10 recklessly places another person in danger of serious physical injury.

11 (b) Arson in the first degree is a class A felony.

12 Sec. 11.46.410. ARSON IN THE SECOND DEGREE. (a) A person commits  
13 the crime of arson in the second degree if he intentionally damages a  
14 building by starting a fire or causing an explosion.

15 (b) In a prosecution under this section, it is a defense

16 (1) that no person other than the defendant had a possessory,  
17 proprietary, or security interest in the building or that all persons  
18 having such an interest consented to the defendant's conduct; and

19 (2) that the sole intent of the defendant was to damage or  
20 destroy the building for a lawful and proper purpose.

21 (c) Arson in the second degree is a class B felony.

22 Sec. 11.46.415. ARSON IN THE THIRD DEGREE. (a) A person commits  
23 the crime of arson in the third degree if by recklessly starting a fire  
24 or causing an explosion he causes physical injury to another person.

25 (b) Arson in the third degree is a class C felony.

26 Sec. 11.46.430. CRIMINALLY NEGLIGENT BURNING. (a) A person  
27 commits the crime of criminally negligent burning if with criminal  
28 negligence he damages property of another by fire or explosion.

29 (b) Criminally negligent burning is a class A misdemeanor.

1           Sec. 11.46.450. FAILURE TO CONTROL OR REPORT A DANGEROUS FIRE.

2           (a) A person commits the crime of failure to control or report a dan-  
3 gerous fire if he knows that a fire is endangering life or a substantial  
4 amount of property of another and fails to take reasonable measures to  
5 put out or control the fire, when he can do so without substantial risk  
6 to himself, or to give a prompt fire alarm if

7                   (1) he knows that he is under an official, contractual, or  
8 other legal duty to prevent or combat the fire; or

9                   (2) the fire was started by him, with his consent, or on  
10 property in his custody or control.

11           (b) Failure to control or report a dangerous fire is a class A  
12 misdemeanor.

13           Sec. 11.46.480. CRIMINAL MISCHIEF IN THE FIRST DEGREE. (a) A  
14 person commits the crime of criminal mischief in the first degree if,  
15 having no right to do so or any reasonable ground to believe he has such  
16 a right,

17                   (1) with intent to cause a substantial interruption or im-  
18 pairment of a service rendered to the public by a utility or by an  
19 organization which deals with emergencies involving danger to life or  
20 property, he damages or tampers with property of that utility or organi-  
21 zation and causes substantial interruption or impairment of service to  
22 the public;

23                   (2) with intent to damage property of another by the use of  
24 widely dangerous means, he damages property of another in an amount  
25 exceeding \$100,000 by the use of widely dangerous means; or

26                   (3) he intentionally damages an oil or gas pipeline or sup-  
27 porting facility.

28           (b) Criminal mischief in the first degree is a class B felony.

29           Sec. 11.46.482. CRIMINAL MISCHIEF IN THE SECOND DEGREE. (a) A

1 person commits the crime of criminal mischief in the second degree if,  
2 having no right to do so or any reasonable ground to believe he has such  
3 a right,

4 (1) with intent to damage property of another, he damages  
5 property of another in an amount of \$500 or more;

6 (2) he tampers with an oil or gas pipeline or supporting  
7 facility with reckless disregard for the risk of harm to or loss of the  
8 property; or

9 (3) he recklessly creates a risk of damage in an amount  
10 exceeding \$100,000 to property of another by the use of widely dangerous  
11 means.

12 (b) Criminal mischief in the second degree is a class C felony.

13 Sec. 11.46.484. CRIMINAL MISCHIEF IN THE THIRD DEGREE. (a) A  
14 person commits the crime of criminal mischief in the third degree if,  
15 with intent to damage property of another, and having no right to do so  
16 or any reasonable ground to believe he has such a right, he damages  
17 property of another in an amount of \$50 or more but less than \$500.

18 (b) Criminal mischief in the third degree is a class A misde-  
19 meanor.

20 Sec. 11.46.486. CRIMINAL MISCHIEF IN THE FOURTH DEGREE. (a) A  
21 person commits the crime of criminal mischief in the fourth degree if,  
22 having no right to do so or any reasonable ground to believe that he has  
23 such a right,

24 (1) with reckless disregard for the risk of harm to or loss  
25 of the property or with intent to cause substantial inconvenience to  
26 another, he tampers with property of another;

27 (2) he recklessly damages property of another in an amount of  
28 \$500 or more; or

29 (3) with intent to damage property of another, he damages

1 property of another in an amount less than \$50.

2 (b) Criminal mischief in the fourth degree is a class B misde-  
3 meanor.

4 Sec. 11.46.488. LITTERING. (a) A person commits the offense of  
5 littering if without permission he recklessly places or throws litter on  
6 any public or private property or in any public or private waters and  
7 does not immediately remove it.

8 (b) As used in this section, "litter" means any rubbish, refuse,  
9 or debris of whatever kind or description, whether or not it is of  
10 value.

11 (c) Littering is a violation.

12 Sec. 11.46.490. DEFINITIONS. As used in secs. 400 - 490 of this  
13 chapter, unless the context requires otherwise,

14 (1) "oil or gas pipeline or supporting facilities" means real  
15 and tangible property used in the exploration for, production or re-  
16 fining of, or pipeline transportation of oil, gas, or gas liquids,  
17 except for property used solely in the retail distribution of oil or  
18 gas;

19 (2) "tamper" means to interfere with something improperly,  
20 meddle with it, or make unwarranted alterations to its existing condi-  
21 tion;

22 (3) "utility" means an enterprise, whether publicly or pri-  
23 vately owned or operated, which provides gas, electric, steam, water,  
24 sewer, or communications service, and any common carrier;

25 (4) "widely dangerous means" means any difficult-to-confine  
26 substance, force, or other means capable of causing widespread damage,  
27 including fire, explosion, avalanche, poison, radioactive material,  
28 bacteria, collapse of a building, or flood.

29 ARTICLE 4. FORGERY AND RELATED OFFENSES.

1           Sec. 11.46.500. FORGERY IN THE FIRST DEGREE. (a) A person com-  
2 mits the crime of forgery in the first degree if he violates sec. 510 of  
3 this chapter and the written instrument is or purports to be

4           (1) part of an issue of money, securities, postage, revenue  
5 stamps, or other valuable instruments issued by a government or govern-  
6 mental agency;

7           (2) part of an issue of stock, bonds, or other instruments  
8 representing interests in or claims against any property or person;

9           (3) a deed, will, codicil, contract, assignment, negotiable  
10 or other commercial instrument, or other document which does or may  
11 evidence, create, transfer, alter, terminate, or otherwise affect a  
12 legal right, interest, obligation, or status; or

13           (4) a public record.

14           (b) Forgery in the first degree is a class C felony.

15           Sec. 11.46.510. FORGERY IN THE SECOND DEGREE. (a) A person com-  
16 mits the crime of forgery in the second degree if, with intent to de-  
17 fraud, he

18           (1) falsely makes, completes, or alters a written instrument;

19           (2) knowingly possesses a forged instrument; or

20           (3) knowingly utters a forged instrument.

21           (b) Forgery in the second degree is a class A misdemeanor.

22           Sec. 11.46.520. CRIMINAL POSSESSION OF A FORGERY DEVICE. (a) A  
23 person commits the crime of criminal possession of a forgery device if,  
24 with intent to use it or aid another to use it for purposes of forgery,

25           (1) he makes or possesses a plate, die, or other device,  
26 apparatus, equipment, or article specifically designed for use in  
27 forging written instruments; or

28           (2) he makes or possesses a device, apparatus, equipment, or  
29 article capable of or adaptable for purposes of forgery.

1 (b) Criminal possession of a forgery device is a class C felony.

2 Sec. 11.46.530. CRIMINAL SIMULATION. (a) A person commits the  
3 crime of criminal simulation if,

4 (1) with intent to defraud, he makes or alters any object in  
5 such a manner that it appears to have a rarity, age, source, or author-  
6 ship that it does not in fact possess; or

7 (2) with knowledge of its true character and with intent to  
8 defraud, he possesses or utters an object so simulated.

9 (b) Criminal simulation is

10 (1) a class C felony if the value of what the object purports  
11 to represent is \$500 or more;

12 (2) a class A misdemeanor if the value of what the object  
13 purports to represent is \$50 or more but less than \$500;

14 (3) a class B misdemeanor if the value of what the object  
15 purports to represent is less than \$50.

16 Sec. 11.46.540. OBTAINING A SIGNATURE BY DECEPTION. (a) A person  
17 commits the crime of obtaining a signature by deception if, with intent  
18 to defraud, he causes another to sign or execute a written instrument by  
19 deception.

20 (b) Obtaining a signature by deception is a class A misdemeanor.

21 Sec. 11.46.550. OFFERING A FALSE INSTRUMENT FOR RECORDING. (a) A  
22 person commits the crime of offering a false instrument for recording  
23 if, knowing that a written instrument relating to or affecting property  
24 or directly affecting a contractual relationship contains a false state-  
25 ment or false information, and with intent to defraud, he presents or  
26 offers it to a public office or a public servant intending that it be  
27 registered, filed, or recorded or become a part of the records of that  
28 public office or public servant.

29 (b) Offering a false instrument for recording is a class A mis-

1 demeanor.

2 Sec. 11.46.570. CRIMINAL IMPERSONATION. (a) A person commits the  
3 crime of criminal impersonation if he

4 (1) assumes a false identity and does an act in his assumed  
5 character with intent to defraud; or

6 (2) pretends to be a representative of some person or organi-  
7 zation and does an act in his pretended capacity with intent to defraud.

8 (b) Criminal impersonation is a class A misdemeanor.

9 Sec. 11.46.580. DEFINITIONS. (a) In secs. 500 - 580 of this  
10 chapter, unless the context requires otherwise,

11 (1) to "falsely alter" a written instrument means to change,  
12 without authorization by anyone entitled to grant it, a written instru-  
13 ment, whether complete or incomplete, by means of erasure, obliteration,  
14 deletion, insertion of new matter, transposition of matter, or any other  
15 manner, so that the instrument so altered falsely appears or purports to  
16 be in all respects an authentic creation of its ostensible maker or  
17 authorized by him;

18 (2) to "falsely complete" a written instrument means to  
19 transform, by adding, inserting, or changing matter, an incomplete  
20 written instrument into a complete one without the authority of anyone  
21 entitled to grant it, so that the complete written instrument falsely  
22 appears or purports to be in all respects an authentic creation of its  
23 ostensible maker or authorized by him;

24 (3) to "falsely make" a written instrument means to make or  
25 draw a complete or incomplete written instrument which purports to be an  
26 authentic creation of its ostensible maker, but which is not, either  
27 because the ostensible maker is fictitious or because, if real, he did  
28 not authorize the making or drawing of the instrument.

29 (b) In secs. 500 - 580 of this chapter,

1 (1) "forged instrument" means a written instrument which has  
2 been falsely made, completed, or altered;

3 (2) "utter" means to issue, deliver, publish, circulate,  
4 disseminate, transfer, or tender a written instrument or other object to  
5 another;

6 (3) "written instrument" means a paper, document, instrument,  
7 electronic recording, or article containing written or printed matter or  
8 the equivalent, whether complete or incomplete, used for the purpose of  
9 reciting, embodying, conveying, or recording information or constituting  
10 a symbol or evidence of value, right, privilege, or identification,  
11 which is capable of being used to the advantage or disadvantage of some  
12 person.

13 ARTICLE 5. BUSINESS AND COMMERCIAL OFFENSES.

14 Sec. 11.46.600. SCHEME TO DEFRAUD IN THE FIRST DEGREE. (a) A  
15 person commits the crime of scheme to defraud in the first degree if he

16 (1) engages in conduct constituting a scheme to defraud ten  
17 or more persons, or a scheme to obtain property or services from ten or  
18 more persons by false or fraudulent pretense, representation, or pro-  
19 mise; and

20 (2) obtains property or services from one or more of those  
21 persons.

22 (b) Scheme to defraud in the first degree is a class B felony.

23 Sec. 11.46.610. SCHEME TO DEFRAUD IN THE SECOND DEGREE. (a) A  
24 person commits the crime of scheme to defraud in the second degree if he

25 (1) engages in conduct constituting a scheme to defraud two  
26 or more persons, or a scheme to obtain property or services from two or  
27 more persons by false or fraudulent pretense, representation, or pro-  
28 mise; and

29 (2) obtains property or services from one or more of those

1 persons.

2 (b) Scheme to defraud in the second degree is a class A misde-  
3 meanor.

4 Sec. 11.46.620. MISAPPLICATION OF PROPERTY. (a) A person commits  
5 the crime of misapplication of property if he knowingly misapplies  
6 property that has been entrusted to him as a fiduciary or that is pro-  
7 perty of the government or a financial institution.

8 (b) It is not a defense to a prosecution under this section that  
9 it may be impossible to identify particular property as belonging to the  
10 victim at the time of the defendant's misapplication.

11 (c) For purposes of this section, "misapply" means to deal with or  
12 dispose of property contrary to

13 (1) law;

14 (2) a judicial rule or order; or

15 (3) the obligations of a fiduciary relationship.

16 (d) Misapplication of property is a class A misdemeanor.

17 Sec. 11.46.630. FALSIFYING BUSINESS RECORDS. (a) A person com-  
18 mits the crime of falsifying business records if, with intent to de-  
19 fraud, he

20 (1) makes or causes a false entry in the business records of  
21 an enterprise;

22 (2) alters, erases, obliterates, deletes, removes, or de-  
23 stroys a true entry in the business records of an enterprise;

24 (3) omits to make a true entry in the business records of an  
25 enterprise in violation of a duty to do so which he knows to be imposed  
26 upon him by law or by the nature of his position; or

27 (4) prevents the making of a true entry or causes the omis-  
28 sion of a true entry in the business records of an enterprise.

29 (b) For purposes of this section,

1 (1) "business record" means a writing or article kept or  
2 maintained by an enterprise for the purpose of evidencing or reflecting  
3 its condition or activity;

4 (2) "enterprise" means a private entity of one or more per-  
5 sons, corporate or otherwise, engaged in business, commercial, profes-  
6 sional, charitable, political, industrial, or social activity.

7 (c) Falsifying business records is a class A misdemeanor, unless  
8 the intent to defraud includes an intent to commit another crime or to  
9 aid or conceal the commission of another crime, in which case falsifying  
10 business records is a class C felony.

11 Sec. 11.46.660. COMMERCIAL BRIBE RECEIVING. (a) A person commits  
12 the crime of commercial bribe receiving if he solicits, accepts, or  
13 agrees to accept a benefit with intent to violate a duty to which he is  
14 subject as

15 (1) an agent or employee of another;

16 (2) a trustee, guardian, or other fiduciary;

17 (3) a lawyer, physician, accountant, appraiser, or other pro-  
18 fessional adviser;

19 (4) an officer, director, partner, manager, or other partici-  
20 pant in the direction of the affairs of an organization; or

21 (5) an arbitrator or other purportedly disinterested adjudi-  
22 cator or referee.

23 (b) Commercial bribe receiving is a class C felony.

24 Sec. 11.46.670. COMMERCIAL BRIBERY. A person commits the crime of  
25 commercial bribery if, knowing that another is subject to a duty de-  
26 scribed in sec. 660(a) of this chapter and with intent to influence that  
27 person to violate that duty, he confers, offers to confer, or agrees to  
28 confer a benefit on that person.

29 (b) Commercial bribery is a class C felony.

1           Sec. 11.46.710. DECEPTIVE BUSINESS PRACTICES. (a) A person  
2 commits the crime of deceptive business practices if, in the course of  
3 engaging in a business, occupation, or profession, he

4           (1) makes a false statement in an advertisement or communi-  
5 cation addressed to the public or to a substantial number of persons in  
6 connection with the promotion of the sale of property or services or to  
7 increase the consumption of property or services;

8           (2) uses or possesses for use a false weight or measure or  
9 any other device for falsely determining or recording any quality or  
10 quantity;

11           (3) sells, offers for sale, exposes for sale, or delivers  
12 less than the represented quantity of a commodity or service;

13           (4) sells, offers for sale, or exposes for sale adulterated  
14 commodities; or

15           (5) sells, offers for sale, or exposes for sale mislabeled  
16 commodities.

17           (b) As used in this section,

18           (1) "adulterated" means varying from the standard of com-  
19 position or quality prescribed by law or, if none, as set by established  
20 commercial usage;

21           (2) "false statement" means an offer to sell or provide  
22 property or services made with intent not to sell or provide the adver-  
23 tised property or services

24                   (A) at the price or of the quality advertised;

25                   (B) in a quantity sufficient to meet the reasonably ex-  
26 pected public demand unless quantity is specifically stated in the  
27 advertisement; or

28                   (C) at all.

29           (3) "mislabeled" means

1 (A) varying from the standard of truth or disclosure in  
2 labeling prescribed by law or, if none, as set by established  
3 commercial usage; or

4 (B) represented as being another person's product,  
5 though otherwise labeled accurately as to quality and quantity.

6 (c) Deceptive business practices is a class A misdemeanor.

7 Sec. 11.46.720. MISREPRESENTATION OF USE OF A PROPELLED VEHICLE.

8 (a) A person commits the crime of misrepresentation of use of a pro-  
9 pelled vehicle if, with intent to deceive any person, he sells, leases,  
10 or offers or exposes for sale or lease a propelled vehicle knowing that  
11 a usage registering device on the vehicle has been disconnected, ad-  
12 justed, or replaced so as to misrepresent the miles traveled by the  
13 vehicle or the hours of engine use.

14 (b) As used in this section, "usage registering device" means any  
15 odometer, speedometer, recording tachometer, hobbsmeter, or other in-  
16 strument that registers the miles traveled by the vehicle or the hours  
17 of engine use.

18 (c) Misrepresentation of use of a propelled vehicle is a class A  
19 misdemeanor.

20 Sec. 11.46.730. DEFRAUDING SECURED CREDITORS. (a) A person  
21 commits the crime of defrauding secured creditors if, knowing that  
22 property is subject to a security interest, he

23 (1) with intent to defraud, fails to disclose that interest  
24 to a buyer of the property; or

25 (2) destroys, removes, conceals, encumbers, transfers, or  
26 otherwise deals with property subject to a security interest with intent  
27 to hinder enforcement of that interest.

28 (b) Defrauding secured creditors is a class A misdemeanor unless  
29 the crime is committed in violation of (a)(2) of this section and the

1 secured party incurs a pecuniary loss of \$500 or more as a result of the  
2 defendant's conduct, in which case defrauding secured creditors is

3 (1) a class B felony if the loss is \$25,000 or more;

4 (2) a class C felony if the loss is \$500 or more but less  
5 than \$25,000.

6 Sec. 11.46.740. DEFRAUDING JUDGMENT CREDITORS. (a) A person  
7 commits the crime of defrauding judgment creditors if he destroys, re-  
8 moves, conceals, encumbers, conveys, or otherwise deals with his pro-  
9 perty with intent to defraud an existing judgment creditor.

10 (b) Defrauding judgment creditors is a class A misdemeanor unless  
11 the judgment creditor incurs a pecuniary loss of \$500 or more as a  
12 result of the defendant's conduct, in which case defrauding judgment  
13 creditors is

14 (1) a class B felony if the loss is \$25,000 or more;

15 (2) a class C felony if the loss is \$500 or more but less  
16 than \$25,000.

17 Sec. 11.46.750. FRAUD IN INSOLVENCY. (a) A person commits the  
18 crime of fraud in insolvency if, knowing that proceedings have been or  
19 are about to be instituted for the appointment of an administrator or  
20 that a composition agreement or other arrangement for the benefit of  
21 creditors has been made or is about to be made, he, with intent to  
22 defraud any creditor,

23 (1) destroys, removes, conceals, encumbers, conveys, or  
24 otherwise disposes of any part of or interest in the debtor's estate;

25 (2) obtains a substantial part of or interest in the debtor's  
26 estate;

27 (3) presents to any creditor or to the administrator a  
28 writing or record relating to the debtor's estate knowing that it con-  
29 tains a false statement; or

1 (4) misrepresents or fails to disclose to the administrator  
2 the existence, amount, or location of any part of or interest in the  
3 debtor's estate, or any other information which he is legally required  
4 to furnish to the administrator.

5 (b) As used in this section, "administrator" means an assignee or  
6 trustee for the benefit of creditors, a liquidator, a receiver, or any  
7 other person entitled to administer property for the benefit of credi-  
8 tors.

9 (c) Fraud in insolvency is a class A misdemeanor unless a creditor  
10 incurs a pecuniary loss of \$500 or more as a result of the defendant's  
11 conduct, in which case fraud in insolvency is

12 (1) a class B felony if the loss is \$25,000 or more;

13 (2) a class C felony if the loss is \$500 or more but less  
14 than \$25,000.

15 ARTICLE 6. GENERAL PROVISIONS.

16 Sec. 11.46.980. DETERMINATION OF VALUE; AGGREGATION OF AMOUNTS.

17 (a) In this chapter, whenever it is necessary to determine the value of  
18 property, that value is the market value of the property at the time and  
19 place of the crime unless otherwise specified or, if the market value  
20 cannot reasonably be ascertained, the cost of replacement of the pro-  
21 perty within a reasonable time after the crime.

22 (b) The value of written instruments, exclusive of public and  
23 corporate bonds and securities and other instruments having a readily  
24 ascertainable market value, shall be determined in the following manner:

25 (1) the value of an instrument constituting an evidence of  
26 debt, including a check, draft, or promissory note, is the amount due or  
27 collected on the instrument;

28 (2) the value of any other instrument that affects a valuable  
29 legal right, privilege, or obligation shall be considered the greatest

1 amount of economic loss which the owner of the instrument might reason-  
2 ably incur because of the loss of the instrument.

3 (c) In determining the degree or classification of a crime under  
4 this chapter, amounts involved in criminal acts committed under one  
5 course of conduct, whether from the same person or several persons,  
6 shall be aggregated.

7 Sec. 11.46.985. DECEIVING A MACHINE. In a prosecution under this  
8 chapter for an offense that requires "deception" as an element, it is  
9 not a defense that the defendant deceived or attempted to deceive a  
10 machine. For purposes of this section, "machine" includes a vending  
11 machine, computer, turnstile, or automated teller machine.

12 Sec. 11.46.990. DEFINITIONS. In this chapter, unless the context  
13 requires otherwise,

14 (1) "appropriate" or "appropriate property of another to one-  
15 self or a third person" means to

16 (A) exercise control over property of another, or to aid  
17 a third person to exercise control over property of another, per-  
18 manently or for so extended a period or under such circumstances as  
19 to acquire the major portion of the economic value or benefit of  
20 the property; or

21 (B) dispose of the property of another for the benefit  
22 of oneself or a third person;

23 (2) "deprive" or "deprive another of property" means to

24 (A) withhold property of another or cause property of  
25 another to be withheld from him permanently or for so extended a  
26 period or under such circumstances that the major portion of its  
27 economic value or benefit is lost to him;

28 (B) dispose of the property in such a manner or under  
29 such circumstances as to make it unlikely that the owner will

1 recover the property;

2 (C) retain the property of another with intent to re-  
3 store it to him only if he pays a reward or other compensation for  
4 its return;

5 (D) sell, give, pledge, or otherwise transfer any inter-  
6 est in the property of another; or

7 (E) subject the property of another to the claim of a  
8 person other than the owner;

9 (3) "financial institution" means a bank, insurance company,  
10 credit union, building and loan association, investment trust, or other  
11 organization held out to the public as a place of deposit of funds or  
12 medium of savings or collective investment;

13 (4) "intent to defraud", when necessary to constitute an  
14 offense, is sufficiently established if an intent appears to defraud any  
15 person; "intent to defraud" means

16 (A) an intent to injure someone's interest which has  
17 value or an intent to use deception; or

18 (B) knowledge that the defendant is facilitating a fraud  
19 or injury to be perpetrated or inflicted by someone else;

20 (5) "obtain" means

21 (A) in relation to property, to bring about a transfer  
22 or a purported transfer of a legal interest in the property whether  
23 to the obtainer or another or to exert control over property of  
24 another; or

25 (B) in relation to a service, to secure performance of  
26 the service without payment for the service or by imposing payment  
27 on a third person who did not request or use the service;

28 (6) "property of another" means property in which a person  
29 has an interest which the defendant is not privileged to infringe,

1 whether or not the defendant also has an interest in the property and  
2 whether or not the person from whom the property was obtained or with-  
3 held himself obtained the property unlawfully; "property of another"  
4 does not include property in the possession of the defendant in which  
5 another has only a security interest, even if legal title is in the  
6 secured party under a conditional sales contract or other security  
7 agreement; in the absence of a specific agreement to the contrary, the  
8 holder of a security interest in property is not privileged to infringe  
9 the debtor's right of possession without the consent of the debtor.

10 \* Sec. 5. AS 11 is amended by adding a new chapter to read:

11 CHAPTER 51. OFFENSES AGAINST THE FAMILY.

12 Sec. 11.51.100. ENDANGERING THE WELFARE OF A MINOR. (a) A person  
13 commits the crime of endangering the welfare of a minor if, being a  
14 parent, guardian, or other person legally charged with the care of a  
15 child under 10 years of age, he intentionally deserts the child in any  
16 place under circumstances creating a substantial risk of physical injury  
17 to the child.

18 (b) Endangering the welfare of a minor is a class C felony.

19 Sec. 11.51.120. CRIMINAL NONSUPPORT. (a) A person commits the  
20 crime of criminal nonsupport if, being a person legally charged with the  
21 support of a child under 18 years of age, he refuses or neglects without  
22 lawful excuse to provide support for the child.

23 (b) As used in this section "support" includes necessary food,  
24 care, clothing, shelter, medical attention, and education. There is no  
25 failure to provide medical attention to a child if he is provided treat-  
26 ment solely by spiritual means through prayer in accordance with the  
27 tenets and practices of a recognized church or religious denomination by  
28 an accredited practitioner of the church or denomination.

29 (c) Criminal nonsupport is a class A misdemeanor.

1           Sec. 11.51.125. FAILURE TO PERMIT VISITATION WITH A MINOR. (a) A  
2 custodian commits the offense of failure to permit visitation with a  
3 minor if he intentionally, and without just excuse, fails to permit  
4 visitation with a child under 18 years of age in his custody in sub-  
5 stantial conformance with a court order that is specific as to when he  
6 must permit another to have visitation with that child.

7           (b) The custodian may not be charged under this section with more  
8 than one offense in respect to what is, under the court order, a single  
9 continuous period of visitation.

10           (c) In a prosecution under this section, existing provisions of  
11 law prohibiting the disclosure of confidential communications between  
12 husband and wife do not apply, and both husband and wife are competent  
13 to testify for or against each other as to all relevant matters, if a  
14 court order has awarded custody to one spouse and visitation to the  
15 other.

16           (d) As used in this section,

17           (1) "court order" means a decree, judgment, or order issued  
18 by a court of competent jurisdiction;

19           (2) "custodian" means a natural person who has been awarded  
20 custody, either temporary or permanent, of a child under 18 years of  
21 age;

22           (3) "just excuse" includes illness of the child which makes  
23 it dangerous to the health of the child for visitation to take place in  
24 conformance with the court order; "just excuse" does not include the  
25 wish of the child not to have visitation with the person entitled to it.

26           (e) Failure to permit visitation with a minor is a violation.

27           Sec. 11.51.130. CONTRIBUTING TO THE DELINQUENCY OF A MINOR. (a)  
28 A person commits the crime of contributing to the delinquency of a minor  
29 if,

1 (1) being any age, he knowingly aids, causes, or encourages a  
2 child under 18 years of age to do any act in fact prohibited by state  
3 law;

4 (2) being any age, he knowingly induces, causes, or permits a  
5 child under 18 years of age to participate in gambling as defined in AS  
6 11.66.280; or

7 (3) being any age, he knowingly permits a child under 18  
8 years of age to enter or remain in a place where the unlawful sale of a  
9 drug occurs.

10 (b) Contributing to the delinquency of a minor is a class A misde-  
11 meanor.

12 Sec. 11.51.140. UNLAWFUL MARRYING. (a) A person commits the  
13 crime of unlawful marrying if he knowingly marries or purports to marry

14 (1) another person when he or the other person is lawfully  
15 married to a third person;

16 (2) more than one person simultaneously; or

17 (3) a person who simultaneously is marrying another person.

18 (b) Unlawful marrying is a class A misdemeanor.

19 \* Sec. 6. AS 11 is amended by adding a new chapter to read:

20 CHAPTER 56. OFFENSES AGAINST PUBLIC ADMINISTRATION.

21 ARTICLE 1. BRIBERY AND RELATED OFFENSES.

22 Sec. 11.56.100. BRIBERY. (a) A person commits the crime of  
23 bribery if he confers, offers to confer, or agrees to confer a benefit  
24 upon a public servant with the intent to influence the public servant's  
25 vote, opinion, judgment, action, decision, or exercise of discretion in  
26 his official capacity.

27 (b) In a prosecution under this section, it is not a defense that  
28 the person sought to be influenced was not qualified to act in the  
29 desired way, whether because he had not assumed office, lacked juris-

1 diction, or for any other reason.

2 (c) Bribery is a class B felony.

3 Sec. 11.56.110. RECEIVING A BRIBE. (a) A public servant commits  
4 the crime of receiving a bribe if he

5 (1) solicits a benefit with the intent that his vote,  
6 opinion, judgment, action, decision, or exercise of discretion as a  
7 public servant will be influenced; or

8 (2) accepts or agrees to accept a benefit upon an agreement  
9 or understanding that his vote, opinion, judgment, action, decision, or  
10 exercise of discretion as a public servant will be influenced.

11 (b) Receiving a bribe is a class B felony.

12 Sec. 11.56.120. RECEIVING UNLAWFUL GRATUITIES. (a) A public ser-  
13 vant commits the crime of receiving unlawful gratuities if, for having  
14 engaged in an official act which he was required or authorized to per-  
15 form and for which he was not entitled to any special or additional  
16 compensation, he

17 (1) solicits a benefit, regardless of value; or

18 (2) accepts or agrees to accept a benefit having a value of  
19 \$50 or more.

20 (b) Receiving unlawful gratuities is a class A misdemeanor.

21 Sec. 11.56.130. DEFINITION. As used in secs. 100 - 130 of this  
22 chapter, "benefit" has the meaning ascribed to it in AS 11.81.900 but  
23 does not include

24 (1) political campaign contributions reported in accordance  
25 with AS 15.13;

26 (2) concurrence in official action in the cause of legitimate  
27 compromise between public servants; or

28 (3) support, including a vote, solicited by a public servant  
29 or offered by any person in an election.

1 ARTICLE 2. PERJURY AND RELATED OFFENSES

2 Sec. 11.56.200. PERJURY. (a) A person commits the crime of  
3 perjury if he makes a false sworn statement which he does not believe to  
4 be true.

5 (b) In a prosecution under this section, it is not a defense that

6 (1) the statement was inadmissible under the rules of evi-  
7 dence; or

8 (2) the oath or affirmation was taken or administered in an  
9 irregular manner.

10 (c) Perjury is a class B felony.

11 Sec. 11.56.210. UNSWORN FALSIFICATION. (a) A person commits the  
12 crime of unsworn falsification if, with the intent to mislead a public  
13 servant in the performance of his duty, he submits a false written or  
14 recorded statement which he does not believe to be true

15 (1) in an application for a benefit; or

16 (2) on a form bearing notice, authorized by law, that false  
17 statements made in it are punishable.

18 (b) Unsworn falsification is a class A misdemeanor.

19 Sec. 11.56.220. PROOF OF GUILT. In a prosecution for perjury or  
20 unsworn falsification it is not necessary that proof be made by a parti-  
21 cular number of witnesses or by documentary or other type of evidence.

22 Sec. 11.56.230. PERJURY BY INCONSISTENT STATEMENTS. (a) A person  
23 commits the crime of perjury by inconsistent statements if

24 (1) in the course of one or more official proceedings he  
25 makes two or more sworn statements which are irreconcilably inconsistent  
26 to the degree that one of them is necessarily false;

27 (2) he does not believe one of the statements to be true at  
28 the time the statement is made; and

29 (3) each statement is made within the jurisdiction of this

1 state and within the period of the statute of limitations for the crime  
2 charged.

3 (b) In a prosecution under this section, it is not necessary for  
4 the state to prove which statement was false but only that one or the  
5 other was false and not believed by the defendant to be true at the time  
6 he made the statement. Proof of the irreconcilable inconsistency of the  
7 statements is prima facie evidence that one or the other of the state-  
8 ments was false.

9 (c) Perjury by inconsistent statements is a class C felony.

10 Sec. 11.56.235. RETRACTION AS A DEFENSE. (a) In a prosecution  
11 under sec. 200 or 230 of this chapter, if the false statement was made  
12 in an official proceeding, it is an affirmative defense that the de-  
13 fendant expressly retracted his false statement

14 (1) during the course of the same official proceeding;

15 (2) before discovery of the falsification became known to  
16 him;

17 (3) before reliance upon the false statement by the person  
18 for whom it was intended; and

19 (4) if the official proceeding involved a trier of fact,  
20 before the subject matter of the official proceeding was submitted to  
21 the ultimate trier of fact.

22 (b) In a prosecution under sec. 200 of this chapter, if the false  
23 statement was not made in an official proceeding, it is an affirmative  
24 defense that the defendant expressly retracted his false statement

25 (1) before discovery of the falsification became known to  
26 him; and

27 (2) before reliance upon the false statement by the person  
28 for whom it was intended.

29 (c) In a prosecution under sec. 210 of this chapter, it is an

1 affirmative defense that the defendant expressly retracted his false  
2 statement before reliance upon the false statement by the person for  
3 whom it was intended.

4 (d) As used in this section, "during the course of the same offi-  
5 cial proceeding" includes separate hearings at separate stages of the  
6 same official proceeding.

7 Sec. 11.56.240. DEFINITIONS. As used in secs. 200 - 240 of this  
8 chapter, unless the context requires otherwise,

9 (1) "statement" means a representation of fact and includes a  
10 representation of opinion, belief, or other state of mind when the  
11 representation clearly relates to state of mind apart from or in ad-  
12 dition to any facts which are the subject of the representation;

13 (2) "sworn statement" means

14 (A) a statement knowingly given under oath or affirma-  
15 tion attesting to the truth of what is stated, including a notari-  
16 zed statement; or

17 (B) a statement knowingly given under penalty of perjury  
18 under AS 09.65.012.

19 ARTICLE 3. ESCAPE AND RELATED OFFENSES.

20 Sec. 11.56.300. ESCAPE IN THE FIRST DEGREE. (a) A person commits  
21 the crime of escape in the first degree if, without lawful authority, he

22 (1) removes himself from

23 (A) a correctional facility while under official deten-  
24 tion;

25 (B) official detention on a charge of a felony or for  
26 extradition; or

27 (C) official detention and during the escape, or at any  
28 time before being restored to official detention, he possesses on  
29 or about his person a deadly weapon; or

1 (2) violates sec. 350 of this chapter and during the time of  
2 his unlawful evasion, or at any time before being restored to official  
3 detention, he possesses on or about his person a deadly weapon.

4 (b) Escape in the first degree is a class B felony, unless the  
5 defendant removed himself from official detention by means of a deadly  
6 weapon, in which case escape in the first degree is a class A felony.

7 Sec. 11.56.320. ESCAPE IN THE SECOND DEGREE. (a) A person com-  
8 mits the crime of escape in the second degree if he removes himself from  
9 official detention during any lawful movement or activity incident to  
10 confinement within a correctional facility on a charge of a misdemeanor.

11 (b) Escape in the second degree is a class C felony.

12 Sec. 11.56.330. ESCAPE IN THE THIRD DEGREE. (a) A person commits  
13 the crime of escape in the third degree if, without lawful authority, he  
14 removes himself from official detention on a charge of a misdemeanor or  
15 if he violates sec. 350 of this chapter and leaves or attempts to leave  
16 the state.

17 (b) Escape in the third degree is a class A misdemeanor.

18 Sec. 11.56.340. UNLAWFUL EVASION IN THE FIRST DEGREE. (a) A  
19 person commits the crime of unlawful evasion in the first degree if he  
20 fails to return to official detention on a charge of a felony following  
21 temporary leave granted for a specific purpose or limited period, in-  
22 cluding privileges granted under AS 33.30.150, 33.30.250, or 33.30.260.

23 (b) Unlawful evasion in the first degree is a class A misdemeanor.

24 Sec. 11.56.350. UNLAWFUL EVASION IN THE SECOND DEGREE. (a) A  
25 person commits the crime of unlawful evasion in the second degree if he  
26 fails to return to official detention following temporary leave granted  
27 for a specific purpose or limited period, including privileges granted  
28 under AS 33.30.150, 33.30.250, or 33.30.260.

29 (b) Unlawful evasion in the second degree is a class B misde-

1 meanor.

2 Sec. 11.56.360. ATTEMPTING TO AID AN ESCAPE. (a) A person com-  
3 mits the crime of attempting to aid an escape if, with the intent of  
4 effecting a person's escape from official detention, he attempts to  
5 assist a person who is under official detention to escape.

6 (b) Attempting to aid an escape is a class C felony.

7 Sec. 11.56.370. CRIMINALLY NEGLIGENTLY PERMITTING ESCAPE. (a) A  
8 public servant who is required by law to have charge of a person charged  
9 with or convicted of a crime commits the crime of criminally negligently  
10 permitting escape if with criminal negligence he permits a person under  
11 official detention to escape.

12 (b) Criminally negligently permitting escape is a class C felony.

13 Sec. 11.56.375. PROMOTING CONTRABAND IN THE FIRST DEGREE. (a) A  
14 person commits the crime of promoting contraband in the first degree if  
15 he violates sec. 380 of this chapter and the contraband is

16 (1) a deadly weapon;

17 (2) an article that is intended by the defendant to be used  
18 as a means of facilitating an escape; or

19 (3) a controlled substance.

20 (b) Promoting contraband in the first degree is a class C felony.

21 Sec. 11.56.380. PROMOTING CONTRABAND IN THE SECOND DEGREE. (a) A  
22 person commits the crime of promoting contraband in the second degree if  
23 he knowingly

24 (1) introduces, takes, conveys, or attempts to introduce,  
25 take, or convey contraband into a correctional facility; or

26 (2) makes, obtains, possesses, or attempts to make, obtain,  
27 or possess anything he knows to be contraband while under official  
28 detention within a correctional facility.

29 (b) Promoting contraband in the second degree is a class A misde-

1 meanor.

2 Sec. 11.56.390. DEFINITION. As used in secs. 300 - 390 of this  
3 chapter, "contraband" means any article or thing which persons confined  
4 in a correctional facility are prohibited by law from obtaining, making,  
5 or possessing in that correctional facility.

6 ARTICLE 4. OFFENSES RELATING TO JUDICIAL AND OTHER PROCEEDINGS.

7 Sec. 11.56.510. INTERFERENCE WITH OFFICIAL PROCEEDINGS. (a) A  
8 person commits the crime of interference with official proceedings if he

9 (1) uses force on anyone, damages the property of anyone, or  
10 threatens anyone with intent to

11 (A) improperly influence a witness or otherwise influ-  
12 ence the testimony of a witness;

13 (B) influence a juror's vote, opinion, decision, or  
14 other action as a juror;

15 (C) retaliate against a witness or juror because of his  
16 participation in an official proceeding; or

17 (D) otherwise affect the outcome of an official pro-  
18 ceeding; or

19 (2) confers, offers to confer, or agrees to confer a benefit

20 (A) upon a witness with intent to improperly influence  
21 that witness; or

22 (B) upon a juror with intent to influence the juror's  
23 vote, opinion, decision, or other action as a juror or otherwise  
24 affect the outcome of an official proceeding.

25 (b) Interference with official proceedings is a class B felony.

26 Sec. 11.56.520. RECEIVING A BRIBE BY A WITNESS OR JUROR. (a) A  
27 person commits the crime of receiving a bribe by a witness or juror if  
28 he solicits, accepts, or agrees to accept a benefit upon an agreement or  
29 understanding that

1 (1) he will be improperly influenced as a witness; or  
2 (2) his vote, decision, opinion, or other action as a juror  
3 will be influenced.

4 (b) Receiving a bribe by a witness or juror is a class B felony.

5 Sec. 11.56.540. TAMPERING WITH A WITNESS. (a) A person commits  
6 the crime of tampering with a witness if he knowingly induces or at-  
7 tempts to induce a witness to

8 (1) testify falsely, offer misleading testimony, or unlaw-  
9 fully withhold testimony in an official proceeding; or

10 (2) absent himself from an official proceeding to which he  
11 has been summoned.

12 (b) Tampering with a witness is a class A misdemeanor.

13 Sec. 11.56.590. JURY TAMPERING. (a) A person commits the crime  
14 of jury tampering if he directly or indirectly communicates with a juror  
15 other than as permitted by the rules governing the official proceeding  
16 with intent to

17 (1) influence the juror's vote, opinion, decision, or other  
18 action as a juror; or

19 (2) otherwise affect the outcome of the official proceeding.

20 (b) Jury tampering is a class C felony.

21 Sec. 11.56.600. MISCONDUCT BY A JUROR. (a) A person commits the  
22 crime of misconduct by a juror if, being a juror, he promises or agrees,  
23 before the submission of any part of an official proceeding to a jury  
24 for deliberation, to vote for or agree to a verdict for or against a  
25 party in the official proceeding, or otherwise to affect the outcome of  
26 the official proceeding.

27 (b) Misconduct by a juror is a class C felony.

28 Sec. 11.56.610. TAMPERING WITH PHYSICAL EVIDENCE. (a) A person  
29 commits the crime of tampering with physical evidence if he

1 (1) destroys, mutilates, alters, suppresses, conceals, or  
2 removes physical evidence with intent to impair its verity or avail-  
3 ability in an official proceeding or a criminal investigation;

4 (2) makes, presents, or uses physical evidence, knowing it to  
5 be false, with intent to mislead a juror who is engaged in an official  
6 proceeding or a public servant who is engaged in an official proceeding  
7 or a criminal investigation;

8 (3) prevents the production of physical evidence in an offi-  
9 cial proceeding or a criminal investigation by the use of force, threat,  
10 or deception against anyone; or

11 (4) does any act described by (1), (2), or (3) of this sub-  
12 section with intent to prevent the institution of an official proceed-  
13 ing.

14 (b) Tampering with physical evidence is a class C felony.

15 Sec. 11.56.620. SIMULATING LEGAL PROCESS. (a) A person commits  
16 the crime of simulating legal process if, with intent to cause the  
17 recipient to take an action on it, he issues, sends, or delivers

18 (1) a request for payment of money on behalf of any creditor  
19 that in form and substance simulates any legal process issued by a court  
20 of this state; or

21 (2) any purported summons, subpoena, or other legal process  
22 knowing that the process was not issued or authorized by a court or  
23 other official body authorized by law to do so.

24 (b) Simulating legal process is a class A misdemeanor.

25 ARTICLE 5. OBSTRUCTION OF PUBLIC ADMINISTRATION.

26 Sec. 11.56.700. RESISTING OR INTERFERING WITH ARREST. (a) A  
27 person commits the crime of resisting or interfering with arrest if,  
28 knowing that a peace officer is making an arrest, with the intent of  
29 preventing the officer from making the arrest, he resists the arrest of

1 himself or interferes with the arrest of another by

2 (1) force;

3 (2) committing any degree of criminal mischief; or

4 (3) any means that creates a substantial risk of physical  
5 injury to any person.

6 (b) Resisting or interfering with arrest is a class B misdemeanor.

7 Sec. 11.56.720. REFUSING TO ASSIST A PEACE OFFICER OR JUDICIAL  
8 OFFICER. (a) A person commits the offense of refusing to assist a  
9 peace officer or judicial officer if, upon a request, command, or order  
10 by a person he knows to be a peace officer or judicial officer, he  
11 unreasonably refuses or fails to make a good faith effort to physically  
12 assist that person in the exercise of his official duties.

13 (b) A person who, without expecting compensation, assists a person  
14 in accordance with this section is not liable for civil damages as a  
15 result of an act or omission in rendering that assistance. This sub-  
16 section does not preclude liability for civil damages as a result of  
17 reckless, wilful, wanton, or intentional misconduct.

18 (c) Refusing to assist a peace officer or judicial officer is a  
19 violation.

20 Sec. 11.56.770. HINDERING PROSECUTION IN THE FIRST DEGREE. (a) A  
21 person commits the crime of hindering prosecution in the first degree if  
22 he renders assistance to a person who has committed a crime punishable  
23 as a felony, with reckless disregard that that person has engaged in the  
24 conduct constituting the crime, and with intent to

25 (1) hinder the apprehension, prosecution, conviction, or  
26 punishment of that person; or

27 (2) assist that person in profiting or benefiting from the  
28 commission of the crime.

29 (b) For purposes of this section, a person "renders assistance" to

1 another if he

2 (1) harbors or conceals that person;

3 (2) warns that person of impending discovery or apprehension;

4 (3) provides or aids in providing that person with money,  
5 transportation, a dangerous instrument, a disguise, or other means of  
6 avoiding discovery or apprehension;

7 (4) prevents or obstructs, by means of force, threat, or  
8 deception, anyone from performing an act which might aid in the dis-  
9 covery or apprehension of that person;

10 (5) suppresses by an act of concealment, alteration, or  
11 destruction physical evidence which might aid in the discovery or appre-  
12 hension of that person; or

13 (6) aids that person in securing or protecting the proceeds  
14 of the crime.

15 (c) Hindering prosecution in the first degree is a class C felony.

16 Sec. 11.56.780. HINDERING PROSECUTION IN THE SECOND DEGREE. (a)

17 A person commits the crime of hindering prosecution in the second degree  
18 if he renders assistance to a person who has committed a crime punish-  
19 able by imprisonment for more than 90 days, with intent to

20 (1) hinder the apprehension, prosecution, conviction, or  
21 punishment of that person; or

22 (2) assist that person in profiting or benefiting from the  
23 commission of the crime.

24 (b) For purposes of this section, a person "renders assistance" to  
25 another if he does any act described in sec. 770(b) of this chapter.

26 (c) Hindering prosecution in the second degree is a class B misde-  
27 meanor.

28 Sec. 11.56.790. COMPOUNDING. (a) A person commits the crime of  
29 compounding if, unless authorized by AS 12.45.120 or 12.45.130, he

1 (1) confers, offers to confer, or agrees to confer a benefit  
2 on another in consideration of that person's concealing an offense,  
3 refraining from initiating or aiding in the prosecution of an offense,  
4 or withholding evidence of an offense; or

5 (2) accepts or agrees to accept a benefit in consideration of  
6 his concealing an offense, refraining from initiating or aiding in the  
7 prosecution of an offense, or withholding evidence of an offense.

8 (b) Compounding is a class A misdemeanor.

9 Sec. 11.56.800. MAKING A FALSE REPORT. (a) A person commits the  
10 crime of making a false report if he knowingly

11 (1) gives false information to a peace officer with the  
12 intent of implicating another in a crime; or

13 (2) makes a false report or gives a false alarm to a peace  
14 officer, fireman, security officer, or a public or private organization  
15 which deals with emergencies involving danger to life or property that a  
16 fire or other incident calling for an emergency response has occurred or  
17 is about to occur.

18 (b) Making a false report is a class A misdemeanor.

19 Sec. 11.56.810. TERRORISTIC THREATENING. (a) A person commits  
20 the crime of terroristic threatening if he knowingly make a false report  
21 that a circumstance dangerous to human life exists, or is about to  
22 exist, and thereby

23 (1) places a person in fear of physical injury to any person;

24 (2) causes evacuation of a building; or

25 (3) causes serious public inconvenience.

26 (b) Terroristic threatening is a class C felony.

27 Sec. 11.56.820. TAMPERING WITH PUBLIC RECORDS. (a) A person  
28 commits the crime of tampering with public records if he knowingly

29 (1) makes a false entry in or falsely alters a public record;

1 or

2 (2) destroys, mutilates, suppresses, conceals, removes, or  
3 otherwise impairs the verity, legibility, or availability of a public  
4 record, knowing that he lacks the authority to do so.

5 (b) Tampering with public records is a class A misdemeanor.

6 Sec. 11.56.830. IMPERSONATING A PUBLIC SERVANT. (a) A person  
7 commits the crime of impersonating a public servant if he falsely pre-  
8 tends to be a public servant and does any act in that capacity.

9 (b) It is not a defense to a prosecution under this section that

10 (1) the office the defendant pretended to hold did not in  
11 fact exist; or

12 (2) the defendant was in fact a public servant different than  
13 the one he falsely pretended to be.

14 (c) Impersonating a public servant is a class B misdemeanor.

15 ARTICLE 6. ABUSE OF PUBLIC OFFICE.

16 Sec. 11.56.850. OFFICIAL MISCONDUCT. (a) A public servant com-  
17 mits the crime of official misconduct if, with intent to obtain a bene-  
18 fit or to injure or deprive another person of a benefit, he

19 (1) performs an act relating to his office but constituting  
20 an unauthorized exercise of his official functions, knowing that that  
21 act is unauthorized; or

22 (2) knowingly refrains from performing a duty which is im-  
23 posed upon him by law or is clearly inherent in the nature of his  
24 office.

25 (b) Official misconduct is a class A misdemeanor.

26 Sec. 11.56.860. MISUSE OF CONFIDENTIAL INFORMATION. (a) A person  
27 who is or has been a public servant commits the crime of misuse of  
28 confidential information if he

29 (1) learns confidential information through his employment;

1 and

2 (2) while in office or after leaving office, uses the confi-  
3 dential information for personal gain or in a manner not connected with  
4 the performance of his official duties other than by giving sworn testi-  
5 mony or evidence in a legal proceeding in conformity with a court order.

6 (b) As used in this section, "confidential information" means  
7 information which has been classified confidential by law.

8 (c) Misuse of confidential information is a class A misdemeanor.

9 ARTICLE 7. GENERAL PROVISIONS.

10 Sec. 11.56.900. DEFINITIONS. As used in this chapter, unless the  
11 context requires otherwise,

12 (1) "improperly influence a witness" means to cause or induce  
13 a witness to

14 (A) testify falsely, offer misleading testimony, or  
15 unlawfully withhold testimony in an official proceeding;

16 (B) avoid or attempt to avoid legal process summoning  
17 him to testify in an official proceeding, regardless of whether  
18 legal process has issued;

19 (C) absent himself from an official proceeding to which  
20 he has been summoned; or

21 (D) engage in conduct described in sec. 610 of this  
22 chapter;

23 (2) "judicial officer" means a supreme court justice, includ-  
24 ing the chief justice, a judge of the superior court, a district court  
25 judge, or a magistrate;

26 (3) "juror" means a person who is a member of an impanelled  
27 jury or a person who has been drawn or summoned to attend as a prospec-  
28 tive juror;

29 (4) "physical evidence" means an article, object, document,

1 record, or other thing of physical substance;

2 (5) "testimony" means oral or written statements, documents,  
3 or other material that may be offered by a witness in an official pro-  
4 ceeding;

5 (6) "witness" means

6 (A) a witness summoned or appearing in an official  
7 proceeding; or

8 (B) a person whom the defendant believes may be called  
9 as a witness in an official proceeding, present or future.

10 \* Sec. 7. AS 11 is amended by adding a new chapter to read:

11 CHAPTER 61. OFFENSES AGAINST PUBLIC ORDER.

12 Sec. 11.61.100. RIOT. (a) A person commits the crime of riot if,  
13 while participating with five or more other persons,

14 (1) he engages in tumultuous and violent conduct in a public  
15 place; and

16 (2) thereby causes, or creates a substantial risk of causing,  
17 damage to property or physical injury to a person.

18 (b) Riot is a class C felony.

19 Sec. 11.61.110. DISORDERLY CONDUCT. (a) A person commits the  
20 crime of disorderly conduct if,

21 (1) with intent to disturb the peace and privacy of another  
22 not physically on the same premises or with reckless disregard that his  
23 conduct is having that effect after being informed that it is having  
24 that effect, he makes unreasonably loud noise;

25 (2) in a public place or in a private place of another with-  
26 out consent, and with intent to disturb the peace and privacy of another  
27 or with reckless disregard that his conduct is having that effect after  
28 being informed that it is having that effect, he makes unreasonably loud  
29 noise;

1 (3) in a public place, when a crime has occurred, he refuses  
2 to comply with a lawful order of a peace officer to disperse;

3 (4) in a private place, he refuses to comply with an order of  
4 a peace officer to leave premises in which he has neither a right of  
5 possession nor the express invitation to remain of a person having a  
6 right of possession;

7 (5) in a public or private place, he challenges another to  
8 fight or engages in fighting other than in self-defense;

9 (6) he recklessly creates a hazardous condition for others by  
10 an act which has no legal justification or excuse; or

11 (7) he intentionally exposes his genitals, buttock, anus, or  
12 female breast to another with reckless disregard for the offensive or  
13 insulting effect the act may have on that person.

14 (b) As used in this section, "noise" is "unreasonably loud" if,  
15 considering the nature and purpose of the defendant's conduct and the  
16 circumstances known to him, including the nature of the location and the  
17 time of day or night, his conduct involves a gross deviation from the  
18 standard of conduct that a reasonable person would follow in the same  
19 situation. "Noise" does not include speech which is constitutionally  
20 protected.

21 (c) Disorderly conduct is a class B misdemeanor and is punishable  
22 as authorized in AS 12.55 except that a sentence of imprisonment, if im-  
23 posed, shall be for a definite term of not more than 10 days.

24 Sec. 11.61.120. HARASSMENT. (a) A person commits the crime of  
25 harassment if, with intent to harass or annoy another person, he

26 (1) insults, taunts, or challenges another person in a manner  
27 likely to provoke an immediate violent response;

28 (2) telephones another and fails to terminate the connection  
29 with intent to impair the ability of that person to place or receive

1 telephone calls;

2 (3) makes repeated anonymous telephone calls or makes re-  
3 peated telephone calls at extremely inconvenient hours;

4 (4) makes an obscene telephone call or a telephone call that  
5 threatens physical injury; or

6 (5) subjects another person to offensive physical contact.

7 (b) Harassment is a class B misdemeanor.

8 Sec. 11.61.130. ABUSE OF A CORPSE. (a) A person commits the  
9 crime of abuse of a corpse if

10 (1) except as authorized by law or in an emergency, he inten-  
11 tionally disinters, removes, conceals, or mutilates a corpse; or

12 (2) he engages in sexual penetration of a corpse.

13 (b) Abuse of a corpse is a class A misdemeanor.

14 Sec. 11.61.140. CRUELTY TO ANIMALS. (a) A person commits the  
15 crime of cruelty to animals if, except as authorized by law, he

16 (1) intentionally inflicts severe and prolonged physical pain  
17 or suffering on an animal;

18 (2) owns, possesses, keeps, or trains an animal with intent  
19 that it be engaged in an exhibition of fighting; or

20 (3) instigates, promotes, attends, or has a pecuniary inter-  
21 est in an exhibition of fighting animals.

22 (b) It is a defense to a prosecution under this section that the  
23 conduct of the defendant

24 (1) conformed to accepted veterinary practice;

25 (2) was part of scientific research governed by accepted  
26 standards; or

27 (3) was necessarily incident to lawful hunting or trapping  
28 activities.

29 (c) As used in this section, "animal" means a vertebrate living

1 creature not a human being, but does not include fish.

2 (d) Cruelty to animals is a class A misdemeanor.

3 Sec. 11.61.150. OBSTRUCTION OF HIGHWAYS. (a) A person commits  
4 the crime of obstruction of highways if he

5 (1) places, drops, or permits to drop on a highway any sub-  
6 stance that creates a substantial risk of physical injury to others  
7 using the highway; or

8 (2) recklessly renders a highway impassable or passable only  
9 with unreasonable inconvenience or hazard.

10 (b) Obstruction of highways under (a)(1) of this section is an  
11 offense of strict liability.

12 (c) It is an affirmative defense to a prosecution under (a)(1) of  
13 this section that

14 (1) the defendant took reasonable steps to remove the sub-  
15 stance from the highway; and

16 (2) no person suffered physical injury as a result of the  
17 presence of the substance on the highway.

18 (d) Obstruction of highways is a class B misdemeanor.

19 \* Sec. 8. AS 11 is amended by adding a new chapter to read:

20 CHAPTER 66. OFFENSES AGAINST PUBLIC HEALTH AND DECENCY.

21 ARTICLE 1. PROSTITUTION AND RELATED OFFENSES.

22 Sec. 11.66.100. PROSTITUTION. (a) A person commits the crime of  
23 prostitution if he

24 (1) engages or agrees to engage in sexual conduct for hire;  
25 or

26 (2) hires a person to engage in sexual conduct.

27 (b) Prostitution is a class B misdemeanor.

28 Sec. 11.66.110. SOLICITATION FOR PURPOSES OF PROSTITUTION. (a) A  
29 person commits the crime of solicitation for purposes of prostitution

1 if, in a public place, he solicits another person to engage in prosti-  
2 tution.

3 (b) Solicitation for purposes of prostitution is a class A mis-  
4 demeanor.

5 Sec. 11.66.120. PROMOTING PROSTITUTION. (a) A person commits the  
6 crime of promoting prostitution if, with intent to promote prostitution,

7 (1) he owns, controls, manages, supervises, or otherwise  
8 maintains a place of prostitution or a prostitution enterprise;

9 (2) he, other than as a person being compensated for per-  
10 sonally rendered sexual conduct for hire or his patron, induces or  
11 causes a person to engage in prostitution or to remain in a place of  
12 prostitution;

13 (3) he receives or agrees to receive money or other property,  
14 other than as a person being compensated for personally rendered sexual  
15 conduct for hire, pursuant to an agreement or understanding that the  
16 money or other property is derived from prostitution; or

17 (4) he engages in conduct that institutes, aids, or facili-  
18 tates a prostitution enterprise.

19 (b) Promoting prostitution is a class C felony.

20 Sec. 11.66.140. COMPELLING PROSTITUTION. (a) A person commits  
21 the crime of compelling prostitution if he

22 (1) uses force on anyone with intent to induce or cause a  
23 person to engage in prostitution;

24 (2) as other than a patron, induces or causes a person under  
25 16 years of age to engage in sexual conduct for hire; or

26 (3) induces or causes a person in his legal custody to engage  
27 in prostitution.

28 (b) In a prosecution under (a)(2) of this section, it is not a  
29 defense that the defendant reasonably believed that the person he in-

1       duced or caused to engage in sexual conduct for hire was 16 years of age  
2       or older.

3       (c) Compelling prostitution is a class B felony.

4       Sec. 11.66.160. EVIDENCE REQUIRED FOR SECS. 120 AND 140 OF THIS  
5       CHAPTER. In a prosecution under sec. 120 or 140 of this chapter, it is  
6       not necessary that the testimony of the person whose prostitution is  
7       alleged to have been compelled or promoted be corroborated by the testi-  
8       mony of any other witness or by documentary or other types of evidence.

9       Sec. 11.66.170. SPOUSE AS WITNESS. In a prosecution under  
10       sec. 120 or 140 of this chapter, spouses are competent and compellable  
11       witnesses for or against either party.

12       Sec. 11.66.180. DEFINITIONS. As used in secs. 100 - 180 of this  
13       chapter, unless the context requires otherwise,

14       (1) "place of prostitution" means any place where sexual  
15       conduct is engaged in for hire;

16       (2) "prostitution enterprise" means an arrangement in which  
17       two or more persons are organized to render sexual conduct for hire;

18       (3) "sexual conduct" means genital or anal intercourse,  
19       cunnilingus, fellatio, or masturbation of one person by another person.

20       ARTICLE 2. GAMBLING OFFENSES.

21       Sec. 11.66.200. GAMBLING. (a) A person commits the offense of  
22       gambling if he engages in unlawful gambling.

23       (b) It is an affirmative defense to a prosecution under this  
24       section that the defendant was a player in a social game.

25       (c) Gambling is a violation for the first offense. Gambling is a  
26       class B misdemeanor for the second and each subsequent offense.

27       Sec. 11.66.210. PROMOTING GAMBLING IN THE FIRST DEGREE. (a) A  
28       person commits the crime of promoting gambling in the first degree if he  
29       promotes or profits from an unlawful gambling enterprise.

1 (b) Promoting gambling in the first degree is a class C felony.

2 Sec. 11.66.220. PROMOTING GAMBLING IN THE SECOND DEGREE. (a) A  
3 person commits the crime of promoting gambling in the second degree if  
4 he promotes or profits from unlawful gambling.

5 (b) Promoting gambling in the second degree is a class A misde-  
6 meanor.

7 Sec. 11.66.230. POSSESSION OF GAMBLING RECORDS IN THE FIRST  
8 DEGREE. (a) A person commits the crime of possession of gambling  
9 records in the first degree if, with knowledge of its contents or  
10 character, he possesses a writing or paper of a kind commonly used in  
11 the operation or promotion of an unlawful gambling enterprise.

12 (b) Possession of gambling records in the first degree is a class  
13 C felony.

14 Sec. 11.66.240. POSSESSION OF GAMBLING RECORDS IN THE SECOND  
15 DEGREE. (a) A person commits the crime of possession of gambling  
16 records in the second degree if, with knowledge of its contents or  
17 character, he possesses a writing or paper of a kind commonly used in  
18 the operation or promotion of unlawful gambling.

19 (b) Possession of gambling records in the second degree is a class  
20 A misdemeanor.

21 Sec. 11.66.250. AFFIRMATIVE DEFENSES APPLICABLE TO SECS. 230 AND  
22 240. (a) It is an affirmative defense in a prosecution under sec. 230  
23 of this chapter that the writing or paper was possessed by the defendant  
24 solely as a player.

25 (b) It is an affirmative defense in a prosecution under sec. 230  
26 or 240 of this chapter that the writing or paper

27 (1) was not used or intended to be used by the defendant in  
28 the operation or promotion of unlawful gambling;

29 (2) was used or intended to be used by the defendant in a

1 social game.

2 Sec. 11.66.260. POSSESSION OF A GAMBLING DEVICE. (a) A person  
3 commits the offense of possession of a gambling device if, with know-  
4 ledge of the character of the device, he manufactures, sells, trans-  
5 ports, places, or possesses, or conducts or negotiates a transaction  
6 affecting or designed to affect ownership, custody, or use of, a gam-  
7 bling device with reckless disregard that the device is used or is to be  
8 used in unlawful gambling.

9 (b) It is an affirmative defense in a prosecution under this  
10 section that the gambling device possessed by the defendant was used or  
11 intended to be used only in a social game.

12 (c) Possession of a gambling device is a class A misdemeanor.

13 Sec. 11.66.270. FORFEITURE. If used in violation of secs. 200 -  
14 280 of this chapter, the following property shall be forfeited:

- 15 (1) a gambling device;  
16 (2) money, not found on the person, used as a bet or stake;  
17 (3) money used as a bet or stake which is found on the person  
18 of one who conducts, finances, manages, supervises, directs, or owns all  
19 or part of an unlawful gambling enterprise.

20 Sec. 11.66.280. DEFINITIONS. As used in secs. 200 - 280 of this  
21 chapter, unless the context requires otherwise,

22 (1) "contest of chance" means a contest, game, gaming scheme,  
23 or gaming device in which the outcome depends in a material degree upon  
24 an element of chance, notwithstanding that the skill of the contestants  
25 may also be a factor;

26 (2) "gambling" means that a person stakes or risks something  
27 of value upon the outcome of a contest of chance or a future contingent  
28 event not under his control or influence, upon an agreement or under-  
29 standing that he or someone else will receive something of value in the

1 event of a certain outcome; "gambling" does not include

2 (A) bona fide business transactions valid under the law  
3 of contracts for the purchase or sale at a future date of securi-  
4 ties or commodities and agreements to compensate for loss caused by  
5 the happening of chance, including contracts of indemnity or guar-  
6 anty and life, health, or accident insurance; or

7 (B) playing an amusement device that

8 (i) confers only an immediate right of replay not  
9 exchangeable for something of value other than the privilege  
10 of immediate replay; and

11 (ii) does not contain a method or device by which  
12 the privilege of immediate replay may be cancelled or revoked;

13 (3) "gambling device" means any device, machine, parapher-  
14 nalia, or equipment that is used or usable in the playing phases of  
15 unlawful gambling, whether it consists of gambling between persons or  
16 gambling by a person involving the playing of a machine; "gambling  
17 device" does not include

18 (A) lottery tickets, policy slips, or other items used  
19 in the playing phases of lottery or policy schemes; or

20 (B) an amusement device as described in (2)(B) of this  
21 section;

22 (4) "gambling enterprise" means a gambling business which

23 (A) includes five or more persons who conduct, finance,  
24 manage, supervise, direct, or own all or part of the business; and

25 (B) has been or remains in substantially continuous  
26 operation for a period in excess of 30 days or has a gross income  
27 of \$2,000 or more in any single day;

28 (5) "player" means a person who engages in gambling solely as  
29 a contestant or bettor, believing that the risk of losing and the chances

1 of winning are the same for all participants except for the advantages  
2 of skill and luck, without receiving or becoming entitled to receive any  
3 profit from gambling other than personal gambling winnings and without  
4 otherwise rendering any material assistance to the establishment, con-  
5 duct, or operation of the particular gambling activity, except that, for  
6 purposes of this definition, a person who gambles at a social game on  
7 equal terms with the other participants does not "otherwise render  
8 material assistance" to the establishment, conduct, or operation by  
9 performing, without fee or remuneration, acts directed towards the  
10 arrangement or facilitation of the game, such as inviting persons to  
11 play, permitting the use of premises for the game, or supplying cards or  
12 other equipment used in the game; "player" does not include a person who  
13 engages in gambling for a livelihood or who has derived at least 20 per  
14 cent of his income in any one year within the past five years from  
15 unlawful gambling;

16 (6) "profits from gambling" means that a person, acting other  
17 than as a player, accepts or receives money or other property under an  
18 agreement or understanding with another person by which he participates  
19 or is to participate in the proceeds of gambling;

20 (7) "promoting gambling" means that a person, acting other  
21 than as a player, engages in conduct that materially aids any form of  
22 gambling; conduct of this nature includes

23 (A) conduct directed toward the

24 (i) creation or establishment of the particular  
25 gambling activity or acquisition or maintenance of premises,  
26 paraphernalia, equipment, or apparatus used in the gambling;

27 (ii) conduct of the playing phases of gambling; or

28 (iii) arrangement of the financial or recording phase  
29 of gambling or toward any other phase of its operation; or

1 (B) having control or right of control over premises  
2 that are used with the defendant's knowledge for purposes of gamb-  
3 ling and permitting the gambling to occur or continue without  
4 making an effort to prevent its occurrence or continuation;

5 (8) "social game" means gambling in a home where no house  
6 player, house bank, or house odds exist and where there is no house  
7 income from the operation of the game;

8 (9) "something of value" means any money or property; any  
9 token, object, or article exchangeable for money or property; and any  
10 form of credit or promise directly or indirectly contemplating transfer  
11 of money or property or of an interest in money or property or involving  
12 extension of a service, entertainment, or privilege of playing at a game  
13 or scheme without charge;

14 (10) "unlawful" means not specifically authorized by law.

15 \* Sec. 9. AS 11 is amended by adding a new chapter to read:

16 CHAPTER 71. WEAPONS AND EXPLOSIVES.

17 Sec. 11.71.100. MISCONDUCT INVOLVING WEAPONS IN THE FIRST DEGREE.

18 (a) A person commits the crime of misconduct involving weapons in the  
19 first degree if he

20 (1) knowingly possesses a firearm capable of being concealed  
21 on his person after having been convicted of a crime involving violence;

22 (2) knowingly sells or transfers a firearm capable of being  
23 concealed on one's person to a person who has been convicted of a crime  
24 involving violence; or

25 (3) manufactures, possesses, transports, sells, or transfers  
26 a prohibited weapon.

27 (b) It is a defense to a prosecution under (a)(1) or (2) of this  
28 section that

29 (1) the person convicted of the prior offense on which the

1 action is based received a pardon for that conviction; or

2 (2) a period of five years or more, excluding any periods of  
3 incarceration, elapsed between the date of conviction of the prior  
4 offense on which the action is based and the date of the possession,  
5 sale, or transfer of the firearm.

6 (c) It is an affirmative defense to a prosecution under (a)(3) of  
7 this section that the manufacture, possession, transportation, sale, or  
8 transfer of the prohibited weapon was in accordance with registration  
9 under the National Firearms Act (26 U.S.C. sec. 5801 et seq.).

10 (d) Misconduct involving weapons in the first degree is a class C  
11 felony.

12 Sec. 11.71.110. MISCONDUCT INVOLVING WEAPONS IN THE SECOND DEGREE.

13 (a) A person commits the crime of misconduct involving weapons in the  
14 second degree if he

15 (1) possesses on his person a deadly weapon, other than an  
16 ordinary pocket knife, while his physical or mental condition is sub-  
17 stantially impaired as a result of the introduction of an intoxicating  
18 liquor or a drug into his body;

19 (2) knowingly sells or transfers a deadly weapon, other than  
20 an ordinary pocket knife, to a person whose physical or mental condition  
21 is substantially impaired as a result of the introduction of an intoxi-  
22 cating liquor or a drug into his body;

23 (3) removes, covers, alters, or destroys the manufacturer's  
24 serial number on a firearm with intent to render the firearm untrace-  
25 able;

26 (4) possesses a firearm on which the manufacturer's serial  
27 number has been removed, covered, altered, or destroyed, knowing that  
28 that serial number has been removed, covered, altered, or destroyed with  
29 the intent of rendering the firearm untraceable;

1 (5) discharges a firearm from, on, or across a highway; or  
2 (6) discharges a firearm with reckless disregard for a risk  
3 of damage to property or a risk of physical injury to a person.

4 (b) Misconduct involving weapons in the second degree is a class A  
5 misdemeanor.

6 Sec. 11.71.120. MISCONDUCT INVOLVING WEAPONS IN THE THIRD DEGREE.

7 (a) A person commits the crime of misconduct involving weapons in the  
8 third degree if he

9 (1) knowingly possesses a deadly weapon, other than an or-  
10 dinary pocket knife, that is concealed on his person within his arm's  
11 reach;

12 (2) knowingly possesses a firearm that is concealed in a  
13 propelled vehicle within his arm's reach;

14 (3) knowingly possesses a firearm on his person in any place  
15 where intoxicating liquor is sold for consumption on the premises; or

16 (4) being an unemancipated minor under 16 years of age,  
17 possesses a firearm without the consent of his parent or guardian.

18 (b) In a prosecution under (a)(1) or (2) of this section, it is an  
19 affirmative defense that the defendant, at the time of his possession,  
20 was

21 (1) in his dwelling or on property appurtenant to his dwell-  
22 ing; or

23 (2) engaged in lawful hunting, fishing, trapping, or other  
24 lawful outdoor activity that necessarily involves the carrying of a  
25 weapon for personal protection.

26 (c) In a prosecution under (a)(3) of this section, it is a defense  
27 that the defendant, at the time of his possession, was

28 (1) on business premises owned by or leased to him; or

29 (2) on business premises in the course of his employment for

1 the owner or lessee of those premises.

2 (d) The provisions of (a)(1), (2), and (3) of this section do not  
3 apply to a peace officer in the reasonable exercise of his official  
4 duties.

5 (e) For purposes of this section,

6 (1) a deadly weapon on a person is concealed if it is covered  
7 or enclosed in any manner so that an observer cannot determine that it  
8 is a weapon without removing it from that which covers or encloses it or  
9 without opening, lifting, or removing that which covers or encloses it;

10 (2) a firearm in a propelled vehicle is concealed if it is  
11 covered or enclosed in any manner so that an observer outside the pro-  
12 pelled vehicle cannot determine that it is a firearm without

13 (A) opening the door, if any, of the propelled vehicle;

14 (B) entering the propelled vehicle;

15 (C) removing the firearm from that which covers or  
16 encloses it; or

17 (D) lifting or removing that which covers or encloses  
18 the firearm.

19 (f) Misconduct involving weapons in the third degree is a class B  
20 misdemeanor.

21 Sec. 11.71.130. POSSESSION OF BURGLARY TOOLS. (a) A person  
22 commits the crime of possession of burglary tools if he possesses a  
23 burglary tool with intent to use or permit use of the tool in the com-  
24 mission of

25 (1) burglary in any degree;

26 (2) a crime referred to in AS 11.46.130(a)(3); or

27 (3) theft of services.

28 (b) As used in this section, "burglary tools" means

29 (1) nitroglycerine, dynamite, or any other tool, instrument,

1 or device adapted or designed for use in committing a crime referred to  
2 in (1) - (3) of (a) of this section; or

3 (2) an acetylene torch, electric arc, burning bar, thermal  
4 lance, oxygen lance, or other similar device capable of burning through  
5 steel, concrete, or other solid material.

6 (c) Possession of burglary tools is a class A misdemeanor.

7 Sec. 11.71.140. CRIMINAL POSSESSION OF EXPLOSIVES. (a) A person  
8 commits the crime of criminal possession of explosives if he possesses  
9 or manufactures an explosive substance or device and intends to use that  
10 substance or device to commit a crime.

11 (b) Criminal possession of explosives is a

12 (1) class A felony if the crime intended is murder in any  
13 degree or kidnapping in the first degree;

14 (2) class B felony if the crime intended is a class A felony;

15 (3) class C felony if the crime intended is a class B felony;

16 (4) class A misdemeanor if the crime intended is a class C  
17 felony;

18 (5) class B misdemeanor if the crime intended is a class A or  
19 class B misdemeanor.

20 Sec. 11.71.150. UNLAWFUL FURNISHING OF EXPLOSIVES. (a) A person  
21 commits the crime of unlawful furnishing of explosives if he furnishes  
22 an explosive substance or device to another knowing that that person  
23 intends to use the substance or device to commit a crime.

24 (b) Unlawful furnishing of explosives is a class C felony.

25 Sec. 11.71.160. DEFINITIONS. As used in this chapter, unless the  
26 context requires otherwise,

27 (1) "crime involving violence" means

28 (A) any of the following crimes:

29 (i) murder in any degree, manslaughter, or crimi-

1 nally negligent homicide (AS 11.41.100 - 11.41.130);  
2 (ii) assault in the first or second degree (AS  
3 11.41.200 - 11.41.210);  
4 (iii) kidnapping in any degree (AS 11.41.300 - 11.-  
5 41.310);  
6 (iv) unlawful imprisonment (AS 11.41.340);  
7 (v) sexual assault in the first degree under AS  
8 11.41.410(a)(1) or (2);  
9 (vi) sexual assault in the second degree (AS 11.41.-  
10 420);  
11 (vii) robbery in any degree (AS 11.41.500 - 11.41.-  
12 510);  
13 (viii) extortion (AS 11.46.205);  
14 (ix) burglary in any degree (AS 11.46.300 - 11.46.-  
15 310);  
16 (x) arson in any degree (AS 11.46.400 - 11.46.415);  
17 (xi) criminal mischief in the first degree (AS 11.-  
18 46.480);  
19 (xii) escape in the first or second degree (AS 11.-  
20 56.300 - 11.56.320);  
21 (xiii) attempting to aid an escape (AS 11.56.360);  
22 (xiv) interference with official proceedings under AS  
23 11.56.510(a)(1);  
24 (xv) terroristic threatening (AS 11.56.810);  
25 (xvi) riot (AS 11.61.100);  
26 (xvii) compelling prostitution under AS 11.66.140(a)-  
27 (1);  
28 (xviii) misconduct involving weapons in the first  
29 degree (sec. 100 of this chapter);

1 (xix) criminal possession of explosives, unless  
2 punishable only as a class B misdemeanor (sec. 140(a) and (b)-  
3 (1) - (4) of this chapter);

4 (xx) unlawful furnishing of explosives (sec. 150 of  
5 this chapter);

6 (B) an attempt or solicitation to commit a crime speci-  
7 fied in (A) of this paragraph;

8 (C) a crime committed in another jurisdiction having  
9 elements substantially identical to a crime specified in (A) or (B)  
10 of this paragraph;

11 (2) "prohibited weapon" means any

12 (A) explosive, incendiary, or noxious gas

13 (i) mine or device that is designed, made, or  
14 adapted for the purpose of inflicting serious physical injury  
15 or death;

16 (ii) rocket, other than an emergency flare, having a  
17 propellant charge of more than four ounces;

18 (iii) bomb;

19 (iv) grenade;

20 (B) device designed, made, or adapted to muffle the  
21 report of a firearm;

22 (C) metal knuckles;

23 (D) switchblade or gravity knife;

24 (E) firearm that is capable of shooting more than one  
25 shot automatically, without manual reloading, by a single function  
26 of the trigger; or

27 (F) rifle with a barrel length of less than 16 inches or  
28 shotgun with a barrel length of less than 18 inches, or any firearm  
29 made from a rifle or shotgun which, as modified, has an overall

1 length of less than 26 inches.

2 \* Sec. 10. AS 11 is amended by adding a new chapter to read:

3 CHAPTER 76. MISCELLANEOUS OFFENSES.

4 Sec. 11.76.100. SELLING OR GIVING TOBACCO TO A MINOR. (a) A  
5 person commits the offense of selling or giving tobacco to a minor if he  
6 knowingly sells, exchanges, or gives cigarettes, cigars, or tobacco to a  
7 child under 18 years of age.

8 (b) Selling or giving tobacco to a minor is a violation for the  
9 first offense. Selling or giving tobacco to a minor is a class B mis-  
10 demeanor for the second and each subsequent offense.

11 Sec. 11.76.110. INTERFERENCE WITH CONSTITUTIONAL RIGHTS. (a) A  
12 person commits the crime of interference with constitutional rights if

13 (1) he injures, oppresses, threatens, or intimidates another  
14 person with intent to deprive that person of a right, privilege, or  
15 immunity in fact granted by the constitution or laws of this state;

16 (2) he intentionally injures, oppresses, threatens, or intim-  
17 idates another person because that person has exercised or enjoyed a  
18 right, privilege, or immunity in fact granted by the constitution or  
19 laws of this state; or

20 (3) under color of law, ordinance, or regulation of this  
21 state or a municipality or other political subdivision of this state, he  
22 intentionally deprives another of a right, privilege, or immunity in  
23 fact granted by the constitution or laws of this state.

24 (b) In a prosecution under this section, whether the injury,  
25 oppression, threat, intimidation, or deprivation concerns a right, pri-  
26 vilege, or immunity granted by the constitution or laws of this state is  
27 a question of law.

28 (c) Interference with constitutional rights is a class A misde-  
29 meanor.

1           Sec. 11.76.120. TRANSPORTATION OR DISTRIBUTION OF DEPICTIONS OF  
2 MINORS ENGAGED IN SEXUAL ACTS. (a) A person commits the crime of  
3 transportation or distribution of depictions of minors engaged in sexual  
4 acts if he transports or distributes for sale, sells, or attempts to  
5 sell a film, photograph, negative, slide, book, newspaper, or magazine  
6 that depicts, by means other than words, a child under 16 years of age  
7 engaged in

8                   (1) sexual penetration;

9                   (2) the obscene touching of another person's genitals, anus,  
10 or female breast;

11                   (3) the obscene touching by another person of the child's  
12 genitals, anus, or female breast;

13                   (4) masturbation;

14                   (5) bestiality; or

15                   (6) the obscene exhibition of the child's genitals.

16           (b) Transportation or distribution of depictions of minors engaged  
17 in sexual acts is a class A misdemeanor for the first offense. Trans-  
18 portation or distribution of depictions of minors engaged in sexual acts  
19 is a class C felony for the second and each subsequent offense.

20 \* Sec. 11. AS 11 is amended by adding a new chapter to read:

21                   CHAPTER 81. GENERAL PROVISIONS.

22                   ARTICLE 1. GENERAL PURPOSES.

23           Sec. 11.81.100. GENERAL PURPOSES. The general purposes of this  
24 title are to

25                   (1) proscribe conduct that unjustifiably and inexcusably  
26 causes or threatens substantial harm to individual or public interests;

27                   (2) give fair warning of the nature of the conduct constitu-  
28 ting an offense;

29                   (3) define the act or omission and accompanying culpable

1 mental state that constitute each offense and limit the condemnation of  
2 conduct as criminal when it is without fault; and

3 (4) differentiate on reasonable grounds between serious and  
4 minor offenses.

5 ARTICLE 2. APPLICABILITY OF CRIMINAL STATUTES.

6 Sec. 11.81.200. EFFECT OF AMENDMENT OR REPEAL OF CRIMINAL STA-  
7 TUTES. When all or part of a criminal statute is amended or repealed,  
8 the criminal statute or part of it so amended or repealed remains in  
9 force for the purpose of authorizing the accusation, prosecution, con-  
10 viction, and punishment of a person who violated the statute or part of  
11 it before the effective date of the amending or repealing Act, unless  
12 otherwise specified in the amending or repealing Act.

13 Sec. 11.81.210. LIMITATION ON APPLICABILITY. This title does not  
14 bar, suspend, or otherwise affect any right to or liability for damages,  
15 penalty, forfeiture, or other remedy authorized by law to be recovered  
16 or enforced in a civil action, regardless of whether the conduct in-  
17 volved in the proceeding constitutes an offense defined in this title.

18 Sec. 11.81.220. ALL OFFENSES DEFINED BY STATUTE. No conduct  
19 constitutes an offense unless it is made an offense

20 (1) by this title;

21 (2) by a statute outside this title; or

22 (3) by a regulation authorized by and lawfully adopted under  
23 a statute.

24 ARTICLE 3. CLASSIFICATION OF OFFENSES.

25 Sec. 11.81.250. CLASSIFICATION OF OFFENSES. (a) For purposes of  
26 sentencing under AS 12.55, all offenses defined in this title, except  
27 murder in the first and second degree and kidnapping in the first  
28 degree, are classified on the basis of their seriousness, according to  
29 the type of injury characteristically caused or risked by commission of

1 the offense and the culpability of the offender. Except for murder in  
2 the first and second degree and kidnapping in the first degree, the of-  
3 fenses in this title are classified into the following categories:

4 (1) class A felonies, which characteristically involve con-  
5 duct resulting in serious physical injury or a substantial risk of  
6 serious physical injury to a person;

7 (2) class B felonies, which characteristically involve con-  
8 duct resulting in less severe violence against a person than class A  
9 felonies, aggravated offenses against property interests, or aggravated  
10 offenses against public administration or order;

11 (3) class C felonies, which characteristically involve con-  
12 duct serious enough to deserve felony classification but not serious  
13 enough to be classified as A or B felonies;

14 (4) class A misdemeanors, which characteristically involve  
15 less severe violence against a person, less serious offenses against  
16 property interests, less serious offenses against public administration  
17 or order, or less serious offenses against public health and decency  
18 than felonies;

19 (5) class B misdemeanors, which characteristically involve a  
20 minor risk of physical injury to a person, minor offenses against pro-  
21 perty interests, minor offenses against public administration or order,  
22 or minor offenses against public health and decency;

23 (6) violations, which characteristically involve conduct in-  
24 appropriate to an orderly society but which do not denote criminality in  
25 their commission.

26 (b) The classification of each felony defined in this title, ex-  
27 cept murder in the first and second degree and kidnapping in the first  
28 degree, is designated in the section defining it. A felony under Alaska  
29 law defined outside this title for which no penalty is specifically

1 provided is a class C felony.

2 (c) The classification of each misdemeanor defined in this title  
3 is designated in the section defining it. A misdemeanor under Alaska  
4 law defined outside this title for which no penalty is provided is a  
5 class A misdemeanor.

6 ARTICLE 4. GENERAL PRINCIPLES OF JUSTIFICATION.

7 Sec. 11.81.300. JUSTIFICATION: DEFENSE. In any prosecution for  
8 an offense, justification as provided in secs. 320 - 430 of this chapter  
9 is a defense.

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

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

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

18 Sec. 11.81.330. JUSTIFICATION: USE OF NONDEADLY FORCE IN DEFENSE  
19 OF SELF. (a) A person may use nondeadly force upon another person when  
20 and to the extent he reasonably believes it necessary to defend himself  
21 from what he reasonably believes to be the use of unlawful force by the  
22 other person, unless

23 (1) the force involved was the product of mutual combat not  
24 authorized by law;

25 (2) the person claiming the defense of justification provoked  
26 the other person's conduct with intent to cause physical injury to the  
27 other person; or

28 (3) the person claiming the defense of justification was the  
29 initial aggressor.

1 (b) In circumstances described in (1) - (3) of (a) of this sec-  
2 tion, the person claiming the defense of justification may use nondeadly  
3 force if he has withdrawn from the encounter and effectively communi-  
4 cated his withdrawal to the other person, but the other person persists  
5 in continuing the incident by the use or imminent use of unlawful force.

6 Sec. 11.81.335. JUSTIFICATION: USE OF DEADLY FORCE IN DEFENSE OF  
7 SELF. (a) Except as provided in (b) of this section, a person may use  
8 deadly force upon another person when and to the extent

9 (1) the use of nondeadly force is justified under sec. 330 of  
10 this chapter; and

11 (2) the person reasonably believes the use of deadly force is  
12 necessary to defend himself from death, serious physical injury, kid-  
13 napping in any degree, sexual assault in the first degree under AS  
14 11.41.410(a)(1) or (2), sexual assault in the second degree, or robbery  
15 in any degree.

16 (b) A person may not use deadly force if he knows that he can with  
17 complete safety as to himself and others avoid the necessity of so doing  
18 by retreating, except there is no duty to retreat if the person is

19 (1) on property which he owns or which is leased to him and  
20 he is not the initial aggressor; or

21 (2) a peace officer or a person assisting a peace officer  
22 under sec. 380 of this chapter.

23 Sec. 11.81.340. JUSTIFICATION: USE OF FORCE IN DEFENSE OF A THIRD  
24 PERSON. A person may use force upon another person when and to the  
25 extent he reasonably believes it necessary to defend a third person  
26 when, under the circumstances as the person claiming the defense of  
27 justification reasonably believes them to be, the third person would be  
28 justified under sec. 330 or 335 of this chapter in using that degree of  
29 force to defend himself.

1           Sec. 11.81.350. JUSTIFICATION: USE OF FORCE IN DEFENSE OF PRE-  
2 MISES. (a) A person may use nondeadly force upon another person when  
3 and to the extent he reasonably believes it necessary to terminate what  
4 he reasonably believes to be the commission or attempted commission by  
5 the other person of a crime involving damage to premises. He may use  
6 deadly force when and to the extent he reasonably believes it necessary  
7 to terminate what he reasonably believes to be the commission or at-  
8 tempted commission of arson upon a dwelling or occupied building.

9           (b) A person in possession or control of any premises, or an  
10 express or implied agent of that person, may use nondeadly force upon  
11 another person when and to the extent he reasonably believes it neces-  
12 sary to terminate what he reasonably believes to be the commission or  
13 attempted commission by the other person of criminal trespass upon the  
14 premises.

15           (c) A person in possession or control of a dwelling or building,  
16 or an express or implied agent of that person, may use deadly force upon  
17 another when and to the extent he reasonably believes it necessary to  
18 terminate what he reasonably believes to be a burglary occurring in an  
19 occupied dwelling or building.

20           Sec. 11.81.360. JUSTIFICATION: USE OF FORCE IN DEFENSE OF PRO-  
21 PERTY. (a) A person may use nondeadly force upon another person when  
22 and to the extent he reasonably believes it necessary to terminate what  
23 he reasonably believes to be the commission or attempted commission by  
24 the other person of theft in any degree, concealment of merchandise, un-  
25 authorized use of a propelled vehicle, or any degree of criminal mis-  
26 chief.

27           (b) A person may use deadly force under circumstances described in  
28 (a) of this section only when and to the extent the use of deadly force  
29 is justified under other sections of this chapter.

1           Sec. 11.81.370. JUSTIFICATION: USE OF FORCE BY A PEACE OFFICER IN  
2 MAKING AN ARREST OR TERMINATING AN ESCAPE. (a) In addition to using  
3 force justified under other sections of this chapter, a peace officer  
4 may use nondeadly force when and to the extent he reasonably believes it  
5 necessary to make an arrest, to terminate an escape or attempted escape  
6 from custody, or to make a lawful stop. He may use deadly force only  
7 when and to the extent he reasonably believes the use of deadly force is  
8 necessary to make the arrest or terminate the escape or attempted escape  
9 from custody of a person he reasonably believes

10           (1) has committed or attempted to commit a felony which in-  
11 volved the use of force against a person;

12           (2) has escaped or is attempting to escape from custody while  
13 in possession of a firearm on or about his person; or

14           (3) may otherwise endanger life or inflict serious physical  
15 injury unless arrested without delay.

16           (b) The use of force in making an arrest or stop is not justified  
17 under this section unless the peace officer reasonably believes the  
18 arrest or stop is lawful.

19           Sec. 11.81.380. JUSTIFICATION: USE OF FORCE BY PRIVATE PERSON  
20 ASSISTING AN ARREST OR TERMINATING AN ESCAPE. In addition to using  
21 force justified under other sections of this chapter, a person who has  
22 been directed by a person he reasonably believes to be a peace officer  
23 to assist him in making an arrest or terminating an escape or attempted  
24 escape from custody may use

25           (1) nondeadly force when and to the extent that he reasonably  
26 believes it necessary to carry out the peace officer's direction unless

27           (A) he believes the peace officer himself is not justi-  
28 fied in using nondeadly force under the circumstances; and

29           (B) the peace officer in fact is not justified in using

1           nondeadly force under the circumstances;

2           (2) deadly force only when and to the extent he reasonably  
3 believes it necessary to carry out the peace officer's direction to use  
4 deadly force, unless

5           (A) he believes that the peace officer himself is not  
6 justified in using deadly force under the circumstances; and

7           (B) the peace officer in fact is not justified in using  
8 deadly force under the circumstances.

9           Sec. 11.81.390. USE OF FORCE BY A PRIVATE PERSON IN MAKING ARREST  
10 OR TERMINATING AN ESCAPE. In addition to using force justified under  
11 other sections of this chapter, a person, acting on his own account, may  
12 use nondeadly force to make the arrest or terminate the escape or at-  
13 tempted escape from custody of a person whom he reasonably believes has  
14 committed a misdemeanor in his presence or a felony when and to the  
15 extent he reasonably believes it necessary to make that arrest or termi-  
16 nate that escape or attempted escape from custody. He may use deadly  
17 force under this section only when and to the extent he reasonably  
18 believes the use of deadly force is necessary to make the arrest or  
19 terminate the escape or attempted escape from custody of a person he  
20 reasonably believes

21           (1) has committed or attempted to commit a felony which in-  
22 volved the use of force against a person; or

23           (2) has escaped or is attempting to escape from custody while  
24 in possession of a firearm on or about his person.

25           Sec. 11.81.400. JUSTIFICATION: USE OF FORCE IN RESISTING OR  
26 INTERFERING WITH ARREST. A person may not use force to resist the  
27 arrest of himself or interfere with the arrest of another by a peace  
28 officer who is known by him, or reasonably appears, to be a peace offi-  
29 cer, whether the arrest is lawful or unlawful, unless the force used by

1 the peace officer exceeds that allowed by sec. 370 of this chapter.

2 Sec. 11.81.410. JUSTIFICATION: USE OF FORCE BY GUARDS. (a) In  
3 addition to using force justified under other sections of this chapter,  
4 a guard or peace officer employed in a correctional facility may, if  
5 authorized by regulations adopted by the Department of Health and Social  
6 Services, use nondeadly force upon another person when and to the extent  
7 reasonably necessary and appropriate to maintain order.

8 (b) A guard or peace officer employed in a correctional facility  
9 may use deadly force upon another person when and to the extent he  
10 reasonably believes it necessary to terminate the escape or attempted  
11 escape of a prisoner from a correctional facility.

12 Sec. 11.81.420. JUSTIFICATION: PERFORMANCE OF PUBLIC DUTY. (a)  
13 Unless inconsistent with secs. 320 - 410 of this chapter, conduct which  
14 would otherwise constitute an offense is justified when it is required  
15 or authorized by law or by a judicial decree, judgment, or order.

16 (b) The justification afforded by this section also applies when

17 (1) the person reasonably believes his conduct to be required  
18 or authorized by a decree, judgment, or order of a court of competent  
19 jurisdiction or in the lawful execution of legal process, notwithstand-  
20 ing lack of jurisdiction of the court or defect in the legal process; or

21 (2) the person reasonably believes his conduct to be required  
22 or authorized to assist a peace officer in the performance of his  
23 duties, notwithstanding that the officer exceeded his authority.

24 Sec. 11.81.430. JUSTIFICATION: USE OF FORCE, SPECIAL RELATION-  
25 SHIPS. (a) The use of force upon another person that would otherwise  
26 constitute an offense is justified under any of the following circum-  
27 stances:

28 (1) When and to the extent reasonably necessary and appro-  
29 priate to promote the welfare of the child or incompetent person, a

1 parent, guardian, or other person entrusted with the care and super-  
2 vision of a child under 18 years of age or an incompetent person may use  
3 reasonable and appropriate nondeadly force upon that child or incom-  
4 petent person.

5 (2) When and to the extent reasonably necessary and appro-  
6 priate to maintain order and when the use of force is consistent with  
7 the welfare of the students, a teacher may, if authorized by school  
8 regulations, use reasonable and appropriate nondeadly force upon a  
9 student. If authorized by school regulations, a teacher may use non-  
10 deadly force under this paragraph in any situation in which he is re-  
11 sponsible for the supervision of students. A teacher employed by a  
12 school board, including a regional educational attendance area school  
13 board, may use nondeadly force under this paragraph only if the school  
14 regulations authorizing the use of force have been adopted by the school  
15 board.

16 (3) When and to the extent reasonably necessary and appro-  
17 priate to maintain order, a person responsible for the maintenance of  
18 order in a common carrier of passengers, or a person acting under his  
19 direction, may use reasonable and appropriate nondeadly force.

20 (4) When and to the extent reasonably necessary to prevent a  
21 suicide, a person who reasonably believes that another is imminently  
22 about to commit suicide may use reasonable and appropriate nondeadly  
23 force upon that person.

24 (5) A licensed physician, paramedic, or registered nurse, or  
25 a person acting under his direction, or any person who renders emergency  
26 care at the scene of an emergency, may use reasonable and appropriate  
27 nondeadly force for the purpose of administering a recognized and lawful  
28 form of treatment which is reasonably adapted to promoting the physical  
29 or mental health of the patient if

1 (A) the treatment is administered with the consent of  
2 the patient or, if the patient is a child under 18 years of age or  
3 an incompetent person, with the consent of his parent, guardian, or  
4 other person entrusted with his care and supervision; or

5 (B) the treatment is administered in an emergency if the  
6 person administering the treatment reasonably believes that no one  
7 competent to consent can be consulted under the circumstances and  
8 that a reasonable person, wishing to safeguard the welfare of the  
9 patient, would consent.

10 (b) A person who raises a defense under (a)(1) of this section and  
11 claims that the person upon whom force was used was an incompetent  
12 person has the burden of establishing by a preponderance of the evidence  
13 that, at the time force was used, the person upon whom the force was  
14 used was an incompetent person.

15 Sec. 11.81.440. DURESS. (a) In any prosecution for an offense,  
16 it is an affirmative defense that the defendant engaged in the pro-  
17 scribed conduct because he was coerced to do so by the use or threatened  
18 use of unlawful force upon him or a third person, which force or  
19 threatened force a reasonable person in his situation would have been  
20 unable to resist.

21 (b) The defense of duress is not available when a person reckless-  
22 ly places himself in a situation in which it is probable that he will be  
23 subject to duress.

24 Sec. 11.81.450. ENTRAPMENT. In any prosecution for an offense, it  
25 is an affirmative defense that, in order to obtain evidence of the  
26 commission of an offense, a public law enforcement official or a person  
27 working in cooperation with him induced the defendant to commit the  
28 offense by persuasion or inducement as would be effective to persuade an  
29 average person, other than one who is ready and willing, to commit the

1 offense. Inducement or persuasion which would induce only a person  
2 engaged in an habitual course of unlawful conduct for gain or profit  
3 does not constitute entrapment.

4 Sec. 11.81.460. THREATS. Whenever the use of nondeadly force is  
5 justified under secs. 330 - 370 or sec. 410 of this chapter, a threat to  
6 cause death or serious physical injury, whether communicated by the  
7 production of a dangerous instrument or otherwise, is justified if but  
8 only if the intent of the person making the threat is limited to cre-  
9 ating an apprehension that he will cause death or serious physical  
10 injury if necessary.

11 ARTICLE 5. RESPONSIBILITY.

12 Sec. 11.81.510. MENTAL DISEASE OR DEFECT EXCLUDING RESPONSIBILITY.

13 (a) A person is not responsible for criminal conduct if at the time of  
14 the conduct, as a result of mental disease or defect, he lacked substan-  
15 tial capacity either to appreciate the wrongfulness of his conduct or to  
16 conform his conduct to the requirements of law.

17 (b) As used in this section, the terms "mental disease or defect"  
18 do not include an abnormality manifested only by repeated criminal or  
19 otherwise antisocial conduct.

20 (c) In any prosecution for an offense, mental disease or defect  
21 excluding responsibility is a defense.

22 Sec. 11.81.520. EVIDENCE OF MENTAL DISEASE OR DEFECT. Evidence  
23 that the defendant suffered from a mental disease or defect is admissi-  
24 ble whenever it is relevant to prove that the defendant did or did not  
25 have a culpable mental state which is an element of the offense. How-  
26 ever, evidence of mental disease or defect excluding responsibility is  
27 not admissible unless the defendant, at the time of entering his plea of  
28 not guilty or within 10 days thereafter or at such later time as the  
29 court may for good cause permit, files a written notice of his intent to

1 rely on that defense.

2 ARTICLE 6. GENERAL PRINCIPLES OF CRIMINAL LIABILITY.

3 Sec. 11.81.600. GENERAL REQUIREMENTS OF CULPABILITY. (a) The  
4 minimal requirement for criminal liability is the performance by a  
5 person of conduct which includes a voluntary act or the omission to per-  
6 form an act which he is capable of performing.

7 (b) A person is not guilty of an offense unless he acts with a  
8 culpable mental state with respect to each element of the offense that  
9 necessarily requires a culpable mental state, except that

10 (1) no culpable mental state must be proved with respect to  
11 any element of an offense if the description of the offense does not  
12 specify a culpable mental state and the offense is

13 (A) a violation; or

14 (B) designated as one of "strict liability";

15 (2) no culpable mental state must be proved with respect to a  
16 particular element of the offense if an intent to dispense with the  
17 culpable mental state requirement for that element clearly appears.

18 Sec. 11.81.610. CONSTRUCTION OF STATUTES WITH RESPECT TO CULPA-  
19 BILITY. (a) When only one culpable mental state appears in a provision  
20 of law defining an offense, it is rebuttably presumed to apply to every  
21 element of the offense unless an intent to limit its application clearly  
22 appears.

23 (b) Except as provided in sec. 600(b) of this chapter, if a pro-  
24 vision of law defining an offense does not prescribe a culpable mental  
25 state, the culpable mental state that must be proved with respect to

26 (1) conduct is "knowingly"; and

27 (2) a circumstance or a result is "recklessly".

28 (c) When a provision of law provides that criminal negligence  
29 suffices to establish an element of an offense, that element is also

1 established if a person acts intentionally, knowingly, or recklessly.  
2 If acting recklessly suffices to establish an element, that element also  
3 is established if a person acts intentionally or knowingly. If acting  
4 knowingly suffices to establish an element, that element is also estab-  
5 lished if a person acts intentionally.

6 Sec. 11.81.620. EFFECT OF IGNORANCE OR MISTAKE UPON LIABILITY.

7 (a) Knowledge, recklessness, or criminal negligence as to whether con-  
8 duct constitutes an offense, or knowledge, recklessness, or criminal  
9 negligence as to the existence, meaning, or application of the provision  
10 of law defining an offense, is not an element of an offense unless the  
11 provision of law clearly so provides. Use of the phrase "intent to  
12 commit a crime", "intent to promote or facilitate the commission of a  
13 crime", or like terminology in a provision of law does not require that  
14 the defendant act with a culpable mental state as to the criminality of  
15 the conduct that is the object of his intent.

16 (b) A person is not relieved of criminal liability for conduct  
17 because he engages in the conduct under a mistaken belief of fact,  
18 unless

19 (1) the factual mistake negates the culpable mental state  
20 required for the commission of the offense;

21 (2) the provision of law defining the offense or a related  
22 provision of law expressly provides that the factual mistake constitutes  
23 a defense or exemption; or

24 (3) the factual mistake is of a kind that supports a defense  
25 of justification as provided in secs. 320 - 430 of this chapter.

26 Sec. 11.81.630. INTOXICATION AS A DEFENSE. Voluntary intoxication  
27 is not a defense to a prosecution for an offense, but evidence that the  
28 defendant was intoxicated may be offered whenever it is relevant to  
29 negate an element of the offense that requires that the defendant in-

1 tententionally cause a result.

2 Sec. 11.81.640. APPLICATION OF SECS. 600 - 630. Sections 600 -  
3 630 of this chapter apply only to this title.

4 ARTICLE 7. DEFINITIONS.

5 Sec. 11.81.900. DEFINITIONS. (a) For purposes of this title,  
6 unless the context requires otherwise,

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;

10 (2) a person acts "knowingly" with respect to conduct or to a  
11 circumstance described by a provision of law defining an offense when he  
12 is aware that his conduct is of that nature or that the circumstance  
13 exists; when knowledge of the existence of a particular fact is an  
14 element of an offense, that knowledge is established if a person is  
15 aware of a substantial probability of its existence, unless he actually  
16 believes it does not exist; a person who is unaware of conduct or a cir-  
17 cumstance of which he would have been aware had he not been intoxicated  
18 acts knowingly with respect to that conduct or circumstance;

19 (3) a person acts "recklessly" with respect to a result or to  
20 a circumstance described by a provision of law defining an offense when  
21 he is aware of and consciously disregards a substantial and unjusti-  
22 fiable risk that the result will occur or that the circumstance exists;  
23 the risk must be of such a nature and degree that disregard of it con-  
24 stitutes a gross deviation from the standard of conduct that a reason-  
25 able person would observe in the situation; a person who is unaware of a  
26 risk of which he would have been aware had he not been intoxicated acts  
27 recklessly with respect to that risk;

28 (4) a person acts with "criminal negligence" with respect to  
29 a result or to a circumstance described by a provision of law defining

1 an offense when he fails to perceive a substantial and unjustifiable  
2 risk that the result will occur or that the circumstance exists; the  
3 risk must be of such a nature and degree that the failure to perceive it  
4 constitutes a gross deviation from the standard of care that a reason-  
5 able person would observe in the situation.

6 (b) As used in this title, unless otherwise specified or unless  
7 the context requires otherwise,

8 (1) "act" means a bodily movement;

9 (2) "affirmative defense" means that

10 (A) some evidence must be admitted which places in issue  
11 the defense; and

12 (B) the defendant has the burden of establishing the  
13 defense by a preponderance of the evidence;

14 (3) "benefit" means a present or future gain or advantage to  
15 the beneficiary or to a third person pursuant to the desire or consent  
16 of the beneficiary;

17 (4) "building", in addition to its usual meaning, includes  
18 any propelled vehicle or structure adapted for overnight accommodation  
19 of persons or for carrying on business; when a building consists of  
20 separate units, including apartment units, offices, or rented rooms,  
21 each unit is considered a separate building;

22 (5) "cannabis" has the meaning ascribed to it in AS 17.12.-  
23 150;

24 (6) "conduct" means an act or omission and its accompanying  
25 mental state;

26 (7) "controlled substance" means

27 (A) a narcotic drug as defined in AS 17.10.230; or

28 (B) a depressant, hallucinogenic, or stimulant drug,  
29 other than cannabis, as defined in AS 17.12.150;

1 (8) "correctional facility" means premises, or a portion of  
2 premises, used for the confinement of persons under official detention;

3 (9) "credit card" means any instrument or device, whether  
4 known as a credit card, credit plate, courtesy card, or identification  
5 card or by any other name, issued with or without fee by an issuer for  
6 the use of the cardholder in obtaining property or services on credit;

7 (10) "crime" means an offense for which a sentence of impris-  
8 onment is authorized; a crime is either a felony or a misdemeanor;

9 (11) "culpable mental state" means "intentionally", "knowing-  
10 ly", "recklessly", or with "criminal negligence", as those terms are  
11 defined in (a) of this section;

12 (12) "dangerous instrument" means anything which, under the  
13 circumstances in which it is used, attempted to be used, or threatened  
14 to be used, is capable of causing death or serious physical injury;  
15 "dangerous instrument" includes "deadly weapon";

16 (13) "deadly force" means force which the person uses with the  
17 intent of causing, or which he knows creates a substantial risk of  
18 causing, death or serious physical injury; "deadly force" includes in-  
19 tentionally discharging a firearm in the direction of another person or  
20 in the direction in which another person is believed to be;

21 (14) "deadly weapon" means any firearm, or anything designed  
22 for and capable of causing death or serious physical injury, including a  
23 knife, an axe, a club, metal knuckles, or an explosive;

24 (15) "deception" means to knowingly

25 (A) create or confirm another's false impression which  
26 the defendant does not believe to be true, including false im-  
27 pressions as to law or value and false impressions as to intention  
28 or other state of mind;

29 (B) fail to correct another's false impression which the

1 defendant previously has created or confirmed;

2 (C) prevent another from acquiring information pertinent  
3 to the disposition of the property or service involved;

4 (D) sell or otherwise transfer or encumber property and  
5 fail to disclose a lien, adverse claim, or other legal impediment  
6 to the enjoyment of the property, whether or not that impediment is  
7 a matter of official record; or

8 (E) promise performance which the defendant does not in-  
9 tend to perform or knows will not be performed;

10 (16) "defense", other than an affirmative defense, means that

11 (A) some evidence must be admitted which places in issue  
12 the defense; and

13 (B) the state then has the burden of disproving the  
14 existence of the defense beyond a reasonable doubt;

15 (17) "drug" means

16 (A) a controlled substance; or

17 (B) cannabis;

18 (18) "dwelling" means a building that is designed for use or  
19 is used as a person's permanent or temporary home or place of lodging;

20 (19) "explosive" means a chemical compound, mixture, or device  
21 that is commonly used or intended for the purpose of producing a chemi-  
22 cal reaction resulting in a substantially instantaneous release of gas  
23 and heat, including dynamite, blasting powder, nitroglycerin, blasting  
24 caps, and nitrojelly, but excluding salable fireworks as defined in AS  
25 18.72.050, black powder, smokeless powder, small arms ammunition, and  
26 small arms ammunition primers;

27 (20) "felony" means a crime for which a sentence of imprison-  
28 ment for a term of more than one year is authorized;

29 (21) "fiduciary" means a trustee, guardian, executor, adminis-

1 trator, receiver, or any other person carrying on functions of trust on  
2 behalf of another person or organization;

3 (22) "firearm" means a loaded or unloaded pistol, revolver,  
4 rifle, shotgun, or other weapon from which a shot capable of causing  
5 death or serious physical injury may be discharged;

6 (23) "force" means any bodily impact, restraint, or confine-  
7 ment or the threat of imminent bodily impact, restraint, or confinement;  
8 "force" includes deadly and nondeadly force;

9 (24) "government" means the United States, any state or any  
10 municipality or other political subdivision within the United States or  
11 its territories; any department, agency, or subdivision of any of the  
12 foregoing; an agency carrying out the functions of government; or any  
13 corporation or agency formed under interstate compact or international  
14 treaty;

15 (25) "highway" means a road, road right-of-way, street, alley,  
16 bridge, walk, trail, tunnel, path, or similar or related facility, as  
17 well as ferries and similar or related facilities;

18 (26) "includes" means "includes but is not limited to";

19 (27) "incompetent person" means a person who is impaired by  
20 reason of mental illness or mental deficiency to the extent that he  
21 lacks sufficient understanding or capacity to make or communicate re-  
22 sponsible decisions concerning his person;

23 (28) "intoxicated" means intoxicated from the use of a drug or  
24 alcohol;

25 (29) "law" means statutes and regulations;

26 (30) "leased" includes "rented";

27 (31) "metal knuckles" means a device that consists of finger  
28 rings or guards made of a hard substance and designed, made, or adapted  
29 for inflicting serious physical injury or death by striking a person;

1 (32) "misdemeanor" means a crime for which a sentence of im-  
2 prisonment for a term of more than one year may not be imposed;

3 (33) "nondeadly force" means force other than deadly force;

4 (34) "offense" means conduct for which a sentence of imprison-  
5 ment or fine is authorized; an offense is either a crime or a violation;

6 (35) "official detention" means custody, arrest, surrender in  
7 lieu of arrest, or confinement under an order of a court in a criminal  
8 or juvenile proceeding, other than an order of conditional bail release;

9 (36) "official proceeding" means a proceeding heard before a  
10 legislative, judicial, administrative, or other governmental body or  
11 official authorized to hear evidence under oath;

12 (37) "omission" means a failure to perform an act for which a  
13 duty of performance is imposed by law;

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

18 (39) "peace officer" means a public servant vested by law with  
19 a duty to maintain public order or to make arrests, whether the duty  
20 extends to all offenses or is limited to a specific class of offenses or  
21 offenders;

22 (40) "person" means a natural person and, when appropriate, an  
23 organization, government, or governmental instrumentality;

24 (41) "physical injury" means physical pain or an impairment of  
25 physical condition;

26 (42) "possess" means having physical possession or the exer-  
27 cise of dominion or control over property;

28 (43) "premises" means real property, including a building;

29 (44) "propelled vehicle" means a device upon which or by which

1 a person or property is or may be transported, and which is self-pro-  
2 pelled, including automobiles, vessels, airplanes, motorcycles, snow  
3 machines, all-terrain vehicles, sailboats, and construction equipment;

4 (45) "property" means an article, substance, or thing of  
5 value, including money, tangible and intangible personal property, real  
6 property, a credit card, choses-in-action, and evidence of debt or of  
7 contract, a commodity of a public utility such as gas, electricity,  
8 steam, or water constitutes property but the supplying of such a com-  
9 modity to premises from an outside source by means of wires, pipes,  
10 conduits, or other equipment is considered a rendition of a service  
11 rather than a sale or delivery of property;

12 (46) "public place" means a place to which the public or a  
13 substantial group of persons has access and includes highways, transpor-  
14 tation facilities, schools, places of amusement or business, parks,  
15 playgrounds, prisons, and hallways, lobbies, and other portions of  
16 apartment houses and hotels not constituting rooms or apartments de-  
17 signed for actual residence;

18 (47) "public record" means a document, paper, book, letter,  
19 drawing, map, plat, photo, photographic file, motion picture, film,  
20 microfilm, microphotograph, exhibit, magnetic or paper tape, punched  
21 card or other document of any other material, regardless of physical  
22 form or characteristic, developed or received under law or in connection  
23 with the transaction of official business and preserved or appropriate  
24 for preservation by an agency, municipality, or any body subject to the  
25 open meeting provision of AS 44.62.310, as evidence of the organization,  
26 function, policies, decisions, procedures, operations, or other activi-  
27 ties of the state or municipality or because of the informational value  
28 in it; it also includes staff manuals and instructions to staff that  
29 affect the public;

1 (48) "public servant" means each of the following, whether  
2 compensated or not, but does not include jurors or witnesses:

3 (A) an officer or employee of the state, a municipality  
4 or other political subdivision of the state, or a governmental  
5 instrumentality of the state, including legislators, members of the  
6 judiciary, and peace officers;

7 (B) a person who participates as an advisor, consultant,  
8 or assistant at the request or direction of the state, a munici-  
9 pality or other political subdivision of the state, or a govern-  
10 mental instrumentality;

11 (C) a person who serves as a member of a board or com-  
12 mission created by statute or by legislative, judicial, or admini-  
13 strative action by the state, a municipality or other political  
14 subdivision of the state, or a governmental instrumentality;

15 (D) a person nominated, elected, appointed, employed, or  
16 designated to act in a capacity defined in (A) - (C) of this para-  
17 graph, but who does not occupy the position;

18 (49) a "renunciation" is not "voluntary and complete" if it is  
19 substantially motivated, in whole or in part, by

20 (A) a belief that circumstances exist which increase the  
21 probability of detection or apprehension of the defendant or  
22 another participant in the criminal enterprise, or which render  
23 more difficult the accomplishment of the criminal purpose; or

24 (B) a decision to postpone the criminal conduct until  
25 another time or to transfer the criminal effort to another victim  
26 or another but similar objective;

27 (50) "serious physical injury" means physical injury which  
28 creates a substantial risk of death or which causes serious and pro-  
29 tracted disfigurement, protracted impairment of health, or protracted

1 loss or impairment of the function of a bodily organ, or physical injury  
2 which unlawfully terminates a pregnancy;

3 (51) "services" includes labor, professional services, trans-  
4 portation, telephone or other communications service, entertainment, the  
5 supplying of food, lodging, or other accommodations in hotels, restau-  
6 rants, or elsewhere, admission to exhibitions, and the supplying of  
7 equipment for use;

8 (52) "sexual contact" means

9 (A) the intentional touching, directly or through  
10 clothing, by the defendant of the victim's genitals, anus, or  
11 female breast; or

12 (B) the defendant's intentionally causing the victim to  
13 touch, directly or through clothing, the defendant's or victim's  
14 genitals, anus, or female breast;

15 (53) "sexual penetration" means genital intercourse, cunnilin-  
16 gus, fellatio, anal intercourse, or any intrusion, however slight, of an  
17 object or any part of a person's body into the genital or anal opening  
18 of another person's body;

19 (54) "solicits" includes "commands";

20 (55) "threat"

21 (A) means a menace, however communicated, to

22 (i) cause physical injury in the future to a per-  
23 son;

24 (ii) cause damage to property;

25 (iii) subject a person to physical confinement or  
26 restraint;

27 (iv) accuse a person of a crime or cause criminal  
28 charges to be instituted against a person;

29 (v) expose a secret or publicize an asserted fact,

1 whether true or false, tending to subject a person to hatred,  
2 contempt, or ridicule or to impair his credit or business  
3 repute;

4 (vi) testify or provide information or withhold  
5 testimony or information with respect to another's legal claim  
6 or defense;

7 (vii) engage in other conduct constituting a crime;

8 (viii) bring about or continue a strike, boycott, or  
9 other collective action, if the property is not demanded or  
10 received for the benefit of the group in whose interest the  
11 defendant purports to act; or

12 (ix) inflict any other harm which would not benefit  
13 the person making the threat;

14 (B) includes the offer to protect another person from an  
15 act described in (A) of this paragraph when the offeror has no  
16 apparent means to provide the protection or when the price asked  
17 for rendering the protective service is grossly disproportionate to  
18 its cost to the offeror;

19 (C) does not include an expression of intent to engage  
20 in conduct described in (A)(iv) or (v) of this paragraph if made in  
21 the reasonable belief that the charge, secret, or asserted fact is  
22 true and with the sole intent

23 (i) to obtain property claimed as restitution,  
24 indemnification for harm done, or lawful compensation for  
25 property or services in the circumstances to which the accusa-  
26 tion, exposure, or publication relates; or

27 (ii) to compel or induce the victim to take reason-  
28 able action to correct the wrong which is the subject of the  
29 charge, secret, or asserted fact or to refrain from committing

1 an offense;

2 (56) "to act" means either to perform an act or to omit to  
3 perform an act;

4 (57) "violation" is a noncriminal offense punishable only by a  
5 fine, but not by imprisonment or other penalty; conviction of a vio-  
6 lation does not give rise to any disability or legal disadvantage based  
7 on conviction of a crime; a person charged with a violation is not  
8 entitled

9 (A) to a trial by jury; or

10 (B) to have a public defender or other counsel appointed  
11 at public expense to represent him;

12 (58) "voluntary act" means a bodily movement performed con-  
13 sciously as a result of effort and determination, and includes the  
14 possession of property if the defendant was aware of his physical pos-  
15 session or control for a sufficient period to have been able to termi-  
16 nate it.

17 \* Sec. 12. AS 12.25.030 is amended by adding new subsections to read:

18 (b) In addition to the authority granted under (a) of this sec-  
19 tion, a peace officer without a warrant may arrest a person when he has  
20 reasonable cause for believing that the person has committed assault in  
21 the third degree against a member of the person's household.

22 (c) As used in this section "household" means the social unit  
23 comprised of those living together in the same dwelling.

24 \* Sec. 13. AS 12.55 is amended by adding new sections to read:

25 Sec. 12.55.005. DECLARATION OF PURPOSE. The legislature finds  
26 that the elimination of unjustified disparity in sentences and the  
27 attainment of reasonable uniformity in sentences can best be achieved  
28 within a legislatively fixed sentencing framework as provided in this  
29 chapter. The purpose of this chapter is to provide the means for deter-

1 mining the appropriate sentence to be imposed upon conviction for an  
2 offense. In imposing sentence, the court shall consider

3 (1) the seriousness of the defendant's present offense and  
4 his prior criminal history;

5 (2) the effect of the sentence to be imposed on the likely  
6 reformation of the defendant;

7 (3) the need to confine the defendant to prevent further harm  
8 to the public;

9 (4) the seriousness of the offense in relation to other  
10 offenses;

11 (5) the extent to which the offense harmed the victim or en-  
12 dangered the public safety or order;

13 (6) the effect of the sentence to be imposed in deterring the  
14 defendant or other members of society from future criminal conduct; and

15 (7) the effect of the sentence to be imposed as a community  
16 condemnation of the criminal act and as a reaffirmation of societal  
17 norms.

18 Sec. 12.55.015. AUTHORIZED SENTENCES. (a) Except as limited by  
19 secs. 125 - 175 of this chapter, the court, in imposing sentence on a  
20 defendant convicted of an offense, may singly or in combination

21 (1) impose a fine when authorized by law;

22 (2) order the defendant to be placed on probation under  
23 conditions specified by the court which may include provision for active  
24 supervision;

25 (3) impose a definite term of periodic imprisonment;

26 (4) impose a definite term of continuous imprisonment;

27 (5) order the defendant to make restitution;

28 (6) order the defendant to carry out a continuous or periodic  
29 program of community work;

1 (7) suspend imposition of sentence.

2 (b) The court, in exercising sentencing discretion as provided in  
3 this chapter, shall impose a sentence involving imprisonment when

4 (1) the defendant deserves to be imprisoned, considering the  
5 seriousness of his present offense and his prior criminal history, and  
6 imprisonment is equitable considering sentences imposed for other of-  
7 fenses and other defendants under similar circumstances;

8 (2) imprisonment is necessary to protect the public from  
9 further harm by the defendant; or

10 (3) a sentence of lesser severity has been imposed in the  
11 past and proven ineffective in deterring the defendant.

12 (c) In addition to the penalties authorized by this section, the  
13 court may invoke any authority conferred by law to order a forfeiture of  
14 property, suspend or revoke a license, remove a person from office, or  
15 impose any other civil penalty.

16 Sec. 12.55.025. SENTENCING PROCEDURES. (a) When imposing a sen-  
17 tence of imprisonment exceeding 180 days, the court shall prepare, as a  
18 part of the record, a sentencing report which includes the following:

19 (1) a verbatim record of the sentencing hearing and any other  
20 in-court sentencing procedures;

21 (2) findings on material issues of fact and on factual ques-  
22 tions required to be determined as a prerequisite to the selection of  
23 the sentence imposed; and

24 (3) a clear statement of the terms of the sentence imposed,  
25 including recommendation as to the place of confinement or the manner of  
26 treatment.

27 (b) The sentencing report required under (a) of this section shall  
28 be furnished to the Department of Law, the defendant, the division of  
29 corrections, and, if the defendant will be eligible for parole, the

1 state Board of Parole, within 30 days after imposition of sentence.

2 (c) When a defendant is sentenced to imprisonment, his term of  
3 confinement commences on the date of imposition of sentence. A defen-  
4 dant shall receive credit for time spent in custody pending trial,  
5 sentencing, or appeal, if the detention was in connection with the  
6 offense for which sentence was imposed. A defendant may not receive  
7 credit for more than the actual time he spent in custody pending trial,  
8 sentencing, or appeal. The time during which a defendant is voluntarily  
9 absent from official detention after he has been sentenced may not be  
10 credited toward service of his sentence.

11 (d) A sentence of imprisonment shall be stayed if an appeal is  
12 taken and the defendant is admitted to bail. If an appeal is taken and  
13 the defendant is not admitted to bail, the Department of Health and  
14 Social Services shall designate the facility in which the defendant  
15 shall be detained pending appeal or admission to bail.

16 (e) If the defendant is convicted of two or more crimes before  
17 judgment on either has been entered, any sentences of imprisonment shall  
18 run concurrently unless the court expressly directs otherwise, in which  
19 case the judgment may provide that the imprisonment upon one conviction  
20 begins at the expiration of the imprisonment for any other of the  
21 crimes. If the defendant is imprisoned upon a previous judgment of  
22 conviction for a crime, the judgment may provide that the imprisonment  
23 commences at the expiration of the term limited by the previous judg-  
24 ment.

25 (f) A sentence that the defendant pay money, either as a fine or  
26 in restitution or both, constitutes a lien in the same manner as a  
27 judgment for money entered in a civil action. Nothing in this section  
28 limits the authority of the court to otherwise enforce payment of a fine  
29 or restitution.

1           Sec. 12.55.035. FINES. (a) Upon conviction of an offense, a  
2 defendant may be sentenced to pay a fine as authorized in this section  
3 or as otherwise authorized by law. In determining the amount and method  
4 of payment, the court shall take into account the financial resources of  
5 the defendant. No defendant may be imprisoned solely because of inabil-  
6 ity to pay a fine.

7           (b) Upon conviction of an offense other than murder in the first  
8 or second degree or kidnapping in the first degree, a defendant who is  
9 not an organization may be sentenced to pay, unless otherwise specified  
10 in the provision of law defining the offense, a fine of no more than

11                 (1) \$50,000 for a class A, B, or C felony;

12                 (2) \$5,000 for a class A misdemeanor;

13                 (3) \$1,000 for a class B misdemeanor;

14                 (4) \$300 for a violation.

15           (c) Upon conviction of an offense, a defendant that is an organi-  
16 zation may be sentenced to pay a fine not exceeding the greater of

17                 (1) \$100,000; or

18                 (2) an amount which is three times the pecuniary gain real-  
19 ized by the defendant as a result of the offense.

20           (d) If the defendant defaults in the payment of the fine or any  
21 installment, the court may order the defendant to show cause why he  
22 should not be sentenced to imprisonment for nonpayment. If the court  
23 finds by a preponderance of the evidence that the default was attri-  
24 butable to an intentional refusal or failure to make a good faith effort  
25 to pay the fine, the court may order the defendant imprisoned until the  
26 order of the court is satisfied. A term of imprisonment imposed under  
27 this section may not exceed one day for each \$50 of the unpaid portion  
28 of the fine or one year, whichever is shorter. Credit shall be given  
29 toward satisfaction of the court's order for every day a person is in-

1           carcerated for nonpayment of a fine.

2           (e) When a fine is imposed on an organization, the person or per-  
3           sons authorized to make disbursements from the assets of the organiza-  
4           tion shall pay the fine from those assets. A person required to pay a  
5           fine under this subsection who intentionally refuses or fails to make a  
6           good faith effort to pay the fine is punishable under (d) of this sec-  
7           tion.

8           (f) If a defendant is sentenced to pay a fine, the court may grant  
9           permission for the payment to be made within a specified period of time  
10          or in specified installments.

11          Sec. 12.55.045. RESTITUTION. (a) The court may order a defendant  
12          convicted of an offense to make restitution while the defendant is  
13          serving a term of imprisonment, as a condition of probation or suspended  
14          imposition of sentence, or as a condition of suspension of a fine.

15          (b) Before the court may sentence a defendant to a program of re-  
16          stitution, the prosecuting attorney must give notice of the contemplated  
17          action to the victim of the offense.

18          (c) An order of restitution under this section does not limit any  
19          civil liability of the defendant arising from his conduct.

20          Sec. 12.55.055. COMMUNITY WORK. (a) The court may order a de-  
21          fendant convicted of an offense to perform community work while the  
22          defendant is serving a term of imprisonment, as a condition of probation  
23          or suspended imposition of sentence, or as a condition of suspension of  
24          a fine. No program of community work may be ordered except upon the  
25          agreement of the defendant and, if the defendant is incarcerated, the  
26          division of corrections.

27          (b) Community work includes work on projects designed to reduce or  
28          eliminate environmental damage, protect the public health, or improve  
29          public lands, forests, parks, roads, highways, facilities, or education.

1 Community work may not confer a private benefit on a person except as  
2 may be incidental to the public benefit.

3 Sec. 12.55.105. MODIFICATION AND DISCHARGE OF PROBATION, RESTITU-  
4 TION AND COMMUNITY WORK. (a) During a period of probation, period of  
5 community work, or period in which restitution must be made, the court  
6 may, after hearing and upon notice to the probation officer, prosecuting  
7 attorney, and defendant, modify the requirements of probation, community  
8 work, or restitution if it finds that the original sentence imposes an  
9 unreasonable burden on the defendant.

10 (b) On application of the defendant or his probation officer, or  
11 on its own motion, the court may, after notice to the prosecuting attor-  
12 ney and the probation officer, terminate restitution or a period of  
13 probation or community work and discharge the defendant at any time  
14 earlier than that provided in the sentence imposed, if warranted by the  
15 conduct of the defendant.

16 (c) Before the court modifies or terminates restitution or a  
17 period of probation or community work, the prosecuting attorney must  
18 give notice of the contemplated action to the victim of the offense.

19 Sec. 12.55.115. REVOCATION OF SUSPENSION OR PROBATION. A sus-  
20 pended sentence or probation may not be revoked except for good cause  
21 shown. The court may order revocation if it finds, by a preponderance  
22 of the evidence, that the defendant violated a condition of suspension  
23 or probation, unless the act alleged to be in violation of a condition  
24 constitutes an offense, in which case the court must find by clear and  
25 convincing evidence that the condition was violated. In all proceedings  
26 for revocation of a suspended sentence or probation, the defendant is  
27 entitled to reasonable notice and to be represented by counsel.

28 Sec. 12.55.125. SENTENCES OF IMPRISONMENT FOR FELONIES. (a) A  
29 defendant convicted of murder in the first degree shall be sentenced to

1 a definite term of imprisonment of at least 20 years but not more than  
2 99 years.

3 (b) A defendant convicted of murder in the second degree or kid-  
4 napping in the first degree shall be sentenced to a definite term of  
5 imprisonment of at least five years but not more than 99 years.

6 (c) A defendant convicted of a class A felony

7 (1) shall be sentenced to a definite term of imprisonment of  
8 at least three years but not more than 22 1/2 years when the present  
9 offense is a first felony conviction and the defendant used a firearm  
10 during the commission of the offense;

11 (2) may be sentenced to a definite term of imprisonment of  
12 not more than 22 1/2 years when the present offense is a first felony  
13 conviction other than the one described in (1) of this subsection;

14 (3) shall be sentenced to a presumptive term of imprisonment  
15 of 10 years, subject to adjustment as provided in this chapter, when the  
16 present offense is a second felony conviction;

17 (4) shall be sentenced to a presumptive term of 15 years,  
18 subject to adjustment as provided in this chapter, when the present  
19 offense is a third or subsequent felony conviction.

20 (d) A defendant convicted of a class B felony

21 (1) may be sentenced to a definite term of imprisonment of  
22 not more than seven years when the present offense is a first felony  
23 conviction;

24 (2) shall be sentenced to a presumptive term of imprisonment  
25 of five years, subject to adjustment as provided in this chapter, when  
26 the present offense is a second felony conviction;

27 (3) shall be sentenced to a presumptive term of 10 years,  
28 subject to adjustment as provided in this chapter, when the present  
29 offense is a third or subsequent felony conviction.

1 (e) A defendant convicted of a class C felony

2 (1) may be sentenced to a definite term of imprisonment of  
3 not more than three years when the present offense is a first felony  
4 conviction;

5 (2) shall be sentenced to a presumptive term of imprisonment  
6 of two years, subject to adjustment as provided in this chapter, when  
7 the present offense is a second felony conviction;

8 (3) shall be sentenced to a presumptive term of four years,  
9 subject to adjustment as provided in this chapter, when the present  
10 offense is a third or subsequent felony conviction.

11 (f) If a defendant is sentenced under (a), (b), or (c)(1) of this  
12 section,

13 (1) imprisonment for the prescribed minimum term may not be  
14 suspended;

15 (2) probation may be granted, but shall be conditioned on the  
16 requirement that the defendant serve at least the prescribed minimum  
17 term of imprisonment;

18 (3) parole may be granted, but only after the defendant has  
19 served at least the prescribed minimum term of imprisonment; and

20 (4) imposition of sentence may not be suspended.

21 (g) If a defendant is sentenced under (c)(3), (c)(4), (d)(2), (d)-  
22 (3), (e)(2), or (e)(3) of this section, except to the extent permitted  
23 under secs. 155 - 175 of this chapter,

24 (1) imprisonment may not be suspended and probation or parole  
25 may not be granted;

26 (2) imposition of sentence may not be suspended.

27 (h) Nothing in this section or sec. 135 of this chapter limits the  
28 discretion of the sentencing judge except as specifically provided.

29 Sec. 12.55.135. SENTENCES OF IMPRISONMENT FOR MISDEMEANORS. (a)

1 A defendant convicted of a class A misdemeanor may be sentenced to a  
2 definite term of imprisonment of not more than one year.

3 (b) A defendant convicted of a class B misdemeanor may be sen-  
4 tenced to a definite term of imprisonment of not more than 90 days  
5 unless otherwise specified in the provision of law defining the offense.

6 Sec. 12.55.145. PRIOR CONVICTIONS. (a) For purposes of consider-  
7 ing prior convictions in imposing sentence under this chapter

8 (1) a prior conviction may not be considered if a period of  
9 seven or more years has elapsed between the date of the defendant's un-  
10 conditional discharge on the prior offense and the date of commission of  
11 the present offense;

12 (2) a conviction in this or another jurisdiction of an of-  
13 fense having elements substantially identical to those of a felony  
14 defined as such under Alaska law is considered a prior felony convic-  
15 tion;

16 (3) two or more convictions arising out of a single substan-  
17 tially contemporaneous course of criminal conduct are considered a  
18 single conviction.

19 (b) When sentence is imposed under this chapter, prior convictions  
20 not expressly admitted by the defendant must be proved by authenticated  
21 copies of court records served on the defendant or his counsel at least  
22 10 days before the date set for imposition of sentence.

23 (c) If the defendant denies the authenticity of a prior judgment  
24 of conviction, that he is the person named in the judgment, that the  
25 elements of a prior offense committed in another jurisdiction are sub-  
26 stantially identical to those of a felony defined as such under Alaska  
27 law, or that a prior conviction occurred within the period specified in  
28 (a)(1) of this section, or if he alleges that two or more purportedly  
29 separate prior convictions should be considered a single conviction

1 under (a)(3) of this section, the defendant shall file with the court  
2 and serve on the prosecuting attorney notice of denial no later than  
3 five days before the date set for imposition of sentence. The notice of  
4 denial shall include a concise statement of the grounds relied upon and  
5 may be supported by affidavit or other documentary evidence.

6 (d) Matters alleged in a notice of denial shall be heard by the  
7 court sitting without a jury. If the defendant introduces substantial  
8 evidence that he is not the person named in a prior judgment of convic-  
9 tion, that the judgment is not authentic, or that the conviction did not  
10 occur within the period specified in (a)(1) of this section, then the  
11 burden is on the state to prove the contrary beyond a reasonable doubt.

12 (e) The authenticated judgments of courts of record of the United  
13 States, the District of Columbia, or of any state, territory, or poli-  
14 tical subdivision of the United States are prima facie evidence of  
15 conviction.

16 Sec. 12.55.155. FACTORS IN AGGRAVATION AND MITIGATION. (a) If  
17 sentence is imposed under sec. 125(c)(3), (c)(4), (d)(2), (d)(3), (e)-  
18 (2), or (e)(3) of this chapter, the court may increase the presumptive  
19 term by not more than 50 per cent for factors in aggravation or decrease  
20 the presumptive term by not more than 50 per cent for factors in miti-  
21 gation. Sentence increments and decrements under this section shall be  
22 based on the totality of the aggravating and mitigating factors set out  
23 in (b) and (c) of this section, with regard for the overall weight and  
24 relevance of those factors viewed in conjunction with the other circum-  
25 stances of the offense.

26 (b) The following factors shall be considered by the sentencing  
27 court and may aggravate the presumptive terms set out in sec. 125 of  
28 this chapter:

29 (1) a person, other than an accomplice, sustained physical

1 injury as a direct result of the defendant's conduct;

2 (2) the defendant's conduct during the commission of the  
3 offense manifested a deliberate cruelty to another person;

4 (3) the defendant was the leader of a group of three or more  
5 persons who participated in the offense;

6 (4) the defendant employed a dangerous instrument in fur-  
7 therance of the offense;

8 (5) the defendant knew or reasonably should have known that  
9 the victim of the offense was particularly vulnerable or incapable of  
10 resistance due to advanced age, disability, ill health, or extreme youth  
11 or was for any other reason substantially incapable of exercising normal  
12 physical or mental powers of resistance;

13 (6) the defendant's conduct created a risk of imminent physi-  
14 cal injury to three or more persons, other than accomplices;

15 (7) a prior felony conviction considered for the purpose of  
16 invoking the presumptive terms of this chapter was of a more serious  
17 class of offense than the present offense;

18 (8) the defendant has a criminal history consisting of one or  
19 more convictions for misdemeanors having assault as a necessary element;

20 (9) the defendant knew that the offense involved more than  
21 one victim;

22 (10) the conduct constituting the offense was among the most  
23 serious conduct included in the definition of the offense;

24 (11) the defendant committed the offense pursuant to an agree-  
25 ment that he either pay or be paid for the commission of the offense,  
26 and the pecuniary incentive was beyond that inherent in the offense it-  
27 self;

28 (12) the defendant was on release under AS 12.30.020 or 12.-  
29 30.040 for another felony charge or conviction or for another misde-

1 meanor charge or conviction having assault as a necessary element;

2 (13) the defendant knowingly directed the conduct constituting  
3 the offense at an active officer of the court or at an active or former  
4 judicial officer, prosecuting attorney, law enforcement officer, correc-  
5 tional employee, or fireman during or because of the exercise of his  
6 official duties.

7 (c) The following factors shall be considered by the sentencing  
8 court and may mitigate the presumptive terms set out in sec. 125 of this  
9 chapter:

10 (1) the offense was principally accomplished by another  
11 person and the defendant manifested extreme caution or sincere concern  
12 for the safety or well-being of the victim;

13 (2) the defendant, although an accomplice, played only a  
14 minor role in the commission of the offense;

15 (3) the defendant committed the offense under some degree of  
16 duress, coercion, threat, or compulsion insufficient to constitute a  
17 complete defense, but which significantly affected his conduct;

18 (4) the conduct of a youthful defendant was substantially  
19 influenced by another person more mature than the defendant;

20 (5) the conduct of an aged defendant was substantially a  
21 product of physical or mental infirmities resulting from his age;

22 (6) in a conviction for assault under AS 11.41.200 - 11.41.-  
23 230, the defendant acted with serious provocation from the victim;

24 (7) except in the case of a crime defined by AS 11.41.410 -  
25 11.41.470, the victim provoked the crime to a significant degree;

26 (8) a prior felony conviction considered for the purpose of  
27 invoking the presumptive terms of this chapter was of a less serious  
28 class of offense than the present offense;

29 (9) the conduct constituting the offense was among the least

1 serious conduct included in the definition of the offense;

2 (10) before the defendant knew that his criminal conduct had  
3 been discovered, he fully compensated or made a good faith effort to  
4 compensate the victim of his criminal conduct for any damage or injury  
5 sustained;

6 (11) the defendant was motivated to commit the offense solely  
7 by an overwhelming compulsion to provide for emergency necessities for  
8 his immediate family;

9 (12) the defendant assisted authorities to detect or apprehend  
10 other persons who committed the offense with him.

11 (d) If a factor in aggravation is a necessary element of the  
12 present offense, that factor may not be used to aggravate the presump-  
13 tive term. If a factor in mitigation is raised at trial as a defense  
14 reducing the offense charged to a lesser included offense, that factor  
15 may not be used to mitigate the presumptive term.

16 (e) If the state seeks to establish a factor in aggravation at  
17 sentencing, or if the defendant seeks to establish a factor in mitiga-  
18 tion at sentencing, written notice must be served on the opposing party  
19 and filed with the court not later than 10 days before the date set for  
20 imposition of sentence. Factors in aggravation and factors in mitiga-  
21 tion must be established by clear and convincing evidence before the  
22 court sitting without a jury. All findings must be set out with speci-  
23 ficity.

24 (f) As used in this section,

25 (1) "officer of the court" means an officer of the court  
26 other than a judicial officer, prosecuting attorney, law enforcement  
27 officer, or correctional employee;

28 (2) "serious provocation" has the meaning ascribed to it in  
29 AS 11.41.115(d).

1           Sec. 12.55.165. EXTRAORDINARY CIRCUMSTANCES. If the defendant is  
2 subject to sentencing under sec. 125(c)(3), (c)(4), (d)(2), (d)(3), (e)-  
3 (2), or (e)(3) of this chapter, and the court finds by clear and con-  
4 vincing evidence that manifest injustice would result to the defendant  
5 or the public from failure to consider relevant aggravating or miti-  
6 gating factors not specifically included in sec. 155 of this chapter or  
7 from imposition of the presumptive term, whether or not adjusted for  
8 aggravating or mitigating factors, the court shall enter findings and  
9 conclusions and cause a record of the proceedings to be transmitted to a  
10 three-judge panel for sentencing under sec. 175 of this chapter.

11           Sec. 12.55.175. THREE-JUDGE SENTENCING PANEL. (a) There is  
12 created within the superior court a panel of five superior court judges  
13 to be appointed by the chief justice in accordance with rules and for  
14 terms as may be prescribed by the supreme court. Three judges of the  
15 panel shall be designated by the chief justice as members. The remain-  
16 ing two judges shall be designated by the chief justice as first and  
17 second alternates to sit as members in the event of disqualification or  
18 disability in accordance with rules as may be prescribed by the supreme  
19 court.

20           (b) Upon receipt of a record of proceedings under sec. 165 of this  
21 chapter, the three-judge panel shall consider all pertinent files,  
22 records, and transcripts, including the findings and conclusions of the  
23 judge who originally heard the matter. The panel may hear oral testi-  
24 mony to supplement the record before it. If the panel finds that mani-  
25 fest injustice would result to the defendant or the public from failure  
26 to consider relevant aggravating or mitigating factors not specifically  
27 included in sec. 155 of this chapter or from imposition of the presump-  
28 tive term, whether or not adjusted for aggravating or mitigating fac-  
29 tors, it shall sentence the defendant in accordance with this section.

1 If the panel does not find that manifest injustice would result, it  
2 shall remand the case to the sentencing court, with a written statement  
3 of its findings and conclusions, for sentencing under sec. 125 of this  
4 chapter.

5 (c) Notwithstanding the presumptive terms provided in this chap-  
6 ter, the three-judge panel may, in the interest of justice, sentence the  
7 defendant to any sentence authorized by sec. 15 of this chapter. If the  
8 defendant is sentenced to imprisonment, the sentence shall be for a  
9 definite term of not more than

10 (1) 22 1/2 years for a class A felony;

11 (2) 15 years for a class B felony;

12 (3) six years for a class C felony.

13 (d) Sentencing of a defendant or remanding of a case under this  
14 section shall be by a majority of the three-judge panel.

15 Sec. 12.55.185. DEFINITIONS. As used in this chapter, unless the  
16 context requires otherwise,

17 (1) "dangerous instrument" has the meaning ascribed to it in  
18 AS 11.81.900;

19 (2) "defendant", when used in provisions relating to im-  
20 prisonment, means a defendant who is a natural person;

21 (3) "discharge" means that a defendant is relieved of all  
22 obligations imposed by that part of a sentence being terminated by the  
23 court;

24 (4) "division of corrections" means the division of correc-  
25 tions within the Department of Health and Social Services;

26 (5) "first felony conviction" means that the defendant has  
27 not been previously convicted of a felony;

28 (6) "judicial officer" has the meaning ascribed to it in AS  
29 11.56.900;

1 (7) "official detention" has the meaning ascribed to it in AS  
2 11.81.900;

3 (8) "pecuniary gain" means the amount of money or value of  
4 property at the time of commission of the offense derived by the defen-  
5 dant from the commission of the offense, less the amount of money or  
6 value of property returned to the victim of the offense or seized by or  
7 surrendered to lawful authority before sentence is imposed;

8 (9) "second felony conviction" means that the defendant  
9 previously has been convicted of a felony;

10 (10) "third felony conviction" means that the defendant has  
11 been at least twice previously convicted of a felony;

12 (11) "unconditional discharge" means that a defendant is  
13 released from every part of his sentence without restriction and may  
14 thereafter be subject to the criminal jurisdiction of the state only by  
15 the initiation of a separate criminal prosecution.

16 \* Sec. 14. AS 12.55.100 is amended by adding a new paragraph to read:

17 (4) to perform community work.

18 \* Sec. 15. AS 33.15.080 is amended to read:

19 Sec. 33.15.080. GRANTING OF PAROLE. (a) If it appears to the  
20 board from a review that a prisoner eligible for parole will, in reason-  
21 able probability, live and remain at liberty without violating the laws,  
22 or without violating the conditions imposed by the board, and if the  
23 board determines that his release on parole is not incompatible with the  
24 welfare of society, the board may authorize the release of the prisoner  
25 on parole. However, no prisoner may be released on parole who has not  
26 served at least one-third of the period of confinement to which he has  
27 been sentenced [, OR IN THE CASE OF A LIFE SENTENCE, HAS NOT SERVED AT  
28 LEAST 15 YEARS].

29 \* Sec. 16. AS 33.15.080 is amended by adding a new subsection to read:

1 (b) A prisoner who has been imprisoned in accordance with AS 12.-  
2 55.125(a), (b), or (c)(1) may not be released on parole until he has  
3 served at least the prescribed minimum term of imprisonment.

4 \* Sec. 17. AS 33.15.180 is amended to read:

5 Sec. 33.15.180. PERSONS ELIGIBLE FOR PAROLE. A state prisoner  
6 other than a juvenile delinquent, wherever confined and serving a  
7 definite term of over 180 days or a term the minimum of which is at  
8 least 181 days, and who is not imprisoned in accordance with AS 12.55.-  
9 125(c)(3), (c)(4), (d)(2), (d)(3), (e)(2), or (e)(3), whose record shows  
10 that he has observed the rules of the institution in which he is con-  
11 fined, may, in the discretion of the board, be released on parole,  
12 subject to the limitations [LIMITATION] prescribed in secs. 80 and  
13 230(a)(1) of this chapter.

14 \* Sec. 18. AS 33.20.010 is repealed and re-enacted to read:

15 Sec. 33.20.010. COMPUTATION OF GOOD TIME. Each prisoner convicted  
16 of an offense against the state and sentenced to imprisonment, whose  
17 record of conduct shows that he has faithfully observed the rules of the  
18 institution in which he is confined, is entitled to a deduction from his  
19 term of imprisonment of one day for every three days of good conduct  
20 served.

21 \* Sec. 19. AS 12.45.045(a) is amended to read:

22 (a) In prosecutions for the crime of sexual assault in any degree  
23 or an attempt to commit sexual assault in any degree [RAPE AND ASSAULT  
24 WITH INTENT TO COMMIT RAPE], evidence of the complaining witness' pre-  
25 vious sexual conduct shall not be admitted nor reference made to it in  
26 the presence of the jury except as provided in this section. When the  
27 defendant seeks to admit the evidence for any purpose, he may apply for  
28 an order of the court at any time before or during the trial or preli-  
29 minary hearing. After the application is made, the court shall conduct

1 a hearing in camera to determine the admissibility of the evidence. If  
2 the court finds that evidence offered by the defendant regarding the  
3 sexual conduct of the complaining witness is relevant, and that the  
4 probative value of the evidence offered is not outweighed by the pro-  
5 bability that its admission will create undue prejudice, confusion of  
6 the issues, or unwarranted invasion of the privacy of the complaining  
7 witness, the court shall make an order stating what evidence may be  
8 introduced and the nature of the questions which shall be permitted.  
9 The defendant may then offer evidence under the order of the court.

10 \* Sec. 20. AS 12.60.180 is amended to read:

11 Sec. 12.60.180. UNLAWFUL OR RIOTOUS ASSEMBLY. Where six [THREE]  
12 or more persons, whether armed or not, are [UNLAWFULLY OR] riotously  
13 assembled, a district judge, magistrate, peace officer, or the chief  
14 executive officer of a city, town, village, or settlement shall go among  
15 the persons assembled, or as near to them as he can with safety, and  
16 command them in the name of the state to disperse.

17 \* Sec. 21. AS 18.70.090 is amended to read:

18 Sec. 18.70.090. ENFORCEMENT OF REGULATIONS. The Department of  
19 Public Safety and the chief of each city fire department and their  
20 authorized representatives in their respective areas may enforce the  
21 [RULES AND] regulations adopted by the Department of Public Safety for  
22 the prevention of fire or for the protection of life and property  
23 against fire or panic. All state peace officers may assist the Depart-  
24 ment of Public Safety in the enforcement of secs. 10 - 100 of this  
25 chapter and the [RULES AND] regulations adopted under it. The authority  
26 conferred in secs. 10 - 100 of this chapter extends to the enforcement  
27 of the provisions of AS 11.46.400 - 11.46.430 [11.20.010 - 11.20.050,  
28 AND 11.20.070].

29 \* Sec. 22. The following laws are repealed: AS 02.30.020; AS 03.35.060;

1 AS 03.40.100; AS 06.05.515; AS 06.30.875; AS 11.05.010 - 11.05.060, 11.-  
2 05.100, 11.05.140 - 11.05.150; AS 11.10; AS 11.15.010 - 11.15.050, 11.15.-  
3 070 - 11.15.340; AS 11.20.010 - 11.20.650, 11.20.670 - 11.20.690; AS 11.22;  
4 AS 11.25; AS 11.30; AS 11.35; AS 11.36; AS 11.40; AS 11.45; AS 11.50; AS  
5 11.55; AS 11.60.010 - 11.60.220, 11.60.340, 11.60.350; AS 11.65.030; AS  
6 11.70.010 - 11.70.030; AS 11.75; AS 12.15.010 - 12.15.040; AS 12.25.130; AS  
7 12.45.030, 12.45.040, 12.45.083(a) and (b), 12.45.085; AS 12.55.010, 12.55.-  
8 020, 12.55.040 - 12.55.075, 12.55.110; AS 12.60.010, 12.60.030, 12.60.200; AS  
9 18.65.070; AS 23.10.005; 23.10.010; AS 27.05.100 - 27.05.130; AS 28.35.010,  
10 28.35.020; AS 33.20.020; AS 33.30.055; AS 34.05.030; AS 35.10.140, 35.10.150;  
11 AS 38.05.360; AS 39.51.010; AS 45.50.471(d), 45.50.551(c); and AS 45.75.370.

12 \* Sec. 23. The revisor of statutes shall renumber the following laws, so  
13 as to remove them from AS 11 and place them in other appropriate titles of  
14 the Alaska Statutes: AS 11.05.070 - 11.05.090, 11.05.110 - 11.05.130; AS  
15 11.15.060; AS 11.20.660; AS 11.60.225, 11.60.250 - 11.60.320; AS 11.65.010,  
16 11.65.020; and AS 11.70.050.

17 \* Sec. 24. (a) Except as otherwise provided, secs. 1 - 11 of this Act  
18 govern the construction of any offense committed on or after the effective  
19 date of this Act, as well as the construction and application of any defense  
20 to a prosecution for an offense.

21 (b) Except as provided in (c) of this section, sec. 13 of this Act  
22 governs the punishment for any offense committed on or after the effective  
23 date of this Act.

24 (c) AS 12.55.125 - 12.55.185, enacted in sec. 13 of this Act, apply  
25 only upon conviction of the crime of murder in the first or second degree,  
26 kidnapping in the first degree, or any crime classified as a class A, B, or C  
27 felony or a class A or B misdemeanor. For purposes of AS 12.55.145, the  
28 court shall consider prior convictions whether committed before, on, or after  
29 the effective date of this Act.

1 (d) AS 33.15.180, as amended in sec. 17 of this Act, applies only to  
2 persons imprisoned for crimes committed on or after the effective date of  
3 this Act.

4 (e) AS 33.20.010, as re-enacted in sec. 18 of this Act, applies to all  
5 persons serving terms of imprisonment in state correctional institutions on  
6 or after the effective date of this Act, but is not retroactive in applica-  
7 tion.

8 (f) Sections 1 - 13 of this Act do not apply to or govern the con-  
9 struction of and punishment for any offense committed before the effective  
10 date of this Act or the construction or application of any defense to a  
11 prosecution for the offense. An offense shall be construed and punished  
12 according to the law existing at the time of the commission of the offense in  
13 the same manner as if this Act had not become law.

14 \* Sec. 25. This Act takes effect December 1, 1979.

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