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Referred: Judiciary

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 *45CS* HOUSE BILL NO. 661 *AMS*
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. LIABILITY BASED UPON CONDUCT. A person is guilty
12 of an offense if it is committed by his own conduct or by the conduct of
13 another person for which he is legally accountable, or by both.

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

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

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

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

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

24 (C) having a legal duty to prevent the commission of the
25 offense, he fails to make an effort he is legally required to make.

26 Sec. 11.16.120. EXEMPTIONS TO CRIMINAL LIABILITY FOR CONDUCT OF
27 ANOTHER. (a) Except as otherwise provided by a provision of law de-
28 fining an offense, a person is not legally accountable for the conduct
29 of another constituting an offense if

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

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

4 (3) under circumstances manifesting a voluntary and complete
5 renunciation of his criminal intent, he terminated his complicity before
6 the commission of the offense and

7 (A) wholly deprived his complicity of its effectiveness
8 in the commission of the offense; or

9 (B) gave timely warning to law enforcement authorities
10 or otherwise made proper effort to prevent the commission of the
11 offense.

12 (b) In a prosecution for an offense in which criminal liability is
13 based upon the conduct of another person, it is not a defense that

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

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

21 (3) the other person is not guilty of the offense because of

22 (A) lack of criminal responsibility or other legal
23 incapacity or exemption;

24 (B) unawareness of the criminal nature of the conduct in
25 question or of the criminal purpose of the defendant; or

26 (C) any other factor precluding the culpable mental
27 state required for the commission of the offense.

28 (c) In a prosecution for an offense in which criminal liability is
29 based upon the conduct of another person,

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

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

5 Sec. 11.16.130. CRIMINAL LIABILITY OF ORGANIZATIONS. (a) An
6 organization is guilty of an offense if

7 (1) the conduct constituting the offense is engaged in by an
8 agent of the organization while acting within the scope of his employ-
9 ment and in behalf of the organization and the offense is

10 (A) a violation;

11 (B) a misdemeanor; or

12 (C) defined by a statute that clearly indicates a legis-
13 lative intent to impose criminal liability on an organization;

14 (2) the conduct constituting the offense consists of an omis-
15 sion to discharge a specific duty of affirmative performance imposed on
16 organizations by law; or

17 (3) the conduct constituting the offense is knowingly engaged
18 in, authorized, solicited, requested, ratified, or tolerated by the
19 board of directors of a corporation or by the executive board of other
20 types of organizations or by a high managerial agent acting within the
21 scope of his employment and in behalf of the organization.

22 (b) In this section

23 (1) "agent" means a director, officer, or employee of an
24 organization or any other person who is authorized to act in behalf of
25 the organization;

26 (2) "high managerial agent" means an officer of an organiza-
27 tion who exercises authority with respect to the formulation of organi-
28 zational policy or a supervisor acting in the capacity of manager of
29 subordinate employees, or any other agent in a position of comparable

1 authority.

2 Sec. 11.16.140. CRIMINAL LIABILITY OF AN INDIVIDUAL FOR ORGANIZA-
3 TION CONDUCT. A person is criminally liable for conduct constituting an
4 offense which he performs or causes to be performed in the name of or in
5 behalf of an organization to the same extent as if that conduct were
6 performed in his own name or behalf.

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

8 CHAPTER 21. GENERAL PRINCIPLES OF JUSTIFICATION.

9 Sec. 11.21.100. JUSTIFICATION: DEFENSE. In any prosecution for
10 an offense, justification as provided in secs. 120 - 230 of this chapter
11 is a defense.

12 Sec. 11.21.120. JUSTIFICATION: NECESSITY. Conduct which would
13 otherwise be an offense is justifiable by reason of necessity to the
14 extent permitted by common law when

15 (1) neither this title nor other statute defining the offense
16 provides exemptions or defenses dealing with the justification of neces-
17 sity in the specific situation involved; and

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

20 Sec. 11.21.130. JUSTIFICATION: USE OF PHYSICAL FORCE IN DEFENSE
21 OF SELF. (a) A person may, subject to (b), (c), and (d) of this sec-
22 tion, use or threaten to use physical force upon another person when and
23 to the extent he reasonably believes it necessary to defend himself from
24 what he reasonably believes to be the use or imminent use of unlawful
25 physical force by the other person, unless

26 (1) the physical force involved is the product of mutual
27 combat not authorized by law;

28 (2) the person claiming the defense of justification provoked
29 the other person's conduct with intent to cause physical injury to the

1 other person; or

2 (3) the person claiming the defense of justification was the
3 initial aggressor.

4 (b) In circumstances described in (1) - (3) of (a) of this sec-
5 tion, the person claiming the defense of justification may use physical
6 force if he has withdrawn from the encounter and effectively commu-
7 cated his withdrawal to the other person, but the other person persists in
8 continuing the incident by the use or imminent use of unlawful physical
9 force.

10 (c) A person may, subject to (d) of this section, use or threaten
11 to use deadly physical force upon another person when and to the extent
12 he reasonably believes it necessary to defend himself from what he
13 reasonably believes to be the use or imminent use by the other person of
14 unlawful

15 (1) physical force while the other person is committing or
16 attempting to commit kidnapping in any degree, sexual assault under
17 AS 11.41.410(a)(1) or 11.41.420(a)(1), or robbery in any degree; or

18 (2) deadly physical force.

19 (d) A person may not use deadly physical force if he knows that he
20 can with complete safety as to himself and others avoid the necessity of
21 so doing by retreating, except there is no duty to retreat if the person
22 is

23 (1) in his dwelling and not the initial aggressor; or

24 (2) a peace officer or a person assisting a peace officer
25 under sec. 180 of this chapter.

26 Sec. 11.21.140. JUSTIFICATION: USE OF PHYSICAL FORCE IN DEFENSE
27 OF A THIRD PERSON. A person may use or threaten to use physical force
28 upon another person when and to the extent he reasonably believes it
29 necessary to defend a third person when, under the circumstances as the

1 person claiming the defense of justification reasonably believes them to
2 be, the third person would be justified under sec. 130 of this chapter
3 in using or threatening to use that degree of physical force to defend
4 himself.

5 Sec. 11.21.150. JUSTIFICATION: USE OF PHYSICAL FORCE IN DEFENSE
6 OF PREMISES. (a) A person may use or threaten to use nondeadly physi-
7 cal force upon another person when and to the extent he reasonably
8 believes it necessary to prevent or terminate what he reasonably be-
9 lieves to be the commission or attempted commission by the other person
10 of a crime involving damage to premises. He may use or threaten to use
11 deadly physical force when and to the extent he reasonably believes it
12 necessary to prevent or terminate what he reasonably believes to be the
13 commission or attempted commission of arson upon a dwelling or occupied
14 building.

15 (b) A person in possession or control of any premises, or an
16 express or implied agent of that person, may use or threaten to use
17 nondeadly physical force upon another person when and to the extent he
18 reasonably believes it necessary to prevent or terminate what he reason-
19 ably believes to be the commission or attempted commission by the other
20 person of a criminal trespass upon the premises.

21 (c) A person in possession or control of a dwelling or building,
22 or an express or implied agent of that person, may use or threaten to
23 use physical force upon another when and to the extent he reasonably
24 believes it necessary to terminate what he reasonably believes to be a
25 burglary occurring in an occupied dwelling or building.

26 Sec. 11.21.160. JUSTIFICATION: USE OF PHYSICAL FORCE IN DEFENSE
27 OF PROPERTY. (a) A person may use or threaten to use nondeadly physi-
28 cal force upon another person when and to the extent he reasonably
29 believes it necessary to prevent what he reasonably believes to be the

1 commission or attempted commission by the other person of any degree of
2 theft or any degree of criminal mischief.

3 (b) A person may use deadly physical force under circumstances
4 described in (a) of this section only when the use of deadly physical
5 force is authorized under other sections of this chapter.

6 Sec. 11.21.170. JUSTIFICATION: USE OF PHYSICAL FORCE BY PEACE
7 OFFICER IN MAKING AN ARREST OR PREVENTING AN ESCAPE. (a) A peace offi-
8 cer need not retreat or desist from efforts to make the arrest, or from
9 efforts to prevent the escape from custody, of a person he reasonably
10 believes to have committed a crime because of resistance or threatened
11 resistance of the arrestee. In addition to using or threatening to use
12 physical force authorized under other sections of this chapter, a peace
13 officer is, subject to (b), (c), and (d) of this section, justified in
14 using or threatening to use physical force when he reasonably believes
15 it necessary to make an arrest, to prevent an escape from custody, or to
16 make a lawful stop.

17 (b) A peace officer in making an arrest or in preventing an escape
18 from custody is justified in using deadly physical force only when

19 (1) deadly physical force is authorized under other sections
20 of this chapter; or

21 (2) the peace officer reasonably believes it necessary to
22 make the arrest or prevent the escape from custody of a person he rea-
23 sonably believes

24 (A) has committed or attempted to commit a felony in-
25 volving the use or threatened use of physical force against a
26 person;

27 (B) is attempting to escape from custody while in pos-
28 session of a firearm on or about his person.

29 (c) A peace officer is justified in using deadly physical force in

1 making a lawful stop only when the use of deadly physical force is
2 authorized under other sections of this chapter.

3 (d) Using or threatening to use physical force in making an arrest
4 is not justified under this section unless the peace officer reasonably
5 believes the arrest is lawful.

6 Sec. 11.21.180. JUSTIFICATION: USE OF PHYSICAL FORCE BY PRIVATE
7 PERSON ASSISTING AN ARREST OR PREVENTING AN ESCAPE. (a) Subject to (b)
8 of this section, a person who has been directed by a person he reason-
9 ably believes to be a peace officer to assist him in making an arrest or
10 preventing an escape from custody is justified in using or threatening
11 to use physical force when and to the extent that he reasonably believes
12 it necessary to carry out the peace officer's direction.

13 (b) A person who has been directed to assist one whom he reason-
14 ably believes to be a peace officer under circumstances specified in (a)
15 of this section may use or threaten to use deadly physical force to make
16 an arrest or to prevent an escape from custody only when

17 (1) use of deadly physical force is authorized under other
18 sections of this chapter; or

19 (2) the person is directed or authorized by the peace officer
20 to use deadly physical force, unless he knows that the peace officer
21 himself is not authorized to use deadly physical force under the circum-
22 stances.

23 Sec. 11.21.190. JUSTIFICATION: USE OF PHYSICAL FORCE BY PRIVATE
24 PERSON IN MAKING ARREST OR PREVENTING ESCAPE. (a) Subject to (b) of
25 this section and to the extent authorized by AS 12.25.030, a person,
26 acting on his own account, may use or threaten to use physical force to
27 make the arrest or prevent the escape from custody of a person who he
28 reasonably believes has committed an offense in his presence when and to
29 the extent he reasonably believes it necessary to make an arrest or to

1 prevent an escape from custody.

2 (b) A person in making an arrest or in preventing an escape from
3 custody is justified in using or threatening to use deadly physical
4 force only

5 (1) when it is authorized under other sections of this chap-
6 ter; or

7 (2) when and to the extent he reasonably believes it neces-
8 sary to make the arrest of a person who he reasonably believes has
9 committed murder, manslaughter, sexual assault under AS 11.41.410(a)(1)
10 or 11.41.420(a)(1), or any degree of robbery or who is in immediate
11 flight after commission of one of these crimes.

12 Sec. 11.21.200. JUSTIFICATION: USE OF PHYSICAL FORCE IN RESISTING
13 OR INTERFERING WITH ARREST. A person may not use or threaten to use
14 physical force to resist the arrest of himself or interfere with the
15 arrest of another by a peace officer who is known by him, or reasonably
16 appears, to be a peace officer, whether the arrest is lawful or unlaw-
17 ful, unless the physical force used by the peace officer exceeds that
18 allowed by sec. 170 of this chapter.

19 Sec. 11.21.210. JUSTIFICATION: USE OF PHYSICAL FORCE TO PREVENT
20 ESCAPE FROM CORRECTIONAL FACILITY. A guard or peace officer employed in
21 a correctional facility may use or threaten to use physical force upon
22 another person when and to the extent he reasonably believes it neces-
23 sary to prevent the escape of a prisoner from a correctional facility.

24 Sec. 11.21.220. JUSTIFICATION: PERFORMANCE OF PUBLIC DUTY. (a)
25 Unless inconsistent with secs. 120 - 210 of this chapter, conduct which
26 would otherwise constitute an offense is justified when it is required
27 or authorized by law or by a judicial decree, judgment, or order.

28 (b) The justification afforded by this section also applies when

29 (1) the person reasonably believes his conduct to be required

1 or authorized by a decree, judgment, or order of a competent court or
2 tribunal or in the lawful execution of legal process, notwithstanding
3 lack of jurisdiction of the court or tribunal or defect in the legal
4 process; or

5 (2) the person reasonably believes his conduct to be required
6 or authorized to assist a peace officer in the performance of his du-
7 ties, notwithstanding that the officer exceeded his authority.

8 Sec. 11.21.230. JUSTIFICATION: USE OF PHYSICAL FORCE, SPECIAL
9 RELATIONSHIPS. (a) The use of physical force upon another person that
10 would otherwise constitute an offense is justified under any of the
11 following circumstances:

12 (1) A parent, guardian, or other person entrusted with the
13 care and supervision of a child under 18 years of age or an incompetent
14 person may use reasonable and appropriate nondeadly physical force upon
15 that child or incompetent person when and to the extent reasonably
16 necessary and appropriate to promote the welfare of the child or incom-
17 petent person.

18 (2) A teacher may, if authorized by school regulations, use
19 reasonable and appropriate nondeadly physical force upon a student when
20 and to the extent reasonably necessary and appropriate to maintain order
21 in the school or classroom and when the use of that force is consistent
22 with the welfare of the students.

23 (3) A superintendent or other entrusted official of a correc-
24 tional facility may use such reasonable nondeadly physical force as is
25 authorized by regulations adopted by the Department of Health and Social
26 Services, when and to the extent reasonably necessary to maintain order.

27 (4) A person responsible for the maintenance of order in a
28 common carrier of passengers, or a person acting under his direction,
29 may use reasonable nondeadly physical force when and to the extent

1 reasonably necessary to maintain order.

2 (5) A person who reasonably believes that another is immi-
3 nently about to commit suicide may use reasonable nondeadly physical
4 force upon that person when and to the extent reasonably necessary to
5 prevent a suicide.

6 (6) A licensed physician, paramedic, or registered nurse, or
7 a person acting under his direction, or any person who renders emergency
8 care at the scene of an emergency, may use reasonable nondeadly physical
9 force for the purpose of administering a recognized and lawful form of
10 treatment which is reasonably adapted to promoting the physical or
11 mental health of the patient if

12 (A) the treatment is administered with the consent of
13 the patient or, if the patient is a child under 18 years of age or
14 an incompetent person, with the consent of his parent, guardian, or
15 other person entrusted with his care and supervision; or

16 (B) the treatment is administered in an emergency if the
17 person administering the treatment reasonably believes that no one
18 competent to consent can be consulted under the circumstances and
19 that a reasonable person, wishing to safeguard the welfare of the
20 patient, would consent.

21 (b) A person who raises a defense under (a)(1) of this section and
22 claims that the person upon whom force was used was an incompetent has
23 the burden of establishing by a preponderance of the evidence that, at
24 the time force was used, the person upon whom the force was used

25 (1) was hospitalized under AS 47.30; or

26 (2) could have been hospitalized upon court order under AS
27 47.30.070.

28 Sec. 11.21.240. DURESS. (a) In a prosecution for an offense, it
29 is an affirmative defense that the defendant engaged in the proscribed

1 conduct because he was coerced to do so by the use or threatened use of
2 unlawful physical force upon him or a third person, which force or
3 threatened force a reasonable person in his situation would have been
4 unable to resist.

5 (b) The defense of duress is not available when a person reck-
6 lessly places himself in a situation in which it is probable that he
7 will be subject to duress.

8 Sec. 11.21.250. ENTRAPMENT. In a prosecution for an offense, it
9 is an affirmative defense that, in order to obtain evidence of the com-
10 mission of an offense, a public law enforcement official or a person
11 working in cooperation with him induced the defendant to commit the
12 offense by persuasion or inducement as would be effective to persuade an
13 average person, other than one who is ready and willing, to commit the
14 offense. Inducement or persuasion which would induce only a person
15 engaged in an habitual course of unlawful conduct for gain or profit
16 does not constitute entrapment.

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

18 CHAPTER 26. RESPONSIBILITY.

19 Sec. 11.26.010. MENTAL DISEASE OR DEFECT EXCLUDING RESPONSIBILITY.

20 (a) A person is not responsible for criminal conduct if at the time of
21 the conduct, as a result of mental disease or defect, he lacks substan-
22 tial capacity either to appreciate the wrongfulness of his conduct or to
23 conform his conduct to the requirements of law.

24 (b) As used in this section, the terms "mental disease or defect"
25 do not include an abnormality manifested only by repeated criminal or
26 otherwise antisocial conduct.

27 (c) In any prosecution for an offense, mental disease or defect
28 excluding responsibility is a defense.

29 Sec. 11.26.020. EVIDENCE OF MENTAL DISEASE OR DEFECT. Evidence

1 that the defendant suffered from a mental disease or defect is admissi-
2 ble whenever it is relevant to prove that the defendant did or did not
3 have a culpable mental state which is an element of the offense. How-
4 ever, evidence of mental disease or defect excluding responsibility is
5 not admissible unless the defendant, at the time of entering his plea of
6 not guilty or within 10 days thereafter or at such later time as the
7 court may for good cause permit, files a written notice of his intent to
8 rely on that defense.

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

10 CHAPTER 31. ATTEMPT AND RELATED OFFENSES.

11 Sec. 11.31.100. ATTEMPT. (a) A person commits the crime of
12 attempt if, with intent to commit a crime, he engages in conduct which
13 constitutes a substantial step toward the commission of that crime.

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

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

23 (d) Attempt is a

24 (1) class A felony if the crime attempted is murder;
25 (2) class B felony if the crime attempted is a class A
26 felony;

27 (3) class C felony if the crime attempted is a class B
28 felony;

29 (4) class A misdemeanor if the crime attempted is a class C

1 felony;

2 (5) class B misdemeanor if the crime attempted is a class A
3 or class B misdemeanor.

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

8 (b) In a prosecution under this section, it is an affirmative
9 defense that the defendant, under circumstances manifesting a voluntary
10 and complete renunciation of his criminal intent, after soliciting
11 another person to engage in specific conduct constituting a crime, per-
12 suaded that person not to engage in the conduct or otherwise prevented
13 the commission of the crime.

14 (c) Solicitation is a

15 (1) class A felony if the crime solicited is murder;

16 (2) class B felony if the crime solicited is a class A
17 felony;

18 (3) class C felony if the crime solicited is a class B
19 felony;

20 (4) class A misdemeanor if the crime solicited is a class C
21 felony;

22 (5) class B misdemeanor if the crime solicited is a class A
23 or class B misdemeanor.

24 Sec. 11.31.120. CONSPIRACY. (a) A person commits the crime of
25 conspiracy if, with intent to promote or facilitate conduct constituting
26 murder, arson in the first degree, kidnapping in any degree, extortion,
27 or scheme to defraud in the first degree, he agrees with one or more
28 persons to engage in or cause the performance of that conduct and he or
29 one of those persons does an overt act in furtherance of the conspiracy.

1 (b) If a person commits the crime of conspiracy, as defined in (a)
2 of this section, and knows that a person with whom he conspires to
3 commit a crime has conspired or will conspire with another person or
4 persons to commit the same crime, he is guilty of conspiring with that
5 person or persons, whether or not he knows their identities, to commit
6 that crime.

7 (c) In a prosecution under this section, it is an affirmative
8 defense that the defendant, under circumstances manifesting a voluntary
9 and complete renunciation of his criminal intent, gave timely warning to
10 law enforcement authorities or otherwise made proper effort to prevent
11 the commission of the crime that is the object of the conspiracy.
12 Renunciation by one conspirator does not affect the liability of another
13 conspirator who does not join in the renunciation.

14 (d) The liability of a conspirator for offenses committed in
15 furtherance of the conspiracy, including a crime which is an object of
16 the conspiracy, shall be determined under ch. 16 of this title.

17 (e) Conspiracy is a

18 (1) class A felony if an object of the conspiracy is murder;

19 (2) class B felony if an object of the conspiracy is arson in
20 the first degree or kidnapping in any degree and murder is not an object
21 of the conspiracy;

22 (3) class C felony if an object of the conspiracy is extor-
23 tion or scheme to defraud in the first degree and neither murder, arson
24 in the first degree, nor kidnapping in any degree is an object of the
25 conspiracy.

26 Sec. 11.31.125. DURATION OF CONSPIRACY FOR PURPOSES OF LIMITATIONS
27 OF ACTIONS. For purposes of applying the statutes governing limitations
28 of actions in a prosecution under sec. 120 of this chapter, conspiracy
29 is a continuing course of conduct which terminates

1 (1) when the crime or crimes which are its object are com-
2 pleted;

3 (2) when the agreement is abandoned by the defendant and by
4 the person or persons with whom he agreed; or

5 (3) as to an individual defendant, when he abandons the
6 agreement by advising the person or persons with whom he agreed of his
7 abandonment or he informs law enforcement authorities of the existence
8 of the conspiracy and of his participation in it.

9 Sec. 11.31.130. DEFENSES TO SOLICITATION AND CONSPIRACY. (a) In
10 a prosecution under sec. 110 or 120 of this chapter, it is not a defense

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

14 (2) that a person whom the defendant solicits or conspires
15 with could not be guilty of the crime that is the object of the solici-
16 tation or conspiracy because of

17 (A) lack of criminal responsibility or other legal
18 incapacity or exemption;

19 (B) unawareness of the criminal nature of the conduct in
20 question or of the criminal purpose of the defendant; or

21 (C) any other factor precluding the culpable mental
22 state required for the commission of the crime.

23 (b) It is a defense to a prosecution under sec. 110 or 120 of this
24 chapter that, if the criminal objective were achieved, the defendant
25 would not be legally accountable under AS 11.16.120(a)(1) or (2) for the
26 conduct of the person he solicited or the conduct of the person or
27 persons with whom he conspired.

28 Sec. 11.31.140. MULTIPLE CONVICTIONS BARRED. (a) It is not a
29 defense to a prosecution under sec. 100, 110, or 120 of this chapter

1 that the crime that is the object of the attempt, solicitation, or
2 conspiracy was actually committed pursuant to the attempt, solicitation,
3 or conspiracy.

4 (b) A person may not be convicted of more than one crime defined
5 by sec. 100, 110, or 120 of this chapter for conduct designed to commit
6 or culminate in commission of the same crime.

7 (c) A person may not be convicted on the basis of the same course
8 of conduct of both (1) a crime defined by sec. 100, 110, or 120 of this
9 chapter; and (2) the crime that is the object of the attempt, sollicita-
10 tion, or conspiracy.

11 (d) This section does not bar inclusion of multiple counts in a
12 single indictment or information charging commission of a crime or
13 crimes defined by sec. 100, 110, or 120 of this chapter and commission
14 of the crime that is the object of the attempt, solicitation, or conspi-
15 racy, provided that the penal conviction is consistent with (a), (b),
16 and (c) of this section.

17 (e) If a person conspires to commit more than one crime listed in
18 sec. 120 of this chapter, he commits only one crime of conspiracy so
19 long as the multiple crimes are the object of the same agreement.

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

21 CHAPTER 37. SENTENCING AND RELATED PROCEDURES.

22 ARTICLE 1. PURPOSES AND GENERAL PROVISIONS.

23 Sec. 11.37.010. DECLARATION OF PURPOSE. The legislature finds
24 that the elimination of unjustified disparity in sentences and the
25 attainment of reasonable uniformity in sentences can best be achieved
26 through the application of judicial discretion within a legislatively
27 fixed framework as provided in this chapter.

28 Sec. 11.37.020. PURPOSE OF SENTENCING. The purpose of this chap-
29 ter is to provide the means for determining the appropriate sentence to

1 be imposed upon conviction for an offense. In imposing sentence, the
2 court shall use the least severe measures through the imposition of a
3 sentence which gives primary weight to the seriousness of the defen-
4 dant's present offense and his prior criminal history and, to the extent
5 that they are not inconsistent,

6 (1) the relationship of the offense to other offenses within
7 its class;

8 (2) the extent to which the offense harmed the victim or en-
9 dangered the public safety or order;

10 (3) the effect of the sentence to be imposed on the likely
11 reformation of the defendant;

12 (4) the need to confine the defendant to prevent further harm
13 to the public;

14 (5) the effect of the sentence to be imposed in deterring the
15 defendant or other members of society from future criminal conduct; and

16 (6) the effect of the sentence to be imposed as a community
17 condemnation of the criminal act and as a reaffirmation of societal
18 norms.

19 Sec. 11.37.030. AUTHORIZED SENTENCES. (a) Subject to the pro-
20 visions of this chapter, in imposing sentence upon a person convicted of
21 an offense, the court may, singly or in combination, to the extent that
22 they are not inconsistent,

23 (1) suspend imposition of sentence as authorized by sec. 90
24 of this chapter;

25 (2) order the defendant to be placed on probation or order
26 unconditional discharge as authorized by secs. 100 - 130 of this chapter;

27 (3) order payment of a fine as authorized by secs. 140 - 180
28 of this chapter;

29 (4) order the defendant to make restitution as authorized by

1 secs. 190 - 210 of this chapter;

2 (5) order the defendant to carry out a continuous or periodic
3 program of work service to the community as authorized by secs. 220 -
4 240 of this chapter; or

5 (6) impose a term of imprisonment, periodic or continuous, as
6 authorized by secs. 250 - 300 of this chapter.

7 (b) Nothing in this section deprives the court of any authority
8 conferred by law to order a forfeiture of property, suspend or revoke a
9 license, remove a person from office, or impose any other civil penalty.

10 Sec. 11.37.040. GENERAL PROVISIONS. (a) In addition to any other
11 requirement of law relating to the imposition of sentences, at the time
12 of imposing a sentence of imprisonment exceeding 180 days, the court
13 shall prepare a sentencing report as a part of the record, to include
14 the following:

15 (1) a verbatim record of any sentencing hearing, including
16 statements made by witnesses, the prosecuting attorney, the defense
17 attorney, and the defendant;

18 (2) findings on material issues of fact and on factual ques-
19 tions required to be determined as a prerequisite to the selection of
20 the sentence imposed; and

21 (3) a precise statement of the terms of the sentence imposed,
22 including recommendations as to the place of confinement or the manner
23 of treatment.

24 (b) The sentencing report required under (a) of this section shall
25 be furnished to the division of corrections and the state Board of
26 Parole within 30 days after imposition of sentence.

27 (c) When a defendant is sentenced to imprisonment, his term of
28 confinement commences as of the date of imposition of sentence. A
29 defendant who is sentenced shall receive credit toward service of his

1 sentence for time spent in custody pending trial, sentencing, or appeal
2 if that detention was in connection with the offense for which sentence
3 was imposed. A defendant may not receive total credit for more than the
4 actual time he spent in custody pending trial, sentencing, or appeal.
5 The time during which a defendant is voluntarily absent from institu-
6 tional confinement, or from the custody of an officer after his sen-
7 tence, may not be credited toward service of his sentence.

8 (d) A sentence of imprisonment shall be stayed if an appeal is
9 taken and the defendant is admitted to bail. If an appeal is taken and
10 the defendant is not admitted to bail, the Department of Health and
11 Social Services shall designate the facility in which the defendant
12 shall be detained pending appeal or admission to bail.

13 (e) A sentence of imprisonment shall specify the duration of im-
14 prisonment. However, the place of confinement, manner of treatment, and
15 employment of the person sentenced shall be determined by statute or by
16 regulation adopted in accordance with the Administrative Procedure Act
(AS 44.62).

18 (f) If the defendant is convicted of two or more crimes before
19 judgment on either has been entered, any sentences of imprisonment shall
20 run concurrently unless the court expressly directs otherwise, in which
21 case the judgment may provide that the imprisonment upon one conviction
22 begins at the expiration of the imprisonment for any other of the crimes.
23 If the defendant is imprisoned upon a previous judgment of conviction
24 for a crime, the judgment may provide that the imprisonment commences at
25 the expiration of the term limited by the previous judgment.

26 (g) A sentence that the defendant pay money, whether as a fine or
27 in restitution or both, constitutes a lien in the same manner as a
28 judgment for money entered in a civil action. Nothing in this section
29 limits the authority of the court to otherwise enforce payment of a fine

1 or restitution.

2 ARTICLE 2. CLASSIFICATION OF OFFENSES.

3 Sec. 11.37.050. DESIGNATION OF OFFENSES. (a) The particular
4 classification of each felony defined in this title, except murder, is
5 expressly designated in the section defining it. An offense defined
6 outside this title which is declared by law to be a felony without
7 either specification of the classification or of the penalty is a class
8 C felony.

9 (b) The particular classification of each misdemeanor defined in
10 this title is expressly designated in the section defining it. An
11 offense defined outside this title which is declared by law to be a
12 misdemeanor without either specification of the classification or of the
13 penalty is a class A misdemeanor.

14 (c) An offense which is a violation is expressly designated as
15 such in the section defining it.

16 Sec. 11.37.060. CLASSIFICATION OF FELONIES. Except for murder,
17 felonies are classified for the purpose of sentence into the following
18 categories:

- 19 (1) class A felonies;
20 (2) class B felonies; and
21 (3) class C felonies.

22 Sec. 11.37.070. CLASSIFICATION OF MISDEMEANORS. Misdemeanors are
23 classified for the purpose of sentence into the following categories:

- 24 (1) class A misdemeanors; and
25 (2) class B misdemeanors.

26 Sec. 11.37.080. CLASSIFICATION OF VIOLATIONS. Violations are not
27 classified.

28 ARTICLE 3. SUSPENDED IMPOSITION OF SENTENCE.

29 Sec. 11.37.090. SUSPENDED IMPOSITION OF SENTENCE. (a) If it

1 appears that the purposes of sentencing set out in sec. 20 of this
2 chapter will be served, the court may, subject to secs. 250 - 300 of
3 this chapter, suspend the imposition of sentence. In suspending im-
4 position of sentence the court may release the defendant or place him on
5 probation. If the defendant is placed on probation, it may be to the
6 court or supervised by the division of corrections. The court may
7 direct that the suspension continue for a period of time not exceeding
8 the authorized sentence of imprisonment for the offense, but in no event
9 for longer than five years, and upon the terms and conditions which the
10 court determines.

11 (b) At any time during the period of suspended imposition of
12 sentence, a probation officer may, upon a finding of probable cause,
13 rearrest a person placed in his custody or the court may, upon a finding
14 of probable cause, issue a warrant for the rearrest of the person. The
15 court may revoke the suspended imposition of sentence if it finds, by a
16 preponderance of the evidence, that the defendant violated a condition
17 of the suspended imposition of sentence, unless the act or acts alleged
18 to be in violation of a condition constitute an offense, in which case
19 the court must find by clear and convincing evidence that the condition
20 was violated.

21 (c) Upon revocation of the suspended imposition of sentence, as
22 provided in (b) of this section, the court may impose another sentence
23 authorized by law for the original conviction or may impose sentence
24 within the longest period for which the defendant might have been sen-
25 tenced under sec. 260 or 270 of this chapter.

26 (d) The court may, at any time during the period of suspended im-
27 position of sentence, modify requirements imposed to relieve the de-
28 fendant of a requirement that, in its opinion, imposes an unreasonable
29 burden on him.

1 (e) The court may, when the purposes of sentencing set out in sec.
2 20 of this chapter will be served, and when the conduct of the defendant
3 warrants it, terminate the period of suspended imposition of sentence
4 and unconditionally discharge the defendant. If the court has not
5 revoked the order of suspended imposition of sentence and imposed sen-
6 tence, the defendant shall, at the end of the term of suspended im-
7 position of sentence, be unconditionally discharged by the court.

8 (f) In all court proceedings for the revocation of a suspended
9 imposition of sentence the defendant is entitled to reasonable notice
10 and to be represented by counsel.

11 (g) Upon unconditional discharge of the defendant by the court
12 without imposition of sentence, the clerk of the court shall set aside
13 the conviction and issue to the defendant a certificate to that effect,
14 unless the prosecuting attorney or the commissioner of health and social
15 services files written notice of objection.

16 ARTICLE 4. PROBATION AND UNCONDITIONAL DISCHARGE.

17 Sec. 11.37.100. ELIGIBILITY FOR PROBATION OR UNCONDITIONAL DIS-
18 CHARGE. (a) Upon entry of a judgment of conviction or within 60 days
19 thereafter, the court may, if it is satisfied that the purposes of
20 sentencing set out in sec. 20 of this chapter will be served,

21 (1) suspend a term of imprisonment authorized by law and
22 place the defendant on probation; or

23 (2) unconditionally discharge the defendant, if he does not
24 need the supervision, guidance, assistance, or direction that probation
25 can provide and no proper purpose would be served by probation.

26 (b) A period of probation may not exceed the authorized sentence
27 of imprisonment for the offense, and may in no event exceed five years.
28 Probation may be limited to one or more counts or indictments, but, in
29 the absence of an express limitation, extends to the entire sentence and

1 judgment. A sentence of unconditional discharge is for all purposes a
2 final judgment of conviction.

3 (c) The authority granted by this section is subject to secs.
4 250 - 300 of this chapter.

5 Sec. 11.37.110. MODIFICATION AND DISCHARGE. (a) During the
6 period of probation specified in a sentence imposed under sec. 100 of
7 this chapter, and upon application of the defendant or his probation
8 officer, or on its own motion, the court may, after hearing upon notice
9 to the probation officer and the defendant, modify requirements of
10 probation that, in its opinion, impose an unreasonable burden on the
11 defendant.

12 (b) On application of the defendant or his probation officer, or
13 on its own motion, the court may, after notice to the prosecuting attor-
14 ney and the probation officer, terminate a period of probation and dis-
15 charge the defendant at any time earlier than that provided in the
16 sentence imposed under sec. 100 of this chapter, if warranted by the
17 conduct of the defendant. This termination and discharge relieves the
18 defendant of all obligations imposed by the sentence of probation.

19 Sec. 11.37.120. CONDITIONS OF PROBATION. (a) While on probation,
20 among other conditions of probation, a defendant may be required to

21 (1) pay a fine as authorized by secs. 140 - 180 of this
22 chapter;

23 (2) make restitution as authorized by secs. 190 - 210 of this
24 chapter;

25 (3) perform community work service as authorized by secs.
26 220 - 240 of this chapter;

27 (4) serve a period of imprisonment not exceeding 90 days;

28 (5) provide support for those persons he is legally responsi-
29 ble to support;

1 (6) undergo, upon certification by an organization or indi-
2 vidual that it will accept him as an outpatient, available medical or
3 psychiatric treatment, or enter a specific treatment facility and remain
4 there as a voluntary patient;

5 (7) pursue a specified secular course of study or vocational
6 training;

7 (8) remain within the jurisdiction of the court and confine
8 his movements as directed by the court;

9 (9) report as directed to the court or the probation officer;

10 (10) refrain from possessing a firearm without the specific
11 approval of the court;

12 (11) refrain from violating any state or federal law;

13 (12) refrain from drug use and the use of intoxicants and
14 submit to reasonable medical testing designed to determine the extent of
15 compliance with such a condition if so ordered by the court;

16 (13) devote himself to an approved employment or occupation;

17 or

18 (14) forfeit for a prescribed period of time any license or
19 permit which he may hold.

20 (b) Failure to comply with a condition of probation requiring the
21 defendant to undergo medical or psychiatric treatment, or to enter and
22 remain in a treatment facility, is considered only a violation of pro-
23 bation and does not, in itself, authorize involuntary treatment or
24 hospitalization.

25 (c) The liability of the defendant for a punishment other than a
26 fine imposed as a condition of probation is fully discharged upon ex-
27 piration of the period of probation.

28 Sec. 11.37.130. PROBATION REVOCATION. (a) The defendant may not
29 be arrested for a violation of probation except upon a showing of pro-

1 bable cause that a violation of a condition of probation has occurred.
2 The court may revoke probation if it finds, by a preponderance of the
3 evidence, that the defendant violated a condition of probation, unless
4 the act or acts alleged to be in violation of a condition constitute an
5 offense, in which case the court must find by clear and convincing
6 evidence that the condition was violated.

7 (b) Upon revocation of probation, the court may

8 (1) order the defendant to serve any other nonincarcerative
9 punishment authorized by law for the original offense;

10 (2) order the defendant to serve a term of imprisonment
11 equal to

12 (A) the balance of the original suspended term of im-
13 prisonment remaining at the time the violation occurred; plus

14 (B) 50 per cent of the time served on probation before
15 the violation;

16 (3) order the defendant to serve a term of imprisonment less
17 than that specified in (b)(2) of this section; or

18 (4) extend the period of probation for a period of time not
19 exceeding 50 per cent of the original suspended term of imprisonment.

20 (c) In all court proceedings for the revocation of probation the
21 defendant is entitled to reasonable notice and to be represented by
22 counsel. Probation revocation proceedings shall be provided for by
23 court rule.

24 ARTICLE 5. FINES.

25 Sec. 11.37.140. CRITERIA FOR IMPOSING FINES. Upon conviction of
26 an offense, a defendant may be sentenced to pay a fine as authorized in
27 sec. 150 of this chapter. In determining the amount and method of pay-
28 ment of the fine, the court shall take into account the financial re-
29 sources of the defendant and the nature of the burden that its payment

1 will impose. No defendant may be imprisoned solely because of inability
2 to pay a fine.

3 Sec. 11.37.150. AMOUNTS AUTHORIZED. (a) Upon conviction of an
4 offense, a defendant who is not an organization may be sentenced to pay,
5 unless otherwise specified in the provision of law defining the offense,
6 a fine of no more than

- 7 (1) \$10,000 for a class A, B, or C felony;
- 8 (2) \$1,000 for a class A misdemeanor;
- 9 (3) \$500 for a class B misdemeanor;
- 10 (4) \$300 for a violation.

11 (b) If the defendant is an organization, upon conviction of an
12 offense it may be sentenced to pay a fine not exceeding the greater of

- 13 (1) \$100,000; or
- 14 (2) an amount not exceeding twice the pecuniary gain realized
15 by the defendant as a result of the offense.

16 Sec. 11.37.160. TIME AND METHOD OF PAYMENT OF FINES. If a defen-
17 dant is sentenced to pay a fine, the court may grant permission for the
18 payment to be made within a specified period of time or in specified
19 installments.

20 Sec. 11.37.170. CONSEQUENCES OF NONPAYMENT. (a) If a defendant
21 sentenced to pay a fine defaults in the payment of the fine or of any
22 installment, the court, upon application of the official to whom the
23 money is payable or another officer of the court, or on its own motion,
24 may require the defendant to show cause why he should not be sentenced
25 to imprisonment for nonpayment and may issue a summons or a warrant of
26 arrest for his appearance. Unless the defendant establishes, by a pre-
27 ponderance of the evidence, that his default was not attributable to an
28 intentional refusal to obey the order of the court or to his failure to
29 make a good faith effort to obtain the funds required for the payment,

1 the court shall find that his default was unexcused and may order him
2 imprisoned, subject to sec. 140 of this chapter, until the fine or a
3 specified part of the fine is paid. The term of imprisonment for un-
4 excused nonpayment of the fine shall be specified in the order of the
5 court and may not exceed one day for each \$50 of the unpaid portion of
6 the fine or six months, whichever is shorter. When a fine is imposed on
7 an organization, the person or persons authorized to make disbursements
8 from the assets of the organization shall pay the fine from those
9 assets, and intentional failure to do so is punishable under this sec-
10 tion. A person imprisoned for nonpayment of a fine shall be given
11 credit towards its payment for each day that he is in the custody of the
12 Department of Health and Social Services, at the rate specified in the
13 order of the court. He shall also be given credit for each day that he
14 has been detained as a result of a warrant of arrest issued under this
15 section.

16 (b) If it appears that the default in the payment of a fine is
17 excusable, the court may make an order allowing the defendant additional
18 time for payment, reducing the amount of the fine or of each install-
19 ment, or revoking the fine or the unpaid portion of the fine in whole or
20 in part.

21 Sec. 11.37.180. REVOCATION OF FINES. (a) A defendant who has
22 been sentenced to pay a fine may at any time petition the court which
23 sentenced him for a revocation of any unpaid portion of the fine. A
24 failure to so petition will give rise to a rebuttable presumption of
25 intentional default of payment in a proceeding under sec. 170 of this
26 chapter.

27 (b) If, in a judicial proceeding following conviction, a court
28 issues a final judgment invalidating the conviction, that judgment may
29 include an order that any or all of a fine which the defendant paid

1 under the sentence for that conviction be returned to him.

2 ARTICLE 6. RESTITUTION.

3 Sec. 11.37.190. ELIGIBILITY FOR RESTITUTION. (a) Subject to
4 secs. 250 - 300 of this chapter, the court may, if it is satisfied that
5 the purposes of sentencing set out in sec. 20 of this chapter will be
6 served, order a defendant convicted of an offense to perform a program
7 of restitution as provided under sec. 200 of this chapter. The court may
8 order that restitution be made while the defendant is serving a term of
9 imprisonment authorized by law or may order restitution as a condition
10 of probation or as a condition of a suspended imposition of sentence.

11 (b) In determining the amount and manner of payment of restitu-
12 tion, the court shall take into account the financial resources of the
13 defendant and the nature of the burden that its payment will impose.

14 Sec. 11.37.200. RESTITUTION PROGRAMS. (a) The court, in senten-
15 cing a defendant under sec. 190 of this chapter, may require the defen-
16 dant to provide the victim with restitution for the harm caused by the
17 offense, including but not limited to payment for

18 (1) the replacement value of property taken or damaged during
19 the commission of or flight from the offense, less the value of the
20 property recovered and returned to the victim;

21 (2) medical expenses sustained by the victim as a result of
22 the defendant's actions during the commission of or flight from the
23 offense, less any reimbursement from another source, collateral or
24 otherwise;

25 (3) income from wages lost as a result of an injury sustained
26 by the victim as a result of the defendant's actions during the commis-
27 sion of or flight from the offense, less any reimbursement from another
28 source, collateral or otherwise; or

29 (4) repair of damage to the property of the victim caused by

1 the defendant's actions during the commission of or flight from the
2 offense.

3 (b) A program of restitution is subject to such conditions as the
4 court may impose. The period during which restitution must be made may
5 not exceed five years.

6 (c) Before the court may sentence a defendant to a program of
7 restitution, the prosecuting attorney must give notice of the contem-
8 plated action to the victim of the offense.

9 Sec. 11.37.210. MODIFICATION AND DISCHARGE. (a) During the
10 period in which restitution must be made as specified in a sentence
11 imposed under sec. 190 of this chapter, and upon application of the
12 defendant or his probation officer, or on its own motion, the court may,
13 after hearing upon notice to the probation officer, the victim, and the
14 defendant, modify requirements of restitution that, in its opinion,
15 impose an unreasonable burden on the defendant.

16 (b) On application of the probation officer, the victim, or the
17 defendant, or on its own motion, the court may, after notice to the pro-
18 secuting attorney, the victim, and the probation officer, terminate
19 restitution and discharge the defendant at any time earlier than that
20 provided in the sentence imposed under sec. 190 of this chapter, if
21 warranted by the conduct of the defendant. This termination and dis-
22 charge relieves the defendant of all obligations imposed by the sentence
23 of restitution.

24 ARTICLE 7. COMMUNITY WORK SERVICE.

25 Sec. 11.37.220. ELIGIBILITY FOR COMMUNITY WORK SERVICE. Subject
26 to secs. 250 - 300 of this chapter, the court may, if it is satisfied
27 that the purposes of sentencing set out in sec. 20 of this chapter will
28 be served, order a defendant convicted of an offense to perform a pro-
29 gram of community work service as provided under sec. 230 of this chap-

1 ter. The court may order that community work service be performed while
2 the defendant is serving a term of imprisonment authorized by law or may
3 order community work service as a condition of probation or as a condi-
4 tion of a suspended imposition of sentence. However, no program of
5 community work service may be ordered except upon the agreement of the
6 defendant.

7 Sec. 11.37.230. COMMUNITY WORK SERVICE PROGRAMS. (a) The court,
8 in sentencing a defendant under sec. 220 of this chapter, may require
9 the defendant to perform a program of community work service recommended
10 by the division of corrections, the defendant, or the defendant's legal
11 representative, including but not limited to work

12 (1) on projects designed to maintain or improve forests,
13 parks, or other lands of the federal government, the state government,
14 or a municipal government;

15 (2) on the roads or highways of the state government or a
16 municipal government;

17 (3) on public projects designed to reduce or eliminate en-
18 vironmental damage to streams, lakes, ponds, rivers, or seacoast;

19 (4) on projects designed to improve public facilities of the
20 state government or a municipal government;

21 (5) in programs designed to protect the public health or to
22 prevent injury or illness; or

23 (6) in programs designed to improve the education of resi-
24 dents of the state.

25 (b) A program of community work service is subject to any condi-
26 tions which the court imposes and the employer agrees to. The period
27 during which community work service must be performed may not exceed the
28 maximum term of imprisonment to which the defendant could have been
29 sentenced. Community work service does not confer a private benefit

1 upon an individual except as it may be incidental to the public benefit
2 produced by the community work service.

3 Sec. 11.37.240. MODIFICATION AND DISCHARGE. (a) During the
4 period of community work service specified in a sentence imposed under
5 sec. 220 of this chapter, and upon application of the defendant, his
6 probation officer, or his employer, or on its own motion, the court may,
7 after hearing upon notice to the probation officer, the employer, and
8 the defendant, modify requirements of community work service that, in
9 its opinion, impose an unreasonable burden on the defendant.

10 (b) On application of the probation officer, the employer, or the
11 defendant, or on its own motion, the court may, after notice to the
12 prosecuting attorney and the probation officer, terminate the community
13 work service program and discharge the defendant at any time earlier
14 than that provided in the sentence imposed under sec. 220 of this chap-
15 ter, if warranted by the conduct of the defendant. This termination and
16 discharge relieves the defendant of all obligations imposed by the
17 sentence of community work service.

18 ARTICLE 8. IMPRISONMENT.

19 Sec. 11.37.250. PERIODIC TERM OF IMPRISONMENT AUTHORIZED. Subject
20 to the provisions of this chapter, the court may sentence a defendant to
21 periodic terms of imprisonment if it is satisfied that the purposes of
22 sentencing set out in sec. 20 of this chapter will be served.

23 Sec. 11.37.260. SENTENCES OF IMPRISONMENT FOR MISDEMEANORS. (a)
24 A defendant convicted of a class A misdemeanor may be sentenced to a
25 definite term of imprisonment for not more than one year.

26 (b) A defendant convicted of a class B misdemeanor may be sen-
27 tenced to a definite term of imprisonment for not more than 90 days
28 unless otherwise specified in this title.

29 Sec. 11.37.270. SENTENCES OF IMPRISONMENT FOR FELONIES. (a) A

1 defendant convicted of murder may be sentenced to a definite term of
2 imprisonment for not more than 99 years.

3 (b) A defendant convicted of a class A felony

4 (1) may be sentenced to a definite term of imprisonment for a
5 first, class A felony for not more than 15 years;

6 (2) shall be sentenced to a definite term of imprisonment
7 within a presumptive range of seven or more but less than 11 years for a
8 second, class A felony subject to adjustment as provided in (e) and (f)
9 of this section;

10 (3) shall be sentenced to a definite term of imprisonment
11 within a presumptive range of 11 or more but less than 18 years for a
12 third or subsequent class A felony subject to adjustment as provided in
13 (e) and (f) of this section.

14 (c) A defendant convicted of a class B felony

15 (1) may be sentenced to a definite term of imprisonment for a
16 first, class B felony for not more than seven years;

17 (2) shall be sentenced to a definite term of imprisonment
18 within a presumptive range of three or more but less than five years for
19 a second, class B felony subject to adjustment as provided in (e) and
20 (f) of this section;

21 (3) shall be sentenced to a definite term of imprisonment
22 within a presumptive range of seven or more but less than 11 years for a
23 third or subsequent class B felony subject to adjustment as provided in
24 (e) and (f) of this section.

25 (d) A defendant convicted of a class C felony

26 (1) may be sentenced to a definite term of imprisonment for a
27 first, class C felony for not more than three years;

28 (2) shall be sentenced to a definite term of imprisonment
29 within a presumptive range of three or more months but less than three

1 years for a second, class C felony subject to adjustment as provided in
2 (e) and (f) of this section;

3 (3) shall be sentenced to a definite term of imprisonment
4 within a presumptive range of three or more but less than five years for
5 a third or subsequent class C felony subject to adjustment as provided
6 in (e) and (f) of this section.

7 (e) If sentence is imposed under (b), (c), or (d) of this section,
8 the court shall sentence the defendant to a definite term of imprison-
9 ment within the following ranges for factors in mitigation:

10 (1) for a second, class A felony, three or more but less than
11 seven years;

12 (2) for a third or subsequent class A felony, seven or more
13 but less than 11 years;

14 (3) for a second, class B felony, one or more but less than
15 three years;

16 (4) for a third or subsequent class B felony, three or more
but less than seven years;

17 (5) for a second, class C felony, three months or less;

18 (6) for a third or subsequent class C felony, one or more but
19 less than three years.
20

21 (f) If sentence is imposed under (b), (c), or (d) of this section,
22 the court shall sentence the defendant to a definite term of imprison-
23 ment within the following ranges for factors in aggravation:

24 (1) for a second, class A felony, 11 or more but less than 16
25 years;

26 (2) for a third or subsequent class A felony, 18 or more but
27 less than 30 years;

28 (3) for a second, class B felony, five or more but less than
29 seven years;

1 (4) for a third or subsequent class B felony, 11 or more but
2 less than 16 years;

3 (5) for a second, class C felony, three or more but less than
4 four and one-half years;

5 (6) for a third or subsequent class C felony, five or more
6 but less than seven years.

7 (g) Aggravating factors adopted by the Advisory Commission on
8 Prison Terms and Parole Standards shall be considered by the court in
9 sentencing and shall increase the presumptive ranges set out in (b),
10 (c), and (d) of this section.

11 (h) Mitigating factors adopted by the Advisory Commission on
12 Prison Terms and Parole Standards shall be considered by the court in
13 sentencing and shall reduce the presumptive ranges set out in (b), (c),
14 and (d) of this section.

15 (i) When a factor in aggravation is an element of the offense, or
16 a factor in mitigation is raised as a defense at trial and results in
17 reducing the charge to a lesser included offense, that factor may not be
18 used to increase or reduce the presumptive range.

19 (j) If the state seeks to establish a factor in aggravation at
20 sentencing, or if the defendant seeks to establish a factor in mitiga-
21 tion at sentencing, written notice must be served on the opposing party
22 and filed with the court at least 15 days before the date set for the
23 imposition of sentence. Factors in aggravation and factors in mitiga-
24 tion must be established by clear and convincing evidence before the
25 court sitting without a jury. The court shall set out all findings
26 concerning factors in mitigation and aggravation with specificity.

27 Sec. 11.37.280. EXTRAORDINARY CIRCUMSTANCES. If the defendant is
28 subject to sentencing under sec. 270 of this chapter, and the court
29 finds by clear and convincing evidence that relevant mitigating or

1 aggravating factors not specifically adopted by the Advisory Commission
2 on Prison Terms and Parole Standards should be considered or that im-
3 position of a term of imprisonment within the authorized range for the
4 offense would be contrary to the purposes of sentencing set out in sec.
5 20 of this chapter, the court shall enter findings and cause a record of
6 the proceedings to be transmitted to a three-judge panel for sentencing
under sec. 290 of this chapter.

8 Sec. 11.37.290. THREE-JUDGE SENTENCING PANEL. (a) There is
9 created within the superior court a panel of five superior court judges
10 to be appointed by the chief justice of the supreme court in accordance
11 with rules and for terms as may be prescribed by the supreme court. The
12 chief justice shall designate three of the judges appointed as panel
13 members, one of the judges appointed as first alternate, and the remain-
14 ing judge as second alternate. In accordance with rules as may be pre-
15 scribed by the supreme court, an alternate member shall sit as a member
16 of the panel only in the event of disqualification or disability of a
regular panel member.

18 (b) The three-judge panel shall sentence a defendant when a sen-
19 tencing court finds under sec. 280 of this chapter that imposition of
20 sentence within the range authorized under sec. 270 of this chapter
21 would be contrary to the purposes of sentencing set out in sec. 20 of
22 this chapter.

23 (c) Sentencing shall be imposed only by a majority of the three-
24 judge panel after consideration of all pertinent files, records, and
25 transcripts, including the findings and conclusions of the judge who
26 originally heard the matter. The three-judge panel may hear oral testi-
27 mony to supplement the record before it.

28 (d) The three-judge panel may, in the interests of serving the
29 purposes of sentencing set out in sec. 20 of this chapter, sentence the

1 defendant under any provision of this chapter applicable to the class of
2 offense in question.

3 Sec. 11.37.300. PRIOR CONVICTIONS. (a) For purposes of consider-
4 ing prior convictions in imposing sentence under this chapter,

5 (1) no prior felony convictions may be considered if a period
6 of seven or more years, excluding any periods of incarceration, has
7 elapsed between the date of conviction of the prior felony and the date
8 of commission of the present felony;

9 (2) a conviction in this or another jurisdiction of an
10 offense having elements substantially identical to those of a classified
11 felony defined in this title is considered the equivalent of that class
12 of felony conviction;

13 (3) two or more convictions arising out of a single substan-
14 tially contemporaneous course of criminal conduct are considered a
15 single conviction;

16 (4) a conviction of murder under AS 11.41.100, or a convic-
17 tion in this or another jurisdiction of an offense having elements
18 substantially identical to those of murder as defined in AS 11.41.100,
19 is considered a prior class A felony conviction.

20 (b) In sentencing proceedings under this chapter,

21 (1) prior convictions not expressly admitted by the defendant
22 must be proved by authenticated copies of court records served on the
23 defendant or his counsel at least 20 days before the date set for im-
24 position of sentence;

25 (2) at least 15 days before the date set for imposition of
26 sentence, the defendant shall file with the court and serve on the state
27 a notice of denial if he alleges that two or more separate convictions
28 should be considered a single conviction under (a)(3) of this section or
29 if he denies that

- 1 (A) a prior judgment of conviction is authentic;
2 (B) he is the person named in a prior judgment of con-
3 viction;
4 (C) a prior conviction occurred within the period speci-
5 fied in (a)(1) of this section; or
6 (D) the elements of a prior offense committed in this or
7 another jurisdiction are substantially identical to those of a
8 classified felony defined in this title or to those of murder as
9 defined in AS 11.41.100;

10 (3) a notice of denial shall include a clear and concise
11 statement of the grounds relied upon and may be supported by affidavit
12 or other documentary evidence;

13 (4) matters alleged in a notice of denial shall be heard by
14 the court sitting without a jury; if the defendant introduces substan-
15 tial evidence that he is not the person named in a prior judgment of
16 conviction, that the judgment is a forgery, or that the conviction did
17 not occur within the period specified in (a)(1) of this section, then
18 the burden is on the state to prove the contrary beyond a reasonable
19 doubt; additional issues shall be decided by the court as matters of
20 law;

21 (5) the authenticated judgments of courts of record of the
22 United States, the District of Columbia, or a state, territory, or
23 political subdivision of the United States are prima facie proof of
24 conviction.

25 ARTICLE 9. SUSPENSION AND RESTORATION
26 OF CIVIL RIGHTS; CERTAIN OCCUPATIONAL
27 DISABILITIES PROHIBITED.

28 Sec. 11.37.310. SUSPENSION AND RESTORATION OF CIVIL RIGHTS; CER-
29 TAIN OCCUPATIONAL DISABILITIES PROHIBITED. (a) A conviction for a

1 crime suspends during the period of imprisonment only the following
2 civil rights of the defendant:

3 (1) the right to hold a public office of trust or profit;

4 (2) the right to serve as a juror; and

5 (3) any other civil right the suspension of which is

6 (A) a reasonable and necessary concomitant of imprison-
7 ment; and

8 (B) made in accordance with regulations adopted by the
9 Department of Health and Social Services in conformity with the
10 Administrative Procedure Act (AS 44.62).

11 (b) A defendant who has been sentenced is not thereby rendered
12 incompetent as a witness in an official proceeding or incapable of
13 making or acknowledging a sale or conveyance of property.

14 (c) A defendant who has been sentenced is under the protection of
15 the law, and any injury to his person or property, not authorized by
16 law, is punishable in the same manner as if he were not convicted and
17 sentenced.

18 (d) The conviction of a defendant of an offense does not work
19 forfeiture of any property, except where a forfeiture is expressly im-
20 posed by law. All forfeitures to the state, unless expressly imposed by
21 law, are abolished.

22 (e) Upon discharge from imprisonment inside or outside the state,
23 a defendant is automatically restored to any civil rights which were
24 suspended by reason of the imprisonment, unless expressly provided
25 otherwise by law.

26 (f) Upon completion of a sentence, other than imprisonment, im-
27 posed upon conviction of an offense, a defendant is automatically re-
28 stored to any civil rights which were suspended by reason of the con-
29 viction, unless expressly provided otherwise by law.

1 (g) Except as provided in (h) of this section,

2 (1) no person may be disqualified from employment with a
3 state agency or local government agency solely because of a prior con-
4 viction of an offense inside or outside this state;

5 (2) no person whose civil rights have been restored may,
6 solely because of a prior conviction of an offense inside or outside
7 this state, be disqualified from engaging in an occupation for which the
8 state requires that a license, permit, or certificate be obtained.

9 (h) A person may be disqualified from employment with a state
10 agency or local government agency solely because of a prior conviction
11 of an offense if the offense has a substantial relationship to the
12 functions of the employment. A person whose civil rights have been
13 restored may, solely because of a prior conviction of an offense, be
14 disqualified from engaging in an occupation for which the state requires
15 that a license, permit, or certificate be obtained if the offense has a
16 substantial relationship to the functions of the occupation. The re-
17 quirements of (g) of this section do not apply to a law enforcement
18 agency, but nothing in this subsection prohibits a law enforcement
19 agency from complying with (g) of this section voluntarily.

20 (i) As used in this section,

21 (1) "local government agency" means a department or agency of
22 a municipality or other political subdivision;

23 (2) "state agency" means a state department or agency,
24 whether in the legislative, judicial, or executive branch, including
25 such entities as the Alaska State Housing Authority and the University
26 of Alaska.

27 ARTICLE 10. APPEAL OF SENTENCE.

28 Sec. 11.37.320. APPEAL OF SENTENCE. (a) A sentence of imprison-
29 ment otherwise lawfully imposed by the superior court for a term or for

1 aggregate terms exceeding one year may be appealed to the supreme court
2 by the defendant on the ground that the sentence is unlawful in that the
3 court has not properly considered factors in mitigation or aggravation
4 or, in the case of a sentence imposed under sec. 270(a), (b)(1), (c)(1),
5 or (d)(1) of this chapter, that the sentence is excessive. By appealing
6 a sentence under this section, the defendant waives the right to plead
7 that by a revision of the sentence resulting from the appeal he has been
8 twice placed in jeopardy for the same offense.

9 (b) A sentence of imprisonment otherwise lawfully imposed by the
10 superior court may be appealed to the supreme court by the state on the
11 ground that the sentence is unlawful in that the court has not properly
12 considered factors in mitigation or aggravation or, in the case of
13 sentence imposed under sec. 270(a), (b)(1), (c)(1), or (d)(1) of this
14 chapter, that the sentence is too lenient; however, when a sentence is
15 appealed by the state and the defendant has not appealed the sentence,
16 the court is not authorized to change the sentence but may express its
17 approval or disapproval of the sentence and its reasons in a written
18 opinion.

19 (c) A sentence appeal under this section does not confer or en-
20 large a right to bail pending appeal. When the defendant, in the prose-
21 cution of a regular appeal, urges the unlawfulness or excessiveness of
22 the sentence as an additional ground for appeal, the defendant's right
23 to bail pending appeal is governed by the relevant statutes and the
24 rules of court.

25 ARTICLE 11. DEFINITIONS.

26 Sec. 11.37.330. DEFINITIONS. As used in this chapter, unless the
27 context requires otherwise,

28 (1) "discharge" means that a person is relieved of all obli-
29 gations imposed by that part of a sentence being terminated by the

1 court;

2 (2) "division of corrections" means the division of correc-
3 tions within the Department of Health and Social Services;

4 (3) "employer" means a governmental organization, or its
5 agent, willing to supervise an individual convicted of a crime in the
6 performance of community work service;

7 (4) "first, class A felony" means that the defendant has not
8 been previously convicted of a class A felony;

9 (5) "first, class B felony" means that the defendant has not
10 been previously convicted of a class A or class B felony;

11 (6) "first, class C felony" means that the defendant has not
12 been previously convicted of a class A, class B, or class C felony;

13 (7) "medical testing" means urinalysis, breathalyzer, or
14 similar commonly accepted routine medical practices designed to deter-
15 mine either the existence or level of alcohol or a controlled substance
16 in a person's body chemistry;

17 (8) "pecuniary gain" means the amount of money or value of
18 property at the time of commission of the offense derived by the defen-
19 dant from the commission of the offense, less the amount of money or
20 value of property returned to the victim of the offense or seized by or
21 surrendered to lawful authority before sentence is imposed;

22 (9) "second, class A felony" means that the defendant has
23 previously been convicted of a class A felony;

24 (10) "second, class B felony" means that the defendant has
25 previously been convicted of a class A or class B felony;

26 (11) "second, class C felony" means that the defendant has
27 previously been convicted of a class A, class B, or class C felony;

28 (12) "set aside the conviction" means that

29 (A) the conviction is of no legal effect and that a

1 person, if asked, may truthfully answer that he has never been con-
2 victed of a criminal offense as the question relates to that
3 offense;

4 (B) the conviction may not be admitted in evidence in a
5 subsequent criminal or civil proceeding;

6 (C) the conviction may not be used to increase punish-
7 ment in a subsequent criminal proceeding; and

8 (D) the existence of the conviction may not be revealed
9 by an officer or employee of the state to any person without court
10 authorization;

11 (13) "third or subsequent class A felony" means that the
12 defendant at least twice has been previously convicted of a class A
13 felony;

14 (14) "third or subsequent class B felony" means that the
15 defendant at least twice has been previously convicted of a class B or
16 more serious class of felony;

17 (15) "third or subsequent class C felony" means that the
18 defendant at least twice has been previously convicted of a felony;

19 (16) "unconditional discharge" means that a person is released
20 by the court without restriction and may thereafter be subject to the
21 jurisdiction of the court only by the initiation of a separate criminal
22 prosecution.

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

24 CHAPTER 41. OFFENSES AGAINST THE PERSON.

25 ARTICLE 1. HOMICIDE.

26 Sec. 11.41.100. MURDER. (a) A person commits the crime of murder
27 if,

28 (1) with intent to cause the death of another person or
29 serious physical injury to another person or knowing that his conduct is

1 substantially certain to cause death or serious physical injury to
2 another person, he causes the death of another person;

3 (2) he recklessly causes the death of another person under
4 circumstances manifesting an extreme indifference to the value of human
5 life; or

6 (3) acting either alone or with one or more persons, he
7 commits or attempts to commit arson in the first degree, kidnapping in
8 the first degree, sexual assault under sec. 410(a)(1) or 420(a)(1) of
9 this chapter, burglary in the first degree, escape in the first or
10 second degree, or robbery in any degree and, in the course of or in
11 furtherance of that crime, or in immediate flight from that crime, any
12 person causes the death of a person other than one of the participants.

13 (b) In a prosecution under (a)(1) of this section, it is a defense
14 that the defendant acted in a heat of passion, before there had been a
15 reasonable opportunity for the passion to cool, when the heat of passion
16 resulted from a serious provocation by the intended victim. Nothing in
17 this subsection precludes a prosecution for or conviction of manslaugh-
18 ter or any other crime other than murder under (a)(1) of this section.

19 (c) In a prosecution under (a)(3) of this section, if the defen-
20 dant was not the only participant in the underlying crime, it is an
21 affirmative defense that the defendant

22 (1) did not commit the homicidal act or in any way solicit,
23 request, cause, or aid in its commission;

24 (2) was not armed with a dangerous instrument or deadly
25 weapon;

26 (3) had no reasonable ground to believe that another partici-
27 pant was armed with a dangerous instrument or deadly weapon; and

28 (4) had no reasonable ground to believe that another partici-
29 pant intended to engage in conduct likely to result in death or serious

1 physical injury.

2 (d) In a prosecution under (a)(3) of this section, it is a defense
3 that the only underlying crime is burglary, and the person killed is the
4 intended victim of the defendant. However, if the defendant causes the
5 death of any other person, the defendant may be convicted under (a)(3)
6 of this section. Nothing in this subsection precludes a prosecution for
7 or conviction of murder under (a)(1) or (2) of this section or of any
8 other crime, including manslaughter or burglary, other than murder under
9 (a)(3) of this section.

10 (e) In a prosecution under (a)(1) of this section, it is a defense
11 that the defendant's conduct consisted of aiding, without the use of
12 duress or deception, another person to commit suicide. Nothing in this
13 subsection precludes a prosecution for or conviction of manslaughter or
14 any other crime other than murder under (a)(1) of this section.

15 (f) In this section

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

20 (2) "serious provocation" means conduct which is sufficient
21 to excite an intense passion in a reasonable person in the defendant's
22 situation under the circumstances as he reasonably believed them to be;
23 "serious provocation" does not include mere insulting words, mere in-
24 sulting gestures, or hearsay reports of conduct engaged in by the in-
25 tended victim.

26 (g) Murder is an unclassified felony and is punishable as autho-
27 rized in ch. 37 of this title.

28 Sec. 11.41.110. MANSLAUGHTER. (a) A person commits the crime of
29 manslaughter if he intentionally, knowingly, or recklessly causes the

1 death of another person under circumstances not amounting to murder
2 under sec. 110 of this chapter.

3 (b) Manslaughter is a class A felony.

4 Sec. 11.41.120. CRIMINALLY NEGLIGENT HOMICIDE. (a) A person
5 commits the crime of criminally negligent homicide if, with criminal
6 negligence, he causes the death of another person.

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

8 Sec. 11.41.130. CRIMINAL HOMICIDE. (a) A person commits criminal
9 homicide if, without justification or excuse, he intentionally, know-
10 ingly, recklessly, or with criminal negligence causes the death of
11 another person.

12 (b) For purposes of this section, a person is "alive" if, in the
13 opinion of a medical doctor who is licensed or exempt from licensing
14 under AS 08.64.170, based on ordinary standards of medical practice,
15 there is spontaneous respiratory or cardiac function or, in the case
16 when respiratory and cardiac functions are maintained by artificial
17 means, there is spontaneous brain function.

18 Sec. 11.41.140. DEFINITIONS. As used in secs. 100 - 140 of this
19 chapter, unless the context requires otherwise,

20 (1) "criminal homicide" means murder, manslaughter, or crim-
21 inally negligent homicide;

22 (2) "person", when referring to the victim of a crime, means
23 a human being who has been born and was alive at the time of the criminal
24 act.

25 ARTICLE 2. ASSAULT AND RELATED OFFENSES.

26 Sec. 11.41.200. ASSAULT IN THE FIRST DEGREE. (a) A person
27 commits the crime of assault in the first degree if

28 (1) with intent to cause physical injury to another person,
29 he causes physical injury to any person by means of a deadly weapon;

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

3 (3) he recklessly causes serious physical injury to another
4 person under circumstances manifesting extreme indifference to the value
5 of human life.

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

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

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

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

14 (3) he recklessly causes physical injury to another person by
15 means of a deadly weapon; or

16 (4) he intentionally places another person in fear of immi-
17 nent serious physical injury by means of a deadly weapon or dangerous
18 instrument.

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

20 Sec. 11.41.220. ASSAULT IN THE THIRD DEGREE. (a) A person
21 commits the crime of assault in the third degree if

22 (1) with criminal negligence he causes serious physical in-
23 jury to another person by means of a deadly weapon or dangerous instru-
24 ment; or

25 (2) he recklessly causes serious physical injury to another
26 person.

27 (b) Assault in the third degree is a class C felony.

28 Sec. 11.41.230. ASSAULT IN THE FOURTH DEGREE. (a) A person
29 commits the crime of assault in the fourth degree if

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

3 (2) he recklessly causes physical injury to another person;

4 (3) with criminal negligence he causes physical injury to
5 another person by means of a deadly weapon or dangerous instrument; or

6 (4) by word or other conduct he intentionally places another
7 person in fear of imminent physical injury.

8 (b) Assault in the fourth degree is a class A misdemeanor.

9 Sec. 11.41.240. SIMPLE ASSAULT. (a) A person commits the crime
10 of simple assault if he intentionally touches another person with reck-
11 less disregard for the offensive, provocative, injurious, or insulting
12 effect which the act may have on that person.

13 (b) Simple assault is a class B misdemeanor.

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

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

18 ARTICLE 3. KIDNAPPING AND RELATED OFFENSES.

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

22 (1) hold him for ransom;

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

24 (3) inflict physical injury upon him;

25 (4) sexually assault him;

26 (5) place the victim or a third person in apprehension that
27 the victim will receive serious physical injury or will be sexually
28 assaulted;

29 (6) interfere with the performance of a governmental or

1 political function; or

2 (7) facilitate, during the course of the kidnapping, the
3 commission of a felony or flight after commission of a felony.

4 (b) It is an affirmative defense to a prosecution under this
5 section that the defendant voluntarily caused the release of the victim
6 alive in a safe place before trial, without having caused serious physi-
7 cal injury to the victim and without having sexually assaulted him.
8 Nothing in this subsection precludes a prosecution for or conviction of
9 kidnapping in the second degree or any other crime other than kidnapping
10 in the first degree.

11 (c) Kidnapping in the first degree is a class A felony.

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

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

17 (1) the defendant is a relative of the victim;

18 (2) the primary intent of the defendant is to assume custody
19 of the victim; and

20 (3) the abduction is not coupled with intent to use or
21 threaten to use deadly physical force or to sexually assault or threaten
22 to sexually assault the victim.

23 (c) Kidnapping in the second degree is a class B felony.

24 Sec. 11.41.320. CUSTODIAL INTERFERENCE IN THE FIRST DEGREE. (a)
25 A person commits the crime of custodial interference in the first degree
26 if he violates sec. 330 of this chapter and

27 (1) causes the person taken, enticed, or kept from his lawful
28 custodian to be removed from the state; or

29 (2) exposes the person to a substantial risk of illness or

1 physical injury.

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

4 Sec. 11.41.330. CUSTODIAL INTERFERENCE IN THE SECOND DEGREE. (a)
5 A person commits the crime of custodial interference in the second
6 degree if, knowing that he has no legal right to do so, he takes, en-
7 tices, or keeps a person from his lawful custodian with intent to hold
8 him permanently or for a protracted period.

9 (b) Custodial interference in the second degree is a class B
10 misdemeanor.

11 Sec. 11.41.340. UNLAWFUL IMPRISONMENT IN THE FIRST DEGREE. (a) A
12 person commits the crime of unlawful imprisonment in the first degree if
13 he restrains another person under circumstances which expose him to a
14 risk of serious physical injury.

15 (b) Unlawful imprisonment in the first degree is a class C felony.

16 Sec. 11.41.350. UNLAWFUL IMPRISONMENT IN THE SECOND DEGREE. (a)
17 A person commits the crime of unlawful imprisonment in the second degree
18 if he restrains another person.

19 (b) It is an affirmative defense to a prosecution under this
20 section that

- 21 (1) the victim is a child under 18 years of age;
22 (2) the defendant is a relative of the victim;
23 (3) the primary intent of the defendant is to assume custody
24 of the victim; and
25 (4) the restraint is not coupled with intent to use or
26 threaten to use deadly physical force or to sexually assault or threaten
27 to sexually assault the victim.

28 (c) Unlawful imprisonment in the second degree is a class A mis-
29 demenor.

1 Sec. 11.41.360. COERCION. (a) A person commits the crime of
2 coercion if he compels or induces another person to engage in conduct
3 from which the other person has a legal right to abstain or to abstain
4 from engaging in conduct in which the other person has a legal right to
5 engage, by instilling in him a fear that, if the demand is not complied
6 with, the defendant or another will carry out a threat.

7 (b) Coercion is a class A misdemeanor.

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

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

12 (A) secreting or holding him in a place where he is not
13 likely to be found; or

14 (B) using or threatening to use deadly physical force;

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

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

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

27 (A) by any means, including acquiescence of the victim,
28 if the victim is under 12 years of age or is an incompetent person
29 and his lawful custodian has not acquiesced in the movement or

1 confinement; or

2 (B) by physical force, threat, or deception.

3 ARTICLE 4. SEXUAL OFFENSES.

4 Sec. 11.41.400. GENERAL PROVISIONS. (a) In secs. 400 - 460 of
5 this chapter

6 (1) whenever the criminality of conduct depends upon a
7 victim's being under a certain age, it is an affirmative defense that,
8 at the time of the alleged offense, the defendant reasonably believed
9 the victim to be that age or older; this belief may not be considered
10 reasonable if the victim was under 13 years of age at the time of the
11 alleged offense;

12 (2) whenever the criminality of conduct depends upon a
13 victim's being incapacitated, it is a defense that, at the time of the
14 alleged offense, the defendant reasonably believed that the victim was
15 not incapacitated and reasonably believed that the victim consented to
16 the act.

17 (b) A person does not commit the crime of sexual assault in any
18 degree if the victim is his legal spouse unless the spouses are living
19 apart and one of them has filed for divorce. This subsection does not
20 preclude accomplice liability of a spouse.

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

23 (1) being any age, he knowingly engages in sexual penetration
24 with another person without consent of that person or, in attempting to
25 do so, causes serious physical injury to that person;

26 (2) being any age, he engages in sexual penetration with
27 another person under 13 years of age; or

28 (3) being 18 years of age or older, he knowingly engages in
29 sexual penetration with a person under 18 years of age who is related to

1 him, either legitimately or illegitimately, as

2 (A) his stepchild, while the marriage creating the rela-
3 tionship exists;

4 (B) his ancestor or descendant of the whole or half
5 blood, or by adoption; or

6 (C) his brother or sister of the whole or half blood; or

7 (D) his uncle, aunt, nephew, or niece by marriage or by
8 adoption.

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

10 Sec. 11.41.420. SEXUAL ASSAULT IN THE SECOND DEGREE. (a) A
11 person commits the crime of sexual assault in the second degree if,

12 (1) being any age, he knowingly engages in sexual contact
13 with another person without consent of that person;

14 (2) being any age, he engages in sexual contact with another
15 person under 13 years of age; or

16 (3) being 18 years of age or older, he knowingly engages in
17 sexual contact with a person under 18 years of age who is related to
18 him, either legitimately or illegitimately, as

19 (A) his stepchild, while the marriage creating the
20 relationship exists;

21 (B) his ancestor or descendant of the whole or half
22 blood, or by adoption;

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

24 (D) his uncle, aunt, nephew or niece by marriage or
25 adoption.

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

27 Sec. 11.41.430. SEXUAL ASSAULT IN THE THIRD DEGREE. (a) A person
28 commits the crime of sexual assault in the third degree if,

29 (1) being 18 years of age or older, he engages in sexual

1 penetration with a person under 16 years of age; or

2 (2) being any age, he engages in sexual penetration with
3 another person who is incapable of consent by reason of incapacitation.

4 (b) Sexual assault in the third degree is a class C felony.

5 Sec. 11.41.440. SEXUAL ASSAULT IN THE FOURTH DEGREE. (a) A
6 person commits the crime of sexual assault in the fourth degree if,

7 (1) being 19 years of age or older, he engages in sexual
8 contact with a person under 16 years of age, or

9 (2) being any age, he engages in sexual contact with another
10 person who is incapable of consent by reason of incapacitation.

11 (b) Sexual assault in the fourth degree is a class A misdemeanor.

12 Sec. 11.41.450. INDECENT EXPOSURE. (a) A person commits the
13 crime of indecent exposure if he intentionally exposes his genitals,
14 buttock, or anus to another with reckless disregard for the offensive,
15 provocative, or insulting effect the act may have on that person.

16 (b) Indecent exposure is a class A misdemeanor.

17 Sec. 11.41.460. DEFINITIONS. As used in secs. 400 - 460 of this
18 chapter, unless the context requires otherwise,

19 (1) "incapacitated" means a physical or mental condition,
20 temporary or permanent, in which a person is incapable of appraising the
21 nature of his conduct or of expressing unwillingness to act;

22 (2) "sexual contact" means

23 (A) the intentional touching by the defendant of the
24 victim's genitals, anus or female breast;

25 (B) the intentional touching by the defendant of the
26 victim's genitals or anus through clothing;

27 (C) the defendant's intentionally causing the victim to
28 touch the defendant's or victim's genitals, anus, or female breast;

29 or

1 (D) the defendant's intentionally causing the victim to
2 touch the defendant's or victim's genitals or anus through cloth-
3 ing;

4 (3) "sexual penetration" means genital intercourse, cunnilin-
5 gus, fellatio, anal intercourse, or any other intrusion, however slight,
6 of an object or any part of a person's body into the genital or anal
7 opening of another person's body, but emission of semen is not required;

8 (4) "victim" means the person alleged to have been subjected
9 to sexual assault;

10 (5) "without consent" means that a person

11 (A) with or without resisting, is coerced by the use of
12 physical force against a person or property, or by the express or
13 implied threat of imminent death, imminent physical injury, or
14 imminent kidnapping to be inflicted on anyone; or

15 (B) is incapacitated as a result of an act of the defen-
16 dant.

17 ARTICLE 5. ROBBERY.

18 Sec. 11.41.500. ROBBERY IN THE FIRST DEGREE. (a) A person
19 commits the crime of robbery in the first degree if he violates sec. 510
20 of this chapter and, in the course of violating that section or in
21 immediate flight thereafter, either the defendant or another participant

22 (1) is armed with a deadly weapon or represents by word or
23 other conduct that he or another participant is so armed;

24 (2) uses or attempts to use a dangerous instrument or repre-
25 sents by word or other conduct that he or another participant is armed
26 with a dangerous instrument; or

27 (3) causes or attempts to cause a serious physical injury to
28 any person.

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

1 Sec. 11.41.510. ROBBERY IN THE SECOND DEGREE. (a) A person
2 commits the crime of robbery in the second degree if, in the course of
3 taking or attempting to take property from a person or in the immediate
4 presence and control of a person, he uses or threatens the immediate use
5 of physical force upon another person with intent to

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

8 (2) compel the other person to deliver the property or engage
9 in other conduct which might aid in the commission of the theft.

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

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

12 CHAPTER 46. OFFENSES AGAINST PROPERTY.

13 ARTICLE 1. THEFT AND RELATED OFFENSES.

14 Sec. 11.46.100. THEFT DEFINED. A person commits theft if, with
15 intent to deprive another of property or to appropriate property of
16 another to himself or to a third person, he takes, appropriates, or
17 obtains the property of another or deprives another of his property.
18 Conduct of this nature includes conduct proscribed in secs. 160, 180,
19 and 190 of this chapter.

20 Sec. 11.46.110. CONSOLIDATION OF THEFT OFFENSES: PLEADING AND
21 PROOF. (a) Conduct defined as theft under sec. 100 of this chapter
22 constitutes a single crime.

23 (b) An accusation of theft is sufficient if it alleges that the
24 defendant committed theft of property of the nature or value required
25 for the commission of the crime charged without designating the particu-
26 lar way or manner in which the theft was committed.

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

1 Sec. 11.46.120. DEFENSE PRECLUDED. In a prosecution under secs.
2 130 - 280 of this chapter, it is not a defense that the property invol-
3 ved is that of the spouse of the defendant.

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

- 7 (1) the value of the property is \$500 or more;
8 (2) the property is a firearm or explosive; or
9 (3) the property is taken from the person of another.

10 (b) Theft in the first degree is a class C felony.

11 Sec. 11.46.140. THEFT IN THE SECOND DEGREE. (a) A person commits
12 the crime of theft in the second degree if he commits theft as defined
13 in sec. 100 of this chapter and the value of the property is \$50 or more
14 but less than \$500.

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

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

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

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

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

29 Sec. 11.46.180. THEFT BY DECEPTION. A person commits theft by

1 deception if he obtains property of another by deception.

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 property of another knowing that the property was the subject of theft.

5 (b) As used in this section, "receiving" includes acquiring posses-
6 sion, control, or title, or lending on the security of the property.

7 (c) A person whose principal business is dealing in or collecting
8 used or secondhand personal property, or his agent, employee, or repre-
9 sentative, who buys or receives property which has been stolen, is
10 rebuttably presumed to have bought or received the property knowing it
11 was stolen if a person in his capacity reasonably should have inquired
12 as to whether the person from whom the property was bought or received
13 had the legal right to sell or deliver it, and he failed to make the
14 inquiry.

15 Sec. 11.46.195. EXTORTION. (a) A person commits the crime of
16 extortion if, with intent to deprive another of property or to appropri-
17 ate property of another, he obtains property of another by threat.

18 (b) Extortion is a class B felony.

19 Sec. 11.46.200. THEFT OF SERVICES. (a) A person commits the
20 crime of theft of services if

21 (1) he obtains services, known by him to be available only
22 for compensation, by deception, physical force, threat, or other means
23 to avoid payment for the services; or

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

27 (b) Absconding without paying or offering to pay for hotel, res-
28 taurant, or other services for which compensation is customarily paid
29 immediately upon the receiving of them is prima facie evidence that the

1 services were obtained by deception.

2 (c) Theft of services is

3 (1) a class C felony if the value of the service is \$500 or
4 more;

5 (2) a class A misdemeanor if the value of the service is \$50
6 or more but less than \$500;

7 (3) a class B misdemeanor if the value of the service is less
8 than \$50.

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

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

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

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

23 (c) A fiduciary or an officer or employee of a government or a fi-
24 nancial institution is rebuttably presumed

25 (1) to know any legal obligation relevant under (a)(1) of
26 this section; and

27 (2) to have dealt with the property or services as his own if
28 he fails to pay or account upon lawful demand or if an audit reveals a
29 shortage or falsification of accounts.

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

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

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

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

9 Sec. 11.46.220. CONCEALMENT OF MERCHANDISE. (a) A person commits
10 the crime of concealment of merchandise if without authority he know-
11 ingly conceals on or about his person the merchandise of a mercantile
12 establishment, not purchased by the person, while still upon the pre-
13 mises of the mercantile establishment, with intent to deprive the owner
14 of the merchandise.

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

18 (c) Concealment of merchandise is

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

21 (2) a class A misdemeanor if the value of the merchandise is
22 \$50 or more but less than \$500;

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

25 Sec. 11.46.230. REASONABLE DETENTION AS DEFENSE. (a) In a civil
26 or criminal action upon the complaint of a person who has been detained
27 on or in the immediate vicinity of a mercantile establishment for the
28 purpose of investigation or questioning as to the ownership of merchan-
29 dise, it is a defense that

1 (1) the person was detained in a reasonable manner and for
2 not more than a reasonable time to permit investigation or questioning
3 by a peace officer or by the owner of the mercantile establishment, his
4 authorized employee, or his agent; and

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

8 (b) As used in this section,

9 (1) "reasonable grounds" includes knowledge that a person has
10 concealed on or about his person unpurchased merchandise of the mercan-
11 tile establishment; and

12 (2) "reasonable time" means the time necessary to permit the
13 person detained to make a statement or refuse to make a statement, and
14 any additional time necessary to examine employees and records of the
15 mercantile establishment relative to the ownership of the merchandise.

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

18 (1) knowing that he does not have the consent of the owner,
19 he takes, operates, exercises control over, or otherwise uses another's
20 propelled vehicle;

21 (2) having custody of a propelled vehicle under an agreement
22 between himself or another person and the owner of the vehicle by which
23 he or another person performs for compensation a specific service in-
24 volving the maintenance, repair, or use of the vehicle for the owner, he
25 uses or operates it for his own purpose in a manner which constitutes an
26 unreasonable deviation from the agreed purpose, knowing that his use or
27 operation of the vehicle does not have the consent of the owner; or

28 (3) having custody of a propelled vehicle under an agreement
29 with the owner of the vehicle by which he has agreed to return the

1 vehicle to the owner at a specified time, he knowingly retains or with-
2 holds possession of the vehicle without the consent of the owner for so
3 long a period beyond the time specified as to render the retention or
4 possession of the vehicle an unreasonable deviation from the agreement.

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

8 (c) Unauthorized use of a propelled vehicle is a class A
9 misdemeanor for the first offense. Unauthorized use of a propelled
10 vehicle is a class C felony for the second and each subsequent offense.

11 Sec. 11.46.250. UNAUTHORIZED OCCUPANCY OF A PROPELLED VEHICLE. (a)
12 A person commits the crime of unauthorized occupancy of a propelled
13 vehicle if he rides in a propelled vehicle with reckless disregard that
14 it has been stolen or was being used or was to be used in violation of
15 sec. 240 of this chapter.

16 (b) Unauthorized occupancy of a propelled vehicle is a class A
17 misdemeanor.

18 Sec. 11.46.260. REMOVAL OF IDENTIFICATION MARKS. (a) A person
19 commits the crime of removal of identification marks if he, with intent
20 to cause interruption to the ownership of another, defaces, erases, or
21 otherwise alters or attempts to deface, erase, or otherwise alter any
22 serial number or identification mark placed or inscribed on a propelled
23 vehicle, bicycle, firearm, movable or immovable construction tool or
24 equipment, appliance, merchandise, or other article or its component
25 parts.

26 (b) Removal of identification marks is

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

29 (2) a class A misdemeanor if the value of the property on

1 which the serial number or identification mark appeared is \$50 or more
2 but less than \$500;

3 (3) a class B misdemeanor if the value of the property on
4 which the serial number or identification mark appeared is less than
5 \$50.

6 Sec. 11.46.270. UNLAWFUL POSSESSION. (a) A person commits the
7 crime of unlawful possession if he possesses a propelled vehicle, bi-
8 cycle, firearm, movable or immovable construction tool or equipment,
9 appliance, merchandise or other article or its component parts knowing
10 that the serial number or identification mark placed on it by the manu-
11 facturer or owner for the purpose of identification has been defaced,
12 erased, or otherwise altered with the intent of changing the identity of
13 any of these items.

14 (b) Unlawful possession 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. 11.46.280. ISSUING A BAD CHECK. (a) A person commits the
24 crime of issuing a bad check if, knowing that he or his principal has
25 insufficient funds with the drawee to cover the check, he utters a check
26 and payment is refused by the drawee upon presentation.

27 (b) When the drawer of a check has insufficient funds with the
28 drawee to cover it at the time of utterance, the drawer or representa-
29 tive drawer is rebuttably presumed to know of that insufficiency.

1 (c) It is an affirmative defense to a prosecution under this
2 section that the defendant or a person acting in his behalf made full
3 satisfaction of the amount of the check with costs and fees within 10
4 days after dishonor by the drawee.

5 (d) As used in this section,

6 (1) "drawer" means a person whose name appears on the check
7 as the primary obligor, whether the actual signature be that of himself
8 or of a person purportedly authorized to draw the check on his behalf;

9 (2) "insufficient funds" means no funds with the drawee or
10 funds with the drawee in an amount less than that of the check;

11 (3) "representative drawer" means a person who signs a check
12 as a drawer in a representative capacity or as agent of the person whose
13 name appears on the check as the primary obligor;

14 (4) a person "utters" a check when, as a drawer or represen-
15 tative drawer of the check, he delivers it or causes it to be delivered
16 to a person who thereby acquires a right against the drawer with respect
17 to the check; one who draws a check with intent that it be so delivered
18 is considered to have uttered it if the delivery occurs.

19 (e) Issuing a bad check is a class A misdemeanor.

20 ARTICLE 2. BURGLARY AND CRIMINAL TRESPASS.

21 Sec. 11.46.300. BURGLARY IN THE FIRST DEGREE. (a) A person
22 commits the crime of burglary in the first degree if he violates sec.
23 310 of this chapter and

24 (1) the building is a dwelling; or

25 (2) in effecting entry or while in the building or immediate
26 flight from the building, he

27 (A) is armed with a deadly weapon;

28 (B) causes or attempts to cause physical injury to a
29 person; or

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

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

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

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

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

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

13 Sec. 11.46.330. CRIMINAL TRESPASS IN THE SECOND DEGREE. (a) A
14 person commits the crime of criminal trespass in the second degree if he
15 enters or remains unlawfully in or upon premises.

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

18 Sec. 11.46.340. DEFENSE: EMERGENCY USE OF PREMISES. It is a
19 defense to a prosecution under secs. 300 - 330 of this chapter that

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

23 (2) as soon as reasonably practical after the entry, use, or
24 occupancy, the person contacts the owner of the premises, the owner's
25 agent or, if the owner is unknown, the nearest state or local police
26 agency, and makes a report of the time of the entry, use, or occupancy
27 and any damage to the premises or personal property, unless notice
28 waiving necessity of the report is posted on the premises by the owner
29 or the owner's agent.

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

4 (1) enter or remain in or upon premises when the premises, at
5 the time of the entry or remaining, are not open to the public and when
6 the defendant is not otherwise licensed or privileged to do so; or

7 (2) fail to leave premises that are open to the public after
8 being lawfully directed to do so personally by the person in charge.

9 (b) For purposes of this section, a person who enters or remains
10 upon unimproved and apparently unused land, which is neither fenced nor
11 otherwise enclosed in a manner designed to exclude intruders, does so
12 with license and privilege unless

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

15 (2) notice against trespass is given by posting in a con-
16 spicuous manner.

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

18 Sec. 11.46.400. ARSON IN THE FIRST DEGREE. (a) A person commits
19 the crime of arson in the first degree if, by starting a fire or causing
20 an explosion, he intentionally damages

21 (1) protected property of another; or

22 (2) any property, whether his own or another's, and the act
23 recklessly places another person in danger of physical injury or pro-
24 tected property of another in danger of damage.

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

26 Sec. 11.46.410. ARSON IN THE SECOND DEGREE. (a) A person commits
27 the crime of arson in the second degree if, by starting a fire or caus-
28 ing an explosion, he intentionally damages a building of another that is
29 not protected property.

1 (b) Arson in the second degree is a class B felony.

2 Sec. 11.46.415. DEFENSE TO ARSON. In a prosecution under sec.
3 400(a)(1) or 410 of this chapter, it is a defense that all persons
4 having possessory or proprietary interests in the property consented to
5 the starting of the fire or explosion.

6 Sec. 11.46.420. RECKLESS BURNING. (a) A person commits the crime
7 of reckless burning if he recklessly damages property of another by fire
8 or explosion.

9 (b) Reckless burning is a class A misdemeanor.

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

13 (b) Criminally negligent burning is a class B misdemeanor.

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

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

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

22 (2) the fire was started by him, with his assent, or on
23 property in his custody or control.

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

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

1 (1) with intent to cause a substantial interruption or impair-
2 ment of a service rendered to the public by a utility or by an organi-
3 zation which deals with emergencies involving danger to life or proper-
4 ty, he damages or tampers with property of that utility or organization
5 and causes substantial interruption or impairment of service to the
6 public;

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

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

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

14 Sec. 11.46.482. CRIMINAL MISCHIEF IN THE SECOND DEGREE. (a) A
15 person commits the crime of criminal mischief in the second degree if,
16 having no right to do so or any reasonable ground to believe he has such
a right,

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

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

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

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

26 Sec. 11.46.484. CRIMINAL MISCHIEF IN THE THIRD DEGREE. (a) A
27 person commits the crime of criminal mischief in the third degree if,
28 with intent to damage property of another, and having no right to do so
29 or any reasonable ground to believe he has such a right, he damages

1 property of another in an amount of \$50 or more but less than \$500.

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

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

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

11 (2) he recklessly damages property of another in an amount of
12 \$500 or more; or

13 (3) he intentionally damages property of another.

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

16 Sec. 11.46.488. LITTERING. (a) A person commits the offense of
17 littering if he recklessly places or throws litter on any public or pri-
18 vate property or in any public or private waters without the consent of
19 the owner and does not immediately remove it.

20 (b) As used in this section, "litter" means any rubbish, refuse,
21 garbage, offal, paper, glass, cans, bottles, trash, debris, or other
22 foreign substance of whatever kind or description, whether or not it is
23 of value.

24 (c) Littering is a violation.

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

27 (1) "oil or gas pipeline or supporting facilities" means real
28 and tangible property used in the exploration for, production or re-
29 fining of, or pipeline transportation of oil or gas, except for property

1 used solely in the retail distribution of oil or gas;

2 (2) "property of another" means property in which anyone
3 other than the defendant has a possessory or proprietary interest, in-
4 cluding property belonging wholly or in part to the defendant's spouse;
5 if a building or structure is divided into separately occupied units,
6 any unit not occupied by the defendant is the property of another;

7 (3) "protected property" means a structure, place, or thing
8 customarily occupied by people, including buildings in which persons
9 congregate for civic, political, educational, religious, social, or
10 recreational purposes and all land on which grass, brush, timber, and
11 other natural vegetative material grows;

12 (4) "tamper" means to interfere with something improperly,
13 meddle with it, or make unwarranted alterations in its existing condi-
14 tion;

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

17 (6) "widely dangerous means" means any difficult-to-confine
18 substance, force, or other means capable of causing widespread damage,
19 including fire, explosion, avalanche, poison, radioactive material,
20 bacteria, collapse of a building, or flood.

21
22 ARTICLE 4. FORGERY AND RELATED OFFENSES.

23 Sec. 11.46.500. FORGERY. (a) A person commits the crime of
24 forgery if, with intent to defraud, he

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

27 (2) utters a written instrument which he knows to be forged.

28 (b) Forgery is a class C felony.

29 Sec. 11.46.510. CRIMINAL POSSESSION OF A FORGED INSTRUMENT. (a)

1 A person commits the crime of criminal possession of a forged instrument
2 if, knowing it to be forged and with intent to utter it, he possesses a
3 forged instrument.

4 (b) Criminal possession of a forged instrument is a class C
5 felony.

6 Sec. 11.46.520. CRIMINAL POSSESSION OF A FORGERY DEVICE. (a) A
7 person commits the crime of criminal possession of a forgery device if

8 (1) he makes or possesses with knowledge of its character a
9 plate, die, or other device, apparatus, equipment, or article specifi-
10 cally designed for use in counterfeiting or otherwise forging written
11 instruments; or

12 (2) with intent to use or to aid or permit another to use the
13 device for purposes of forgery, he makes or possesses a device, appara-
14 tus, equipment, or article capable of or adaptable to that use.

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

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

18 (1) with intent to defraud, he makes or alters any object in
19 such a manner that it appears to have an antiquity, rarity, source, or
20 authorship that it does not in fact possess; or

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

23 (b) Criminal simulation is

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

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

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

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

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

6 Sec. 11.46.550. OFFERING A FALSE INSTRUMENT FOR RECORDING. (a) A
7 person commits the crime of offering a false instrument for recording
8 if, knowing that a written instrument relating to or affecting property
9 or directly affecting a contractual relationship contains a false state-
10 ment or false information, and with intent to defraud, he presents or
11 offers it to a public office or a public servant intending that it be
12 registered, filed, or recorded or become a part of the records of that
13 public office or public servant.

14 (b) Offering a false instrument for recording is a class A mis-
15 demeanor.

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

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

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

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

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

25 (1) to "falsely alter" a written instrument means to change,
26 without authorization by anyone entitled to grant it, a written instru-
27 ment, whether complete or incomplete, by means of erasure, obliteration,
28 deletion, insertion of new matter, transposition of matter, or any other
29 manner, so that the instrument so altered falsely appears or purports to

1 be in all respects an authentic creation of its ostensible maker or
2 authorized by him;

3 (2) to "falsely complete" a written instrument means to
4 transform, by adding, inserting, or changing matter, an incomplete
5 written instrument into a complete one without the authority of anyone
6 entitled to grant it, so that the complete written instrument falsely
7 appears or purports to be in all respects an authentic creation of its
8 ostensible maker or authorized by him;

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

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

15 (1) "complete written instrument" means a written instrument
16 which purports to be a genuine written instrument fully drawn with
17 respect to every essential feature;

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

20 (3) "incomplete written instrument" means a written instru-
21 ment which contains some matter by way of content or authentication but
22 which requires additional matter in order to render it a complete
23 written instrument;

24 (4) "utter" means to issue, deliver, publish, circulate,
25 disseminate, transfer, or tender a written instrument or other object to
26 another;

27 (5) "written instrument" means a paper, document, instrument,
28 electronic recording, or article containing written or printed matter or
29 the equivalent, whether complete or incomplete, used for the purpose of

1 reciting, embodying, conveying, or recording information or constituting
2 a symbol or evidence of value, right, privilege, or identification,
3 which is capable of being used to the advantage or disadvantage of some
4 person.

5 ARTICLE 5. BUSINESS AND COMMERCIAL OFFENSES.

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

8 (1) engages in conduct constituting a scheme to defraud ten
9 or more persons, or a scheme to obtain property from ten or more persons
10 by false or fraudulent pretense, representation, or promise; and

11 (2) obtains property from one or more of those persons.

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

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

15 (1) engages in conduct constituting a scheme to defraud two
16 or more persons, or a scheme to obtain property from two or more persons
17 by false or fraudulent pretense, representation, or promise; and

18 (2) obtains property from one or more of those persons.

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

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

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

28 (c) For purposes of this section,

29 (1) "governmental regulation" includes administrative

1 regulations and judicial rules and orders as well as statutes and or-
2 dinances;

3 (2) "misapply" means to deal with or dispose of property
4 contrary to law or contrary to the terms of the fiduciary relationship
5 or governmental regulation relating to the custody or disposition of
6 that property.

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

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

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

13 (2) alters, erases, obliterates, deletes, removes, or destroys
14 a true entry in the business records of an enterprise;

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

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

20 (b) For purposes of this section,

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

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

27 (c) Falsifying business records is a class A misdemeanor.

28 Sec. 11.46.660. COMMERCIAL BRIBE RECEIVING. (a) A person commits
29 the crime of commercial bribe receiving if he

1 (1) solicits a benefit with the intent to violate a duty to
2 which he is subject as an

3 (A) agent or employee of another;

4 (B) trustee, guardian, or other fiduciary;

5 (C) lawyer, physician, accountant, appraiser, or other
6 professional adviser;

7 (D) officer, director, partner, manager, or other parti-
8 cipant in the direction of the affairs of an organization; or

9 (E) arbitrator or other purportedly disinterested adju-
10 dicator or referee; or

11 (2) accepts or agrees to accept a benefit upon an agreement
12 or understanding that he will violate a duty to which he is subject as
13 described in (1) of this subsection.

14 (b) Commercial bribe receiving is a class A misdemeanor.

15 Sec. 11.46.670. COMMERCIAL BRIBERY. (a) A person commits the
16 crime of commercial bribery if he confers, offers to confer, or agrees
17 to confer a benefit upon a person with intent to influence that person
18 to violate a duty to which he is subject as described in sec. 660(a)(1)
19 of this chapter.

20 (b) Commercial bribery is a class A misdemeanor.

21 Sec. 11.46.680. ENGAGING IN A BUSINESS UNLAWFULLY. (a) A person
22 commits the offense of engaging in a business unlawfully if

23 (1) he engages in or practices a business, profession, or
24 occupation for which a license, certificate, or permit is required by
25 law without having first obtained the required license, certificate, or
26 permit or after his license, certificate, or permit has been formally
27 suspended, revoked, or cancelled; and

28 (2) a penalty is not otherwise provided by law or regulation.

29 (b) This offense is one of strict liability.

1 (c) Engaging in a business unlawfully is a violation for the first
2 offense. Engaging in a business unlawfully is a class B misdemeanor for
3 the second and each subsequent offense.

4 Sec. 11.46.685. CRIMINAL USURY IN THE FIRST DEGREE. (a) A person
5 commits the crime of criminal usury in the first degree if not being
6 authorized or permitted by law to do so, he knowingly charges, takes, or
7 receives money or other property as interest on a loan or forbearance of
8 money or other property at a rate exceeding 25 per cent per annum, or
9 the equivalent rate for a longer or shorter period, as part of a scheme
10 or business of making or collecting usurious loans.

11 (b) Criminal usury in the first degree is a class C felony.

12 Sec. 11.46.690. CRIMINAL USURY IN THE SECOND DEGREE. (a) A
13 person commits the offense of criminal usury in the second degree if,
14 not being authorized or permitted by law to do so, he knowingly charges,
15 takes, or receives money or other property as interest on a loan or
16 forbearance of money or other property at a rate exceeding 25 per cent
17 per annum, or the equivalent rate for a longer or shorter period.

18 (b) Criminal usury in the second degree is a violation.

19 Sec. 11.46.700. POSSESSION OF USURIOUS LOAN RECORDS. (a) A
20 person commits the crime of possession of usurious loan records if, with
21 knowledge that the interest rates charged exceed 25 per cent per annum,
22 or the equivalent rate for a longer or shorter period, he possesses a
23 writing, paper, instrument, or article used to record criminally
24 usurious transactions prohibited by sec. 685 of this chapter.

25 (b) Possession of usurious loan records is a class A misdemeanor.

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

29 (1) makes or causes to be made a false statement in an

1 advertisement or communication addressed to the public or to a substan-
2 tial number of persons in connection with the promotion of the sale of
3 property or services or to increase the consumption of property or
4 services;

5 (2) makes or causes to be made a material false statement to
6 any person in connection with the sale of property or services;

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

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

12 (5) sells, offers for sale, or exposes for sale adulterated
13 commodities; or

14 (6) sells, offers for sale, or exposes for sale mislabeled
15 commodities.

16 (b) It is a defense to a prosecution under this section that the
17 defendant did not act at least recklessly.

18 (c) As used in (a)(1) of this section, "false statement" includes
19 an offer to sell or provide property or services if the offeror does not
20 intend to sell or provide the advertised property or services

21 (1) at the price or of the quality advertised;

22 (2) in a quantity sufficient to meet the reasonably expected
23 public demand unless quantity is specifically stated in the advertise-
24 ment; or

25 (3) at all.

26 (d) As used in this section,

27 (1) "adulterated" means varying from the standard of com-
28 position or quality prescribed by statute or administrative regulation
29 or, if none, as set by established commercial usage;

1 (2) "mislabeled" means

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

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

7 (e) Deceptive business practices is a class A misdemeanor.

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

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

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

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

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

24 (1) intentionally fails to disclose that interest to a buyer
25 of the property; or

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

29 (b) Defrauding secured creditors is a class A misdemeanor.

1 Sec. 11.46.740. DEFRAUDING JUDGMENT CREDITORS. (a) A person
2 commits the crime of defrauding judgment creditors if he assigns,
3 secretes, conveys, or otherwise disposes of his property with intent to
4 defraud an existing judgment creditor.

5 (b) Defrauding judgment creditors is a class A misdemeanor.

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

12 (1) conveys, transfers, removes, conceals, destroys, en-
13 cumbers, or otherwise disposes of any part of or interest in the deb-
14 tor's estate;

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

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

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

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

28 (c) Fraud in insolvency is a class A misdemeanor.

29 ARTICLE 6. CREDIT CARD OFFENSES.

1 Sec. 11.46.800. THEFT OF A CREDIT CARD OR OBTAINING A CREDIT CARD
2 BY FRAUDULENT MEANS. (a) A person commits the crime of theft of a
3 credit card or obtaining a credit card by fraudulent means if he

4 (1) obtains or withholds a credit card from the possession,
5 custody, or control of any person without the cardholder's consent
6 through conduct referred to in sec. 100 of this chapter;

7 (2) receives a credit card knowing it to have been obtained
8 illegally, lost, mislaid, or delivered under a mistake as to the
9 identity or address of the cardholder and retains possession of the
10 credit card with intent to use it himself or sell or transfer it to a
11 person other than the issuer or the cardholder;

12 (3) buys a credit card from a person other than the issuer
13 or, as other than the issuer, sells a credit card; or

14 (4) with intent to defraud, obtains control of a credit card
15 as a security for debt.

16 (b) Theft of a credit card or obtaining a credit card by fraudu-
17 lent means is a class A misdemeanor.

18 Sec. 11.46.810. FORGERY OF A CREDIT CARD. (a) A person commits
19 the crime of forgery of a credit card if, with intent to defraud, he

20 (1) makes or draws, in whole or in part, a device or instru-
21 ment which purports to be the credit card of a named issuer but which is
22 not such a credit card because that issuer did not authorize the making
23 or drawing;

24 (2) without the authorization of the named issuer, completes
25 a credit card by adding any of the matter, other than the signature of
26 the cardholder, which an issuer requires to appear on the credit card
27 issued by it before the credit card may be used by a cardholder;

28 (3) as other than the cardholder or a person authorized by
29 him, signs the name of any actual or fictitious person to a credit card;

1 (4) alters a credit card which was validly issued; or

2 (5) utters a device, instrument, or credit card that has been
3 made, drawn, completed, signed, or altered in violation of this section.

4 (b) Forgery of a credit card is a class C felony.

5 Sec. 11.46.820. FRAUDULENT USE OF A CREDIT CARD. (a) A person
6 commits the crime of fraudulent use of a credit card if, with intent to
defraud, he

8 (1) uses for the purpose of obtaining property or services a
9 credit card obtained or retained illegally or a credit card which he
10 knows is forged, expired, cancelled, or revoked; or

11 (2) obtains property or services by

12 (A) representing that he is the holder of a credit card,
13 and the card has not in fact been issued; or

14 (B) representing, without the consent of the cardholder,
15 that he is the holder of a specified credit card.

16 (b) Fraudulent use of a credit card is a

17 Sec. 11.46.830. FRAUD BY A PERSON AUTHORIZED TO PROVIDE PROPERTY
18 OR SERVICES. (a) A person who is authorized by an issuer to provide
19 property or services or any agent or employee of that person commits the
20 crime of fraud by a person authorized to provide property or services
21 if, with intent to defraud, he

22 (1) furnishes property or services upon presentation of a
23 credit card obtained, retained, or used illegally or a credit card which
24 he knows is forged, expired, cancelled, or revoked; or

25 (2) fails to furnish property or services which he represents
26 in writing to the issuer or a participating party that he has furnished.

27 (b) Fraud by a person authorized to provide property or services
28 is

29 (1) under (a)(1) of this section

1 (A) a class C felony if the value of the property or
2 services furnished is \$500 or more;

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

5 (C) a class B misdemeanor if the value of the property
6 or services furnished is less than \$50;

7 (2) under (a)(2) of this section

8 (A) a class C felony if the difference between the
9 value of the property or services actually furnished, if any, and
10 the value represented is \$500 or more;

11 (B) a class A misdemeanor if the difference between the
12 value of the property or services actually furnished, if any, and
13 the value represented is \$50 or more but less than \$500;

14 (C) a class B misdemeanor if the difference between the
15 value of the property or services actually furnished, if any, and
16 the value represented is less than \$50.

17 Sec. 11.46.840. POSSESSION OF MACHINERY, PLATE, OR OTHER CONTRI-
18 VANCE OR INCOMPLETE CREDIT CARD. (a) A person commits the crime of
19 possession of machinery, plate, or other contrivance or incomplete
20 credit card if he

21 (1) possesses an incomplete credit card with intent to com-
22 plete it without the consent of the issuer; or

23 (2) possesses, with knowledge of its character, machinery,
24 plates, or any other contrivance designed to reproduce an instrument or
25 device purporting to be the credit card of an issuer, and the issuer has
26 not consented to the preparation of the credit card.

27 (b) A credit card is "incomplete" if part of the matter, other
28 than the signature of the cardholder, which an issuer requires to appear
29 on the credit card before it may be used by a cardholder has not yet

1 been stamped, embossed, imprinted, or written on it.

2 (c) Possession of machinery, plate, or other contrivance or in-
3 complete credit card is a class C felony.

4 Sec. 11.46.850. RECEIPT OF ANYTHING OF VALUE OBTAINED BY FRAUD-
5 ULENT USE OF A CREDIT CARD. (a) A person commits the crime of receipt
6 of anything of value obtained by fraudulent use of a credit card if he
7 buys or receives property or services obtained in violation of sec. 820
8 of this chapter knowing that the property or services were so obtained.

9 (b) Receipt of anything of value obtained by fraudulent use of a
10 credit card is

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

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

15 (3) a class B misdemeanor if the value of the property or
16 services bought or received is less than \$50.

17 Sec. 11.46.860. DEFINITIONS. As used in secs. 800 - 860 of this
18 chapter, unless the context requires otherwise,

19 (1) "cancelled or revoked credit card" means a credit card
20 which is no longer valid because permission to use it has been sus-
21 pended, revoked, or terminated by the issuer;

22 (2) "cardholder" means the person

23 (A) named on the face of a credit card to whom or for
24 whose benefit the credit card is issued by an issuer; or

25 (B) in possession of a credit card with the consent of
26 the person to whom the credit card was issued;

27 (3) "credit card" means any instrument or device, whether
28 known as a credit card, credit plate, courtesy card, or identification
29 card or by any other name, issued with or without fee by an issuer for

1 the use of the cardholder in obtaining property or services on credit;

2 (4) "expired credit card" means a credit card which is no
3 longer valid because the term shown on it has elapsed;

4 (5) "forged" refers to conduct which violates sec. 810 of
5 this chapter;

6 (6) "issuer" means the business organization or financial
7 institution, or its authorized agent, which issues a credit card;

8 (7) "participating party" means a business organization or
9 financial institution which is obligated or permitted by contract to
10 acquire from a merchant a sales slip, sales draft, or instrument for the
11 payment of money evidencing a credit card transaction and from whom an
12 issuer is obligated or permitted by contract to acquire that sales slip,
13 sales draft, or instrument;

14 (8) "receives" or "receiving" means acquiring possession or
15 control or accepting as security for debt.

16 ARTICLE 7. GENERAL PROVISIONS.

17 Sec. 11.46.980. VALUE OF PROPERTY. (a) In this chapter, whenever
18 it is necessary to determine the value of property, that value is the
19 market value of the property at the time and place of the criminal act,
20 unless otherwise specified, or, if the market value cannot reasonably be
21 ascertained, the cost of replacement of the property within a reasonable
22 time after the criminal act.

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

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

29 (2) the value of any other instrument that affects a valuable

1 legal right, privilege, or obligation shall be considered the greatest
2 amount of economic loss which the owner of the instrument might reason-
3 ably incur because of the loss of the instrument.

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

7 Sec. 11.46.990. DEFINITIONS. In this chapter, unless the context
8 requires otherwise,

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

11 (A) exercise control over property of another, or to aid
12 a third person to exercise control over property of another, per-
13 manently or for so extended a period or under such circumstances as
14 to acquire the major portion of the economic value or benefit of
15 the property; or

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

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

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

23 (B) dispose of the property in such a manner or under
24 such circumstances as to make it unlikely that the owner will
25 recover the property;

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

29 (D) sell, give, pledge, or otherwise transfer any inter-

1 est in the property of another; or

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

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

8 (4) "intent to defraud", when necessary to constitute an
9 offense, is sufficiently established if an intent appears to defraud any
10 person; "intent to defraud" means

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

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

15 (5) "obtain" means

16 (A) in relation to property, to bring about a transfer
17 or a purported transfer of a legal interest in the property whether
18 to the obtainer or another or to exert control over property of
19 another; or

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

23 (6) "property of another" means property in which a person
24 has an interest which the defendant is not privileged to infringe,
25 whether or not the defendant also has an interest in the property and
26 whether or not the person from whom the property was obtained or with-
27 held himself obtained the property by theft; "property of another" does
28 not include property in the possession of the defendant in which another
29 has only a security interest, even if legal title is in the secured

1 party under a conditional sales contract or other security agreement; in
2 the absence of a specific agreement to the contrary, the holder of a
3 security interest in property is not privileged to infringe the debtor's
4 right of possession without the consent of the debtor;

5 (7) "services" includes labor, professional services, trans-
6 portation, telephone or other communications service, entertainment, the
7 supplying of food, lodging, or other accommodations in hotels, restau-
8 rants, or elsewhere, admission to exhibitions, and the supplying of
9 equipment for use.

10 * Sec. 8. 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 IN THE FIRST
13 DEGREE. (a) A person commits the crime of endangering the welfare of a
14 minor in the first degree if, being a parent, guardian, or other person
15 legally charged with the care of a child under than 10 years of age, he
16 intentionally deserts the child in any place under circumstances creat-
17 ing a substantial risk of physical injury to the child.

18 (b) Endangering the welfare of a minor in the first degree is a
19 class C felony.

20 Sec. 11.51.110. ENDANGERING THE WELFARE OF A MINOR IN THE SECOND
21 DEGREE. (a) A person having custody or control of a child under 13
22 years of age commits the crime of endangering the welfare of a minor in
23 the second degree if, with criminal negligence, he

24 (1) leaves the child unattended under such circumstances as
25 to create a substantial risk of physical injury to the child;

26 (2) subjects the child to cruel confinement;

27 (3) subjects the child to cruel punishment; or

28 (4) deprives the child of necessary food, clothing, or
29 shelter.

1 (b) Endangering the welfare of a minor in the second degree is a
2 class B misdemeanor.

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

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

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

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

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

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

29 (d) As used in this section,

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

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

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

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

11 Sec. 11.51.130. CONTRIBUTING TO THE DELINQUENCY OF A MINOR. (a)
12 A person commits the crime of contributing to the delinquency of a minor
13 if he knowingly aids, causes, or encourages a child under 18 years of
14 age to do any act in fact prohibited by state law.

15 (b) Contributing to the delinquency of a minor is a class A mis-
16 demeanor.

17 Sec. 11.51.135. UNLAWFUL EXPLOITATION OF A MINOR. (a) A person
18 commits the crime of unlawful exploitation of a minor if, in this state
19 and with the intent of producing for any commercial purpose a live per-
20 formance, film, photograph, negative, slide, book, or magazine that
21 depicts such conduct, he knowingly induces or employs a child under 18
22 years of age to engage in, or photographs, films, or televises a child
23 under 18 years of age engaged in, explicit sexual penetration, sexual
24 contact, bestiality, or lewd exhibition of the child's genitals.

25 (b) Unlawful exploitation of a minor is a class C felony.

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

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

1 (2) more than one person simultaneously; or

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

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

4 Sec. 11.51.150. FAILURE TO COMPLY WITH ORDER OF PEACE OFFICER TO
5 LEAVE DWELLING. (a) A peace officer may, with or without a warrant,
6 when he has reasonable grounds to believe that one member of a household
7 has recently inflicted physical injury on another member of the same
8 household, whether or not that physical injury has occurred in his
9 presence,

10 (1) enter the dwelling and make reasonable inquiry of the
11 person upon whom he believes physical injury has been recently inflicted,
12 and of any other witnesses, to ascertain whether there is probable
13 danger of further physical injury being inflicted upon that person by
14 the other person; and

15 (2) when he has reasonable grounds to believe that there is
16 such probable danger, order either person to leave the dwelling for a
17 cooling-off period of up to four hours.

18 (b) A person who fails to comply with a reasonable order of a
19 peace officer under (a) of this section or who returns to the dwelling
20 before the expiration of the cooling-off period commits the crime of
21 failure to comply with order of peace officer to leave dwelling.

22 (c) This section does not limit the power of a peace officer to
23 take any other action authorized by law.

24 (d) A peace officer who orders a person to leave a dwelling under
25 this section is not liable for civil damages as a result of his order.
26 This subsection does not preclude liability for civil damages as a
27 result of reckless, wilful, wanton, or intentional misconduct.

28 (e) As used in this section, "household" means the social unit
29 comprised of those living together in the same dwelling.

1 (f) Failure to comply with order of peace officer to leave
2 dwelling is a class B misdemeanor.

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

4 CHAPTER 56. OFFENSES AGAINST PUBLIC ADMINISTRATION.

5 ARTICLE 1. BRIBERY AND RELATED OFFENSES.

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

11 (b) In a prosecution under this section, it is not a defense that
12 the person sought to be influenced was not qualified to act in the
13 desired way, whether because he had not assumed office, lacked juris-
14 diction, or for any other reason.

15 (c) Bribery is a class B felony.

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

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

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

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

25 Sec. 11.56.120. RECEIVING UNLAWFUL GRATUITIES. (a) A public
26 servant commits the crime of receiving unlawful gratuities if he soli-
27 cits, accepts, or agrees to accept a benefit for having engaged in an
28 official act which he was required or authorized to perform, and for
29 which he was not entitled to any special or additional compensation.

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

2 ARTICLE 2. PERJURY AND RELATED OFFENSES

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

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

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

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

11 (c) Perjury is a class C felony.

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

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

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

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

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

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

25 (1) in the course of one or more official proceedings he
26 makes two or more statements under oath which are irreconcilably incon-
27 sistent to the degree that one of them is necessarily false;

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

1 (3) each statement is made within the jurisdiction of this
2 state and within the period of the statute of limitations for the crime
3 charged.

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

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

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

13 (1) "statement" means a representation of fact and includes a
14 representation of opinion, belief, or other state of mind where the
15 representation clearly relates to state of mind apart from or in ad-
16 dition to any facts which are the subject of the representation;

17 (2) "sworn statement" means

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

21 (B) a statement knowingly given under penalty of perjury
22 under AS 09.65.012.

23 ARTICLE 3. ESCAPE AND RELATED OFFENSES.

24 Sec. 11.56.300. ESCAPE IN THE FIRST DEGREE. (a) A person commits
25 the crime of escape in the first degree if, without lawful authority, he
26 removes himself from official detention by means of a deadly weapon.

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

28 Sec. 11.56.310. ESCAPE IN THE SECOND DEGREE. (a) A person com-
29 mits the crime of escape in the second degree if, without lawful

1 authority, he

2 (1) removes himself from

3 (A) official detention on a charge of a felony or for
4 extradition;

5 (B) a correctional facility while under official deten-
6 tion; or

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

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

13 (b) Escape in the second degree is a class B felony.

14 Sec. 11.56.320. ESCAPE IN THE THIRD DEGREE. (a) A person commits
15 the crime of escape in the third degree if he removes himself from
16 official detention during any lawful movement or activity incident to
17 confinement within a correctional facility on a charge of a misdemeanor.

18 (b) Escape in the third degree is a class C felony.

19 Sec. 11.56.330. ESCAPE IN THE FOURTH DEGREE. (a) A person
20 commits the crime of escape in the fourth degree if, without lawful
21 authority, he removes himself from official detention or if he violates
22 sec. 350 of this chapter and leaves or attempts to leave the state.

23 (b) Escape in the fourth degree is a class A misdemeanor.

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

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

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

6 (b) Unlawful evasion in the second degree is a class B mis-
7 demeanor.

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

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

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

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

19 Sec. 11.56.380. PROMOTING CONTRABAND. (a) A person commits the
20 crime of promoting contraband if he knowingly

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

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

26 (b) Promoting contraband is a class C felony.

27 Sec. 11.56.390. DEFINITIONS. As used in secs. 300 - 390 of this
28 chapter, unless the context requires otherwise,

29 (1) "contraband" means any article or thing which persons

1 confined in a correctional facility are prohibited by law, or by a
2 regulation adopted by the commissioner of health and social services,
3 from obtaining, making, or possessing in that correctional facility;

4 (2) "correctional facility" means premises, or a portion of
5 premises, used for the confinement of persons under official detention;

6 (3) "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 ARTICLE 4. OFFENSES RELATING TO JUDICIAL AND OTHER PROCEEDINGS.

10 Sec. 11.56.510. INFLUENCING A WITNESS. (a) A person commits the
11 crime of influencing a witness if he

12 (1) uses physical force on anyone, damages the property of
13 anyone, or threatens anyone with intent to

14 (A) improperly influence a witness; or

15 (B) retaliate against a witness because of his testimony
16 in an official proceeding; or

17 (2) confers, offers to confer, or agrees to confer a benefit
18 upon a witness with intent to improperly influence that witness.

19 (b) Influencing a witness is a class B felony.

20 Sec. 11.56.530. RECEIVING A BRIBE BY A WITNESS. (a) A person
21 commits the crime of receiving a bribe by a witness if he knowingly
22 solicits, accepts, or agrees to accept a benefit upon an agreement or
23 understanding that he will be improperly influenced as a witness.

24 (b) Receiving a bribe by a witness is a class B felony.

25 Sec. 11.56.540. TAMPERING WITH A WITNESS. (a) A person commits
26 the crime of tampering with a witness if he knowingly induces or
27 attempts to induce a witness to

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

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

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

4 Sec. 11.56.550. INFLUENCING A JUROR. (a) A person commits the
5 crime of influencing a juror if he

6 (1) uses physical force on anyone, damages the property of
7 anyone, or threatens anyone with intent to

8 (A) influence a juror's vote, opinion, decision, or
9 other action as a juror; or

10 (B) retaliate against a juror because of his serving as
11 a juror or taking any action as a juror;

12 (2) uses physical force on a juror, damages the property of a
13 juror, or threatens a juror with intent to influence the outcome of an
14 official proceeding; or

15 (3) confers, offers to confer, or agrees to confer a benefit
16 upon a juror with intent to

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

19 (B) influence the outcome of an official proceeding.

20 (b) Influencing a juror is a class B felony.

21 Sec. 11.56.580. RECEIVING A BRIBE BY A JUROR. (a) A person
22 commits the crime of receiving a bribe by a juror if he knowingly
23 solicits, accepts, or agrees to accept a benefit upon an agreement or
24 understanding that his vote, decision, opinion, or other action as a
25 juror will be influenced.

26 (b) Receiving a bribe by a juror is a class B felony.

27 Sec. 11.56.590. JURY TAMPERING. (a) A person commits the crime
28 of jury tampering if he directly or indirectly communicates with a juror
29 other than as permitted by the rules governing the official proceeding

1 with intent to

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

4 (2) influence the outcome of the official proceeding.

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

6 Sec. 11.56.600. MISCONDUCT BY A JUROR. (a) A person commits the
7 crime of misconduct by a juror if, being a juror, he promises or agrees,
8 before the submission of any part of an official proceeding to a jury
9 for deliberation, to vote for or agree to a verdict for or against a
10 party in the official proceeding, or otherwise to influence the outcome
11 of the official proceeding.

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

13 Sec. 11.56.605. RECEIVING UNAUTHORIZED COMMUNICATIONS BY A JUROR.

14 (a) A person commits the crime of receiving unauthorized communications
15 by a juror if, being a juror, he receives a communication, other than as
16 permitted by the rules governing the official proceeding, in relation to
17 the official proceeding without immediately disclosing the communication
18 to the court.

19 (b) Receiving unauthorized communications by a juror is a class B
20 misdemeanor.

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

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

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

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

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

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

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

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

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

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

18 ARTICLE 5. OBSTRUCTION OF PUBLIC ADMINISTRATION.

19 Sec. 11.56.700. RESISTING OR INTERFERING WITH ARREST. (a) A
20 person commits the crime of resisting or interfering with arrest if,
21 knowing that a peace officer is making an arrest, with the intent of
22 preventing the officer from making the arrest, he resists the arrest of
23 himself or interferes with the arrest of another by

24 (1) using or threatening to use physical force;

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

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

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

29 Sec. 11.56.720. REFUSING TO ASSIST A PEACE OFFICER OR JUDICIAL

1 OFFICER. (a) A person commits the offense of refusing to assist a
2 peace officer or judicial officer if, upon a request, command, or order
3 by a person he knows to be a peace officer or judicial officer, he
4 unreasonably refuses or fails to make a good faith effort to assist that
5 person in the exercise of his official duties.

6 (b) Refusing to assist a peace officer or judicial officer is a
7 violation.

8 Sec. 11.56.730. REFUSING TO ASSIST IN AN EMERGENCY. (a) A person
9 commits the crime of refusing to assist in an emergency if he unreason-
10 ably disobeys a request, command, or order of a person he knows to be a
11 member of a fire department or other public or private organization
12 which deals with emergencies involving danger to life or property if
13 that request, command, or order relates to the safety of any person or
14 protection of any property in the vicinity of an emergency.

15 (b) Refusing to assist in an emergency is a class B misdemeanor.

16 Sec. 11.56.740. CIVIL LIABILITY FOR EMERGENCY AID. (a) A person
17 who, without expecting compensation, assists a person pursuant to sec.
18 720 or 730 of this chapter is not liable for civil damages as a result
19 of an act or omission in rendering such aid.

20 (b) This section does not preclude liability for civil damages as
21 a result of reckless, wilful, wanton, or intentional misconduct.

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

27 (1) hinder the apprehension, prosecution, conviction, or
28 punishment of that person; or

29 (2) assist that person in profiting or benefiting from the

1 commission of the crime.

2 (b) For purposes of this section, a person "renders assistance" to
3 another if he

4 (1) harbors or conceals that person;

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

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

9 (4) prevents or obstructs, by means of physical force,
10 threat, or deception, anyone from performing an act which might aid in
11 the discovery or apprehension of that person;

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

15 (6) aids that person in securing or protecting the proceeds
16 of the crime.

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

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

19 A person commits the crime of hindering prosecution in the second degree
20 if he renders assistance to a person who has committed a crime punish-
21 able more severely than a class B misdemeanor, with intent to

22 (1) hinder the apprehension, prosecution, conviction, or
23 punishment of that person; or

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

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

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

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

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

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

10 (b) Compounding is a class A misdemeanor.

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

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

15 (2) makes or causes to be made a false report to a peace
16 officer, fireman, security officer, or a public or private organization
17 which deals with emergencies involving danger to life or property that a
18 fire or other incident calling for an emergency response has occurred.

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

20 Sec. 11.56.810. MAKING A FALSE BOMB REPORT. (a) A person commits
21 the crime of making a false bomb report if he knowingly makes or causes
22 to be made a false report to any person that a bomb or other explosive
23 or incendiary device is in a position to create a risk of harm.

24 (b) Making a false bomb report is a class C felony.

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

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

29 (2) destroys, mutilates, suppresses, conceals, removes, or

1 otherwise impairs the verity, legibility, or availability of a public
2 record, knowing that he lacks the authority to do so.

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

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

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

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

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

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

13 ARTICLE 6. ABUSE OF PUBLIC OFFICE.

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

17 (1) commits an act relating to his office but constituting an
18 unauthorized exercise of his official functions, knowing that that act
19 is unauthorized; or

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

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

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

27 (1) learns confidential information through his employment;
28 and

29 (2) while in office or after leaving office, uses the

1 confidential information for personal gain or in a manner not connected
2 with the performance of his official duties other than by giving sworn
3 testimony or evidence in a legal proceeding in conformity with a court
4 order.

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

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

8 ARTICLE 7. GENERAL PROVISIONS.

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

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

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

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

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

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

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

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

28 (4) "physical evidence" means an article, object, document,
29 record, or other thing of physical substance;

1 (5) "public record" means a document, paper, book, letter,
2 drawing, map, plat, photo, photographic file, motion picture, film,
3 microfilm, microphotograph, exhibit, magnetic or paper tape, punched
4 card or other document of any other material, regardless of physical
5 form or characteristic, developed or received under law or in connection
6 with the transaction of official business and preserved or appropriate
7 for preservation by an agency, municipality, or any body subject to the
8 open meeting provision of AS 44.62.310, as evidence of the organization,
9 function, policies, decisions, procedures, operations or other activi-
10 ties of the state or municipality or because of the informational value
11 in it; it also includes staff manuals and instructions to staff that
12 affect the public;

13 (6) "testimony" means oral or written statements, documents,
14 or other material that may be offered by a witness in an official pro-
15 ceeding;

16 (7) "witness" means

17 (A) a witness summoned or appearing in an official
18 proceeding; or

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

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

22 CHAPTER 61. OFFENSES AGAINST PUBLIC ORDER.

23 ARTICLE 1. RIOT, DISORDERLY CONDUCT, AND RELATED OFFENSES.

24 Sec. 11.61.100. RIOT. (a) A person commits the crime of riot if,
25 while participating with five or more other persons, he engages in
26 tumultuous and violent conduct in a public place and thereby recklessly
27 causes, or creates a substantial risk of imminently causing, damage to
28 property or physical injury to a person.

29 (b) Riot is a class C felony.

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

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

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

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

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

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

20 (6) he recklessly creates a hazardous condition for others by
21 an act which has no legal justification or excuse.

22 (b) As used in this section, "unreasonably loud noise" means noise
23 which constitutes a gross deviation from the standard of conduct that a
24 reasonable person would follow in the same situation as the defedant,
25 considering the nature and purpose of the conduct of the defendant and
26 the circumstances known to him, including the nature of the location and
27 the time of day or night.

28 (c) Disorderly conduct is a class B misdemeanor and is punishable
29 as authorized in ch. 37 of this title except that a sentence of

1 imprisonment, if imposed, shall be for a definite term of not more than
2 10 days.

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

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

7 (2) telephones another and fails to terminate the connection
8 with intent to impair the ability of that person to place or receive
9 telephone calls; or

10 (3) makes repeated telephone calls anonymously, at extremely
11 inconvenient hours, in obscene language, or that threaten physical
12 injury.

13 (b) Harassment is a class B misdemeanor.

14 Sec. 11.61.130. ABUSE OF A CORPSE. (a) A person commits the
15 crime of abuse of a corpse if, except as authorized by law, he inten-
16 tionally disinters, removes, conceals, mutilates, or engages in sexual
17 penetration of a corpse.

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

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

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

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

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

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

29 (1) conformed to accepted veterinary practice;

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

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

5 (c) As used in this section, "animal" means a vertebrate living
6 creature not a human being, but does not include fish.

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

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

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

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

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

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

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

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

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

24 ARTICLE 2. OFFENSES AGAINST PRIVACY OF COMMUNICATION.

25 Sec. 11.61.200. EAVESDROPPING. (a) A person commits the crime of
26 eavesdropping if, with intent to hear or record all or part of an oral
27 conversation, he uses an eavesdropping device without the consent of a
28 party to the conversation.

29 (b) Eavesdropping is a class A misdemeanor.

1 Sec. 11.61.210. INTERCEPTION OF PRIVATE CORRESPONDENCE. (a) A
2 person commits the crime of interception of private correspondence if,
3 without consent of the sender or intended recipient, he intentionally

4 (1) intercepts, opens, or reads private correspondence; or

5 (2) destroys or detains private correspondence to delay or
6 prevent reception by the person entitled to it.

7 (b) Interception of private correspondence is a class A misde-
8 meanor.

9 Sec. 11.61.220. UNAUTHORIZED DIVULGENCE OR USE OF COMMUNICATIONS.

10 (a) A person commits the crime of unauthorized divulgence or use of
11 communications if he knowingly divulges or uses for his own or another's
12 benefit any information concerning a communication

13 (1) with reckless disregard that the information was obtained
14 in violation of sec. 200 or 210 of this chapter; or

15 (2) to which he has access as an employee or officer of the
16 communications common carrier transmitting the communication.

17 (b) The provisions of (a)(2) of this section do not apply to
18 divulgence through authorized channels of transmission or reception to

19 (1) the intended recipient or his agent;

20 (2) a person employed or authorized to forward a communica-
21 tion to its destination;

22 (3) proper accounting or distributing officers of communi-
23 cation centers over which the communication may be passed;

24 (4) the master of a ship under whom the employee or officer
25 is serving;

26 (5) another on demand of lawful authority;

27 (6) in response to a subpoena issued by a court of competent
28 jurisdiction.

29 (c) Unauthorized divulgence or use of communications is a class A

1 misdemeanor.

2 Sec. 11.61.230. EXEMPTIONS. Sections 210 and 220 of this chapter
3 do not apply to

4 (1) listening to radio or wireless communications of any sort
5 when the same are publicly made;

6 (2) hearing a communication when heard by an employee or
7 officer of a communications common carrier incidental to the normal
8 course of his employment in the operation, maintenance, or repair of the
9 equipment of the common carrier, if information concerning the communi-
10 cation is not used or divulged in any manner by the hearer;

11 (3) a broadcast by radio or other means whether it is a live
12 broadcast or recorded for the purpose of later broadcasts of any func-
13 tion where the public is in attendance and the conversations which are
14 overheard are incidental to the main purpose for which the broadcast is
15 then being made; or

16 (4) recording or listening with the aid of any device to an
17 emergency oral conversation made in the normal course of operations by
18 an organization which deals with emergencies involving danger to life or
19 property.

20 Sec. 11.61.240. DEFINITIONS. As used in secs. 200 - 240 of this
21 chapter, unless the context requires otherwise,

22 (1) "communication" means an oral conversation or private
23 correspondence;

24 (2) "eavesdropping device" means a device capable of being
25 used to hear or record oral conversations but does not include devices
26 used for the restoration of the deaf or hard of hearing to normal or
27 partial hearing;

28 (3) "information concerning a communication" means the exis-
29 tence, contents, substance, purport, effect, or meaning of a

1 communication;

2 (4) "intercept" means to acquire the contents of a communi-
3 cation and includes the acquisition of the contents by simultaneous
4 transmission or recording;

5 (5) "oral conversation" means a communication by speech,
6 whether conducted in person, by telephone, or by any other means;

7 (6) "private correspondence" means a communication other than
8 by speech, including telegraph messages and sealed letters, sent

9 (A) by a person exhibiting an expectation that the
10 communication is not subject to being intercepted, opened, or read
11 other than by its intended recipient or an employee or officer of a
12 communications common carrier acting in the usual course of busi-
13 ness; and

14 (B) under circumstances reasonably justifying that
15 expectation.

16 * Sec. 11. AS 11 is amended by adding a new chapter to read:

17 CHAPTER 66. OFFENSES AGAINST PUBLIC HEALTH AND DECENCY.

18 ARTICLE 1. PROSTITUTION AND RELATED OFFENSES.

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

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

22 or

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

24 (b) Prostitution is a class B misdemeanor.

25 Sec. 11.66.110. SOLICITATION FOR PURPOSES OF PROSTITUTION. (a) A
26 person commits the crime of solicitation for purposes of prostitution if
27 he solicits another person to engage in an act of prostitution.

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

1 (2) induces or causes a person under 16 years of age to
2 engage in sexual conduct for hire; or

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

5 (b) Compelling prostitution in the first degree is a class B
6 felony.

7 Sec. 11.66.150. COMPELLING PROSTITUTION IN THE SECOND DEGREE. (a)
8 A person commits the crime of compelling prostitution in the second
9 degree if he induces or causes a person at least 16 years of age but
10 less than 19 years of age to engage in sexual conduct for hire.

11 (b) Compelling prostitution in the second degree is a class C
12 felony.

13 Sec. 11.66.160. EVIDENCE REQUIRED FOR SECS. 120 - 150 OF THIS
14 CHAPTER. In a prosecution under secs. 120 - 150 of this chapter it is
15 not necessary that the testimony of the person whose prostitution is
16 alleged to have been compelled or promoted be corroborated by the testi-
17 mony of any other witness or by documentary or other types of evidence.

18 Sec. 11.66.170. SPOUSE AS WITNESS. In a prosecution under
19 secs. 120 -150 of this chapter spouses are competent and compellable
20 witnesses for or against either party.

21 Sec. 11.66.180. DEFINITIONS. As used in secs. 110 - 170 of this
22 chapter, unless the context requires otherwise,

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

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

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

29 ARTICLE 2. GAMBLING OFFENSES.

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

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

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

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

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

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

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

16 Sec. 11.66.230. POSSESSION OF GAMBLING RECORDS IN THE FIRST DEGREE.

17 (a) A person commits the crime of possession of gambling records in the
18 first degree if, with knowledge of its contents or character, he pos-
19 sesses a writing or paper of a kind commonly used in the operation or
20 promotion of an unlawful gambling enterprise.

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

23 Sec. 11.66.240. POSSESSION OF GAMBLING RECORDS IN THE SECOND
24 DEGREE. (a) A person commits the crime of possession of gambling

25 records in the second degree if, with knowledge of its contents or
26 character, he possesses a writing or paper of a kind commonly used in
27 the operation or promotion of unlawful gambling.

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

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

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

7 (1) is not used or intended to be used by the defendant in
8 the operation or promotion of unlawful gambling;

9 (2) is used or intended to be used by the defendant in a
10 social game.

11 Sec. 11.66.260. POSSESSION OF A GAMBLING DEVICE. (a) A person
12 commits the offense of possession of a gambling device if, with know-
13 ledge of the character of the device, he manufactures, sells, trans-
14 ports, places, or possesses, or conducts or negotiates a transaction
15 affecting or designed to affect ownership, custody, or use of

16 (1) a gambling device other than a slot machine, with reck-
17 less disregard that the device is to be used in promoting unlawful
18 gambling; or

19 (2) a slot machine.

20 (b) It is an affirmative defense in a prosecution under (a)(1) of
21 this section that the gambling device possessed by the defendant is used
22 or intended to be used only in a social game.

23 (c) Possession of a gambling device is a violation.

24 Sec. 11.66.270. DEFINITIONS. As used in secs. 200 - 270 of this
25 chapter, unless the context requires otherwise,

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

1 (2) "gambling" means that a person stakes or risks something
2 of value upon the outcome of a contest of chance or a future contingent
3 event not under his control or influence, upon an agreement or under-
4 standing that he or someone else will receive something of value in the
5 event of a certain outcome; "gambling" does not include

6 (A) bona fide business transactions valid under the law
7 of contracts for the purchase or sale at a future date of securi-
8 ties or commodities and agreements to compensate for loss caused by
9 the happening of chance, including contracts of indemnity or
10 guaranty and life, health, or accident insurance; or

11 (B) playing an amusement device that

12 (i) confers only an immediate right of replay not
13 exchangeable for something of value other than the privilege
14 of immediate replay; and

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

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

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

24 (B) an amusement device as described in (2)(B) of this
25 section;

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

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

29 (B) has been or remains in substantially continuous

1 operation for a period in excess of 30 days or has a gross income
2 of \$2,000 or more in any single day;

3 (5) "player" means a person who engages in gambling solely as
4 a contestant or bettor, believing that the risk of losing and the
5 chances of winning are the same for all participants except for the
6 advantages of skill and luck, without receiving or becoming entitled to
7 receive any profit from gambling other than personal gambling winnings
8 and without otherwise rendering any material assistance to the estab-
9 lishment, conduct, or operation of the particular gambling activity,
10 except that, for purposes of this definition, a person who gambles at a
11 social game on equal terms with the other participants does not "other-
12 wise render material assistance" to the establishment, conduct, or
13 operation by performing, without fee or remuneration, acts directed
14 towards the arrangement or facilitation of the game, such as inviting
15 persons to play, permitting the use of premises for the game, or supply-
16 ing cards or other equipment used in the game; "player" does not include
17 a person who promotes gambling by unlawfully accepting bets from members
18 of the public as a business, rather than in a casual or personal
19 fashion, upon the outcomes of future contingent events;

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

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

27 (A) conduct directed toward the

28 (i) creation or establishment of the particular
29 gambling activity or acquisition or maintenance of premises,

1 paraphernalia, equipment, or apparatus used in the gambling;

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

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

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

9 (8) "slot machine" means a gambling device that, as a result of
10 the insertion of a coin or other object, operates, either completely
11 automatically or with the aid of some physical act by the player, in
12 such a manner that, depending upon elements of chance, it may eject
13 something of value or otherwise entitle the player to something of
14 value; a device so constructed or readily adaptable or convertible to
15 such use is a slot machine even though

16 (A) it is not in working order;

17 (B) some mechanical act of manipulation or repair is
18 required to accomplish its adaptation, conversion, or workability;
19 or

20 (C) apart from its use or adaptability as a slot machine
21 it may also sell or deliver something of value on some basis other
22 than chance;

23 (9) "social game" means gambling in a home where no house
24 player, house bank, or house odds exist and where there is no house
25 income from the operation of the game;

26 (10) "something of value" means any money or property; any
27 token, object, or article exchangeable for money or property; and any
28 form of credit or promise directly or indirectly contemplating transfer
29 of money or property or of an interest in money or property or involving

1 extension of a service, entertainment, or a privilege of playing at a
2 game or scheme without charge;

3 (11) "unlawful" means not specifically authorized by law.

4 * Sec. 12. AS 11 is amended by adding a new chapter to read:

5 CHAPTER 71. WEAPONS AND EXPLOSIVES.

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

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

9 (1) possesses a firearm capable of being concealed on his
10 person after having been convicted inside or outside this state of a
11 felony involving violence;

12 (2) knowingly sells or transfers a firearm capable of being
13 concealed on one's person to a person who has been convicted inside or
14 outside this state of a felony involving violence; or

15 (3) manufactures, possesses, transports, sells, or transfers
16 a prohibited weapon.

17 (b) The provisions of (a)(1) and (2) of this section do not apply
18 if

19 (1) the person convicted of the prior offense on which the
20 action is based received a pardon for that conviction; or

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

25 (c) The provisions of (a)(3) of this section do not apply if the
26 manufacture, possession, transportation, sale, or transfer of the pro-
27 hibited weapon is in accordance with registration under the National
28 Firearms Act (26 U.S.C. sec. 5801 et seq.).

29 (d) Misconduct involving weapons in the first degree is a class C

1 felony.

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

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

5 (1) possesses on his person a deadly weapon while his physi-
6 cal or mental condition is substantially impaired as a result of the
7 introduction of an intoxicating liquor or a drug into his body;

8 (2) sells or transfers a deadly weapon to a person knowing
9 that the physical or mental condition of that person is substantially
10 impaired as a result of the introduction of an intoxicating liquor or a
11 drug into his body;

12 (3) intentionally defaces a firearm or knowingly possesses a
13 firearm that has been intentionally defaced;

14 (4) discharges a firearm on, along, or across a highway; or

15 (5) flourishes, points, or discharges a firearm in a city of
16 any class or in or at a public place.

17 (b) The provisions of (a)(5) of this section do not apply to
18 flourishing, pointing, or discharging a firearm in a shooting range,
19 shooting event, hunting area, or similar location or activity when that
20 conduct is specifically authorized by law.

21 (c) Misconduct involving weapons in the second degree is a class A
22 misdemeanor.

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

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

26 (1) knowingly possesses a deadly weapon concealed on his
27 person or concealed in any place about his person where the deadly
28 weapon is readily accessible for use;

29 (2) knowingly possesses on his person a firearm in any place

1 where intoxicating liquor is sold for consumption on the premises;

2 (3) being an unemancipated minor under 18 years of age,
3 possesses a firearm without the consent of his parent or guardian; or

4 (4) knowingly sells or transfers a firearm to an unemanci-
5 pated minor under 18 years of age whose parent or guardian has not
6 consented to the sale or transfer.

7 (b) The provisions of (a)(1) of this section do not apply to a
8 person

9 (1) who is engaged at the time of his possession in lawful
10 hunting, fishing, or other outdoor sporting activity; or

11 (2) in his dwelling or on property owned by or leased to him.

12 (c) The provisions of (a)(1) of this section do not apply to a
13 weapon that

14 (1) is carried in a belt or shoulder holster if the holster
15 is wholly or partially visible; or

16 (2) is carried in a scabbard, sheath, or case designed for
17 carrying weapons if the scabbard, sheath, or case is wholly or partially
18 visible.

19 (d) The provisions of (a)(2) of this section do not apply to a
20 person or his employees in business premises owned by or leased to that
21 person.

22 (e) Misconduct involving weapons in the third degree is a class B
23 misdemeanor.

24 Sec. 11.71.130. POSSESSION OF BURGLARY TOOLS. (a) A person
25 commits the crime of possession of burglary tools if he possesses a
26 burglary tool with the intent to use or permit use of the tool in the
27 commission of

28 (1) any degree of burglary;

29 (2) a crime referred to in AS 11.46.130(a)(3); or

1 (3) theft of services.

2 (b) As used in this section, "burglary tools" means

3 (1) nitroglycerine, dynamite, or any other tool, instrument,
4 or device adapted or designed for use in committing a crime referred to
5 in (1) - (3) of (a) of this section; or

6 (2) an acetylene torch, electric arc, burning bar, thermal
7 lance, oxygen lance, or other similar device capable of burning through
8 steel, concrete, or other solid material.

9 (c) Possession of burglary tools is a class A misdemeanor.

10 Sec. 11.71.140. CRIMINAL POSSESSION OF EXPLOSIVES. (a) A person
11 commits the crime of criminal possession of explosives if he possesses
12 or manufactures an explosive substance or device and intends to use that
13 substance or device to commit a crime.

14 (b) Criminal possession of explosives is a

15 (1) class A felony if the crime intended is murder;

16 (2) class B felony if the crime intended is a class A felony;

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

18 (4) class A misdemeanor if the crime intended is a class C

19 felony;

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

22 Sec. 11.71.150. UNLAWFUL FURNISHING OF EXPLOSIVES. (a) A person
23 commits the crime of unlawful furnishing of explosives if he furnishes
24 an explosive substance or device to another knowing that that person
25 intends to use the substance or device to commit a crime.

26 (b) Unlawful furnishing of explosives is a class C felony.

27 Sec. 11.71.160. DEFINITIONS. As used in this chapter, unless the
28 context requires otherwise,

29 (1) "deadly weapon" means any firearm, or anything designed

1 for and capable of causing death or serious physical injury, including a
2 knife other than an ordinary pocket knife, an axe, a club, metal
3 knuckles, or an explosive;

4 (2) "deface" means to remove, cover, alter, or destroy the
5 manufacturer's serial number;

6 (3) "prohibited weapon" means any

7 (A) explosive, incendiary, or noxious gas

8 (i) mine or device that is designed, made, or
9 adapted for the purpose of inflicting serious physical injury
10 or death;

11 (ii) rocket, other than an emergency flare, having a
12 propellant charge of more than four ounces;

13 (iii) bomb;

14 (iv) grenade;

15 (B) device designed, made, or adapted to muffle the
16 report of a firearm;

17 (C) device that consists of finger rings or guards made
18 of a hard substance and designed, made, or adapted for inflicting
19 serious physical injury or death by striking a person with an en-
20 closed fist;

21 (D) switchblade or gravity knife;

22 (E) firearm that is capable of shooting more than one
23 shot automatically, without manual reloading, by a single function
24 of the trigger; or

25 (F) rifle with a barrel length of less than 16 inches or
26 shotgun with a barrel length of less than 18 inches, or any firearm
27 made from a rifle or shotgun which, as modified, has an overall
28 length of less than 26 inches.

29 * Sec. 13. AS 11 is amended by adding a new chapter to read:

1 CHAPTER 76. MISCELLANEOUS OFFENSES.

2 Sec. 11.76.100. SELLING OR GIVING TOBACCO TO A MINOR. (a) A
3 person commits the offense of selling or giving tobacco to a minor if he
4 knowingly sells, exchanges, or gives cigarettes, cigars, or tobacco to a
5 child under 18 years of age.

6 (b) Selling or giving tobacco to a minor is a violation for the
7 first offense. Selling or giving tobacco to a minor is a class B mis-
8 demeanor for the second and each subsequent offense.

9 Sec. 11.76.110. INTERFERENCE WITH CONSTITUTIONAL RIGHTS. (a) A
10 person commits the crime of interference with constitutional rights if

11 (1) he injures, oppresses, threatens, or intimidates another
12 person with intent to deprive that person of a right, privilege, or
13 immunity in fact granted by the constitution or laws of this state;

14 (2) he injures, oppresses, threatens, or intimidates another
15 person because that person has exercised or enjoyed a right, privilege,
16 or immunity in fact granted by the constitution or laws of this state;
17 or

18 (3) under color of law, ordinance, or regulation of this
19 state or a municipality or other political subdivision of this state, he
20 intentionally deprives another of a right, privilege, or immunity in
21 fact granted by the constitution or laws of this state.

22 (b) In a prosecution under this section, whether the injury,
23 oppression, threat, intimidation, or deprivation concerns a right, pri-
24 vilege, or immunity granted by the constitution or laws of this state is
25 a question of law.

26 (c) Interference with constitutional rights is a class A misde-
27 meanor.

28 * Sec. 14. AS 11 is amended by adding a new chapter to read:

29 CHAPTER 81. GENERAL PROVISIONS.

1 bar, suspend, or otherwise affect any right to or liability for damages,
2 penalty, forfeiture, or other remedy authorized by law to be recovered
3 or enforced in a civil action, regardless of whether the conduct in-
4 volved in the proceeding constitutes an offense defined in this title.

5 Sec. 11.81.220. ALL OFFENSES DEFINED BY STATUTE. No conduct
6 constitutes an offense unless it is made an offense

- 7 (1) by this title;
8 (2) by a statute outside this title; or
9 (3) by a regulation authorized by and lawfully adopted under
10 a statute.

11 ARTICLE 3. GENERAL PRINCIPLES OF CRIMINAL LIABILITY.

12 Sec. 11.81.300. GENERAL REQUIREMENTS OF CULPABILITY. (a) The
13 minimal requirement for criminal liability is the performance by a
14 person of conduct which includes a voluntary act or the omission to per-
15 form an act which he is capable of performing.

16 (b) A person is not guilty of an offense unless he acts with a
17 culpable mental state with respect to each element of the offense that
18 necessarily requires a culpable mental state, except that

19 (1) no culpable mental state must be proved with respect to
20 any element of an offense if the description of the offense does not
21 specify a culpable mental state and the offense is

- 22 (A) a violation; or
23 (B) designated as one of "strict liability";

24 (2) no culpable mental state must be proved with respect to a
25 particular element of the offense if an intent to dispense with the
26 culpable mental state requirement for that element clearly appears.

27 Sec. 11.81.310. CONSTRUCTION OF STATUTES WITH RESPECT TO CULPA-
28 BILITY. (a) When the commission of an offense, or some element of an
29 offense, requires a particular culpable mental state, the mental state

1 is ordinarily designated in the statute defining the offense by use of
2 the terms "intentionally", "knowingly", "recklessly", or "criminal
3 negligence", or by use of terms such as "with intent to defraud" and
4 "knowing it to be false", describing a specific kind of intent or know-
5 ledge. When only one such term appears in a statute defining an of-
6 fense, it is rebuttably presumed to apply to every element of the
7 offense unless an intent to limit its application clearly appears.

8 (b) Except as provided in sec. 300(b) of this chapter, if a sta-
9 tute defining an offense does not prescribe a culpable mental state,
10 culpability is nonetheless required and is established only if a person
11 acts intentionally, knowingly, or recklessly.

12 (c) When a statute provides that criminal negligence suffices to
13 establish an element of an offense, that element is also established if
14 a person acts intentionally, knowingly, or recklessly. If acting reck-
15 lessly suffices to establish an element, that element also is estab-
16 lished if a person acts intentionally or knowingly. If acting knowingly
17 suffices to establish an element, that element is also established if a
18 person acts intentionally.

19 Sec. 11.81.320. EFFECT OF IGNORANCE OR MISTAKE UPON LIABILITY.

20 (a) Knowledge, recklessness, or criminal negligence as to whether con-
21 duct constitutes an offense, or knowledge, recklessness, or criminal
22 negligence as to the existence, meaning, or application of the statute
23 defining an offense, is not an element of an offense unless the statute
24 clearly so provides. Use of the phrase "intent to commit a crime",
25 "intent to promote or facilitate the commission of a crime", or like
26 terminology in a statute does not require that the defendant act with a
27 culpable mental state as to the criminality of the conduct that is the
28 object of his intent.

29 (b) A person is not relieved of criminal liability for conduct

1 because he engages in the conduct under a mistaken belief of fact,
2 unless

3 (1) the factual mistake negates the culpable mental state
4 required for the commission of the offense;

5 (2) the statute defining the offense or a related statute
6 expressly provides that the factual mistake constitutes a defense or
7 exemption; or

8 (3) the factual mistake is of a kind that supports a defense
9 of justification as provided in ch. 21 of this title.

10 Sec. 11.81.330. INTOXICATION OR DRUG USE AS DEFENSE. (a) Volun-
11 tary intoxication or drug use does not, as such, constitute a defense to
12 a prosecution, but, in a prosecution for an offense, evidence that the
13 defendant used drugs or was intoxicated may be offered whenever it is
14 relevant to negate an element of the offense that requires a culpable
15 mental state.

16 (b) When recklessness establishes an element of an offense, if
17 the defendant, due to voluntary intoxication or drug use, is unaware of
18 a risk of which he would have been aware had he not been intoxicated or
19 not using drugs, that unawareness is immaterial.

20 Sec. 11.81.340. DECEIVING A MACHINE. In a prosecution for an
21 offense that requires "deception" as an element, it is not a defense
22 that the defendant deceived or attempted to deceive a machine. For pur-
23 poses of this section, "machine" includes a vending machine, computer,
24 turnstile, or automated teller machine.

25 ARTICLE 4. DEFINITIONS.

26 Sec. 11.81.900. DEFINITIONS. (a) For purposes of this title,
27 unless the context requires otherwise,

28 (1) a person acts "intentionally" with respect to a result or
29 to conduct described by a provision of law defining an offense when his

1 conscious objective is to cause the result or to engage in the conduct;

2 (2) a person acts "knowingly" with respect to conduct or to a
3 circumstance described by a provision of law defining an offense when he
4 is aware that his conduct is of that nature or that the circumstance
5 exists; when knowledge of the existence of a particular fact is an
6 element of an offense, that knowledge is established if a person is
7 aware of a substantial probability of its existence, unless he actually
8 believes it does not exist;

9 (3) a person acts "recklessly" with respect to a result or to
10 a circumstance described by a provision of law defining an offense when
11 he is aware of and consciously disregards a substantial and unjusti-
12 fiable risk that the result will occur or that the circumstance exists;
13 the risk must be of such a nature and degree that disregard of it con-
14 stitutes a gross deviation from the standard of conduct that a reason-
15 able person would observe in the situation; a person who is unaware of a
16 risk of which he would have been aware had he not been intoxicated or
17 using drugs acts recklessly with respect to that risk;

18 (4) a person acts "with criminal negligence" with respect to
19 a result or to a circumstance described by a provision of law defining
20 an offense when he fails to perceive a substantial and unjustifiable
21 risk that the result will occur or that the circumstance exists; the
22 risk must be of such a nature and degree that the failure to perceive it
23 constitutes a gross deviation from the standard of care that a reason-
24 able person would observe in the situation.

25 (b) As used in this title, unless otherwise specified or unless
26 the context requires otherwise,

27 (1) "act" means a bodily movement;

28 (2) "affirmative defense" means that

29 (A) some evidence must be admitted which places in issue

1 the defense; and

2 (B) the defendant has the burden of establishing the
3 defense by a preponderance of the evidence;

4 (3) "benefit" means a present or future gain or advantage to
5 the beneficiary or to a third person pursuant to the desire or consent
6 of the beneficiary, but does not include political campaign contribu-
7 tions reported in accordance with AS 15.13;

8 (4) "building", in addition to its usual meaning, includes
9 any vehicle, watercraft, aircraft, or structure adapted for overnight
10 accommodation of persons or for carrying on business; when a building
11 consists of separate units, including apartment units, offices, or
12 rented rooms, each unit is considered a separate building;

13 (5) "conduct" means an act or omission and its accompanying
14 mental state;

15 (6) "crime" means an offense for which a sentence of impri-
16 sonment is authorized; a crime is either a felony or a misdemeanor;

17 (7) "culpable mental state" means "intentionally", "knowing-
18 ly", "recklessly", or with "criminal negligence", as those terms are
19 defined in (a) of this section;

20 (8) "dangerous instrument" means anything which, under the
21 circumstances in which it is used, attempted to be used, or threatened
22 to be used, is capable of causing death or serious physical injury;

23 (9) "deadly physical force" means physical force that under
24 the circumstances in which it is used is capable of causing death or
25 serious physical injury;

26 (10) "deadly weapon" means any firearm, or anything designed
27 for and capable of causing death or serious physical injury, including a
28 knife, an axe, a club, metal knuckles, or an explosive;

29 (11) "deception" means to knowingly

1 (A) create or confirm another's false impression which
2 the defendant does not believe to be true, including false im-
3 pressions as to law or value and false impressions as to intention
4 or other state of mind;

5 (B) fail to correct another's false impression which the
6 defendant previously has created or confirmed;

7 (C) prevent another from acquiring information pertinent
8 to the disposition of the property or service involved;

9 (D) sell or otherwise transfer or encumber property and
10 fail to disclose a lien, adverse claim, or other legal impediment
11 to the enjoyment of the property, whether or not that impediment is
12 a matter of official record; or

13 (E) promise performance which the defendant does not in-
14 tend to perform or knows will not be performed;

15 (12) "defense", other than an affirmative defense, means that

16 (A) some evidence must be admitted which places in issue
17 the defense; and

18 (B) the state then has the burden of disproving the
19 existence of the defense beyond a reasonable doubt;

20 (13) "dwelling" means a building which is usually occupied by
21 a person at night, whether or not a person is actually present at the
22 time of the conduct in question;

23 (14) "explosive" means a chemical compound, mixture, or device
24 that is commonly used or intended for the purpose of producing a chemi-
25 cal reaction resulting in a substantially instantaneous release of gas
26 and heat, including dynamite, blasting powder, nitroglycerin, blasting
27 caps, and nitrojelly, but excluding salable fireworks as defined in AS
28 18.72.050(4), black powder, smokeless powder, small arms ammunition, and
29 small arms ammunition primers;

1 (15) "felony" means a crime for which a sentence of imprison-
2 ment for a term of more than one year is authorized;

3 (16) "fiduciary" means a trustee, guardian, executor, adminis-
4 trator, receiver, or any other person carrying on functions of trust on
5 behalf of another person or organization;

6 (17) "firearm" means a loaded or unloaded pistol, revolver,
7 rifle, shotgun, or other weapon from which a shot capable of causing
8 death or serious physical injury may be discharged;

9 (18) "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 (19) "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 (20) "includes" means "includes but is not limited to";

19 (21) "misdemeanor" means a crime for which a sentence of im-
20 prisonment for a term of more than one year may not be imposed;

21 (22) "offense" means conduct for which a sentence of imprison-
22 ment or fine is authorized; an offense is either a crime or a violation;

23 (23) "official proceeding" means a proceeding heard before a
24 legislative, judicial, administrative, or other governmental body or
25 official authorized to hear evidence under oath;

26 (24) "omission" means a failure to perform an act for which a
27 duty of performance is imposed by law;

28 (25) "organization" means a legal entity, including a corpora-
29 tion, company, association, firm, partnership, joint stock company,

1 foundation, institution, society, union, club, church, or any other
2 group of persons organized for any purpose;

3 (26) "peace officer" means a public servant vested by law with
4 a duty to maintain public order or to make arrests, whether the duty
5 extends to all offenses or is limited to a specific class of offenses or
6 offenders;

7 (27) "person" means a natural person and, when appropriate, an
8 organization, government, or governmental instrumentality;

9 (28) "physical force" means force used upon or directed toward
10 the body of another person; the term includes confinement;

11 (29) "physical injury" means physical pain or an impairment of
12 physical condition;

13 (30) "possess" means having physical possession or the exer-
14 cise of dominion or control over property;

15 (31) "premises" means real property, including a building;

16 (32) "propelled vehicle" means a device upon which or by which
17 a person or property is or may be transported, and which is self-pro-
18 pelled, including automobiles, vessels, airplanes, motorcycles, snow
19 machines, all-terrain vehicles, sailboats, and construction equipment;

20 (33) "property" means an article, substance, or thing of
21 value, including money, tangible and intangible personal property, real
22 property, choses-in-action, and evidence of debt or of contract, a
23 commodity of a public utility such as gas, electricity, steam, or water
24 constitutes property but the supplying of such a commodity to premises
25 from an outside source by means of wires, pipes, conduits, or other
26 equipment is considered a rendition of a service rather than a sale or
27 delivery of property;

28 (34) "public place" means a place to which the public or a sub-
29 stantial group of persons has access and includes highways, transporta-

1 tion facilities, schools, places of amusement or business, parks, play-
2 grounds, prisons, and hallways, lobbies, and other portions of apartment
3 houses and hotels not constituting rooms or apartments designed for
4 actual residence;

5 (35) "public servant" means each of the following, whether
6 compensated or not, but does not include jurors or witnesses:

7 (A) an officer or employee of the state, a municipality
8 or other political subdivision of the state, or a governmental
9 instrumentality of the state, including legislators, members of
10 the judiciary, and peace officers;

11 (B) a person who participates as an advisor, consultant,
12 or assistant at the request or direction of the state, a munici-
13 pality or other political subdivision of the state, or a governmental
14 instrumentality;

15 (C) a person who serves as a member of a board or
16 commission created by statute or by legislative, judicial, or
17 administrative action by the state, a municipality or other politi-
18 cal subdivision of the state, or a governmental instrumentality;

19 (D) a person nominated, elected, appointed, employed,
20 or designated to act in a capacity defined in (A) - (C) of this
21 paragraph, but who does not occupy the position;

22 (36) a "renunciation" is not "voluntary and complete" if it is
23 substantially motivated, in whole or in part, by

24 (A) a belief that circumstances exist which increase the
25 probability of detection or apprehension of the defendant or another
26 participant in the criminal enterprise, or which render more diffi-
27 cult the accomplishment of the criminal purpose; or

28 (B) a decision to postpone the criminal conduct until
29 another time or to transfer the criminal effort to another victim

1 or another but similar objective;

2 (37) "serious physical injury" means physical injury which
3 creates a substantial risk of death or which causes serious and pro-
4 tracted disfigurement, protracted impairment of health, or protracted
5 loss or impairment of the function of a bodily organ, or physical injury
6 which unlawfully terminates a pregnancy;

7 (38) "solicits" includes "commands";

8 (39) "threat"

9 (A) means a menace, however communicated, to

10 (i) cause physical injury in the future to a
11 person;

12 (ii) cause damage to property;

13 (iii) subject a person to physical confinement or
14 restraint;

15 (iv) accuse a person of a crime or cause criminal
16 charges to be instituted against a person;

17 (v) expose a secret or publicize an asserted fact,
18 whether true or false, tending to subject a person to hatred,
19 contempt, or ridicule or to impair his credit or business
20 repute;

21 (vi) testify or provide information or withhold
22 testimony or information with respect to another's legal claim
23 or defense;

24 (vii) use or abuse one's position as a public servant
25 by performing some act within or related to one's official
26 duties or by failing or refusing to perform an official duty,
27 in such manner as to affect some person adversely;

28 (viii) bring about or continue a strike, boycott, or
29 other collective action, if the property is not demanded or

1 received for the benefit of the group in whose interest the
2 defendant purports to act; or

3 (ix) inflict any other harm which would not benefit
4 the person making the threat;

5 (B) includes the offer to protect another person from an
6 act described in (A) of this paragraph when the offeror has no
7 apparent means to provide the protection or when the price asked for
8 rendering the protective service is grossly disproportionate to its
9 cost to the offeror;

10 (C) does not include an expression of intent to engage
11 in conduct described in (A)(iv) or (v) of this paragraph if made in
12 the reasonable belief that the charge, secret, or asserted fact is
13 true and with the sole intent

14 (i) to obtain property claimed as restitution,
15 indemnification for harm done, or lawful compensation for
16 property or services in the circumstances to which the accusa-
17 tion, exposure, or publication relates; or

18 (ii) to compel or induce the victim to take reason-
19 able action to correct the wrong which is the subject of the
20 charge, secret, or asserted fact or to refrain from committing
21 an offense;

22 (40) "to act" means either to perform an act or to omit to
23 perform an act;

24 (41) "violation" is a noncriminal offense punishable only by a
25 fine, but not by imprisonment or other penalty; conviction of a vio-
26 lation does not give rise to any disability or legal disadvantage based
27 on conviction of a crime; a person charged with a violation is not
28 entitled

29 (A) to a trial by jury; or

1 (B) to have a public defender or other counsel appointed
2 at public expense to represent him;

3 (42) "voluntary act" means a bodily movement performed con-
4 sciously as a result of effort and determination, and includes the
5 possession of property if the defendant was aware of his physical posses-
6 sion or control for a sufficient period to have been able to terminate
7 it.

8 * Sec. 15. AS 05.15.010 is amended to read:

9 Sec. 05.15.010. ADMINISTRATION OF [DEPARTMENT OF REVENUE TO ADMIN-
10 ISTER] CHAPTER. The Department of Revenue shall administer this chap-
11 ter. The Department of Public Safety shall investigate offenses under
12 this chapter.

13 * Sec. 16. AS 05.15.060 is amended to read:

14 Sec. 05.15.060. [RULES AND] REGULATIONS. In accordance with the
15 Administrative Procedure Act (AS 44.62), the commissioner of revenue
16 shall adopt [, NO LATER THAN SEPTEMBER 7, 1960, RULES AND] regulations
17 necessary to carry out this chapter covering, but not limited to

18 (1) the issuance, renewal, suspension, and revocation of
19 permits, including the grounds for which these actions may be taken;

20 (2) a method of ascertaining net proceeds, the determination
21 of items of expense which may be incurred or paid, limitations on the
22 ratio of authorized expenses to proceeds, and the limitation of the
23 amount of the items of expense to prevent the proceeds from the activity
24 permitted from being diverted to noncharitable, noneducational, non-
25 religious, or profit-making organizations, individuals or groups;

26 (3) the immediate revocation of permits if this chapter or
27 regulations issued under it are violated;

28 (4) the requiring of detailed, sworn, financial reports of
29 operations from permittees including detailed statements of receipts and

1 payments;

2 (5) the investigation of permittees and their employees,
3 including the fingerprinting of those permittees and employees whom he
4 considers it advisable to fingerprint;

5 (6) exclusion from participation as a permittee or employee
6 of a permittee of any person convicted of a felony, a crime involving
7 moral turpitude, or violation of a municipal, state, or federal gambling
8 law;

9 (7) the method and manner of conducting activity and award-
10 ing of prizes or awards, and the equipment which may be used;

11 (8) the number of activities which may be held, operated, or
12 conducted under a permit during a specified period;

13 (9) a method of accounting for receipts and disbursements
14 including the keeping of records and requirements for the separate
15 banking of all receipts, and payments by check only;

16 (10) the disposition of funds in possession of a permittee at
17 the time a permit is surrendered, revoked or invalidated;

18 (11) other matters which the commissioner considers necessary
19 to carry out this chapter or protect the best interest of the public.

20 * Sec. 17. AS 05.15.070 is amended to read:

21 Sec. 05.15.070. EXAMINATION OF [COMMISSIONER OF REVENUE MAY
22 EXAMINE] PERMITTEES. (a) The commissioner may examine or have examined
23 the books and records of a permittee. The commissioner may require the
24 permittee to pay the reasonable cost of the examination. The commis-
25 sioner may issue subpoenas for the attendance of witnesses and the pro-
26 duction of books, records, and other documents.

27 (b) For the purpose of investigating violations of this chapter
28 or regulations adopted under it and of investigating violations of
29 AS 11, the Department of Public Safety may, at all reasonable times,

1 (1) have free access to the places where the records of an
2 activity licensed under this chapter are kept or where conduct autho-
3 rized by this chapter is carried on; and

4 (2) inspect the books, records, devices, tickets, cards, and
5 papers relating to that activity or conduct.

6 * Sec. 18. AS 05.15.200 is amended to read:

7 Sec. 05.15.200. PENALTIES [PENALTY]. (a) An activity performed
8 in accordance with the regulations of the department under a valid
9 permit issued under this chapter is exempt from the prohibitions of
10 AS 11.66.200 - 11.66.270. Conduct otherwise authorized by this chapter
11 which is engaged in without a valid permit issued under this chapter or
12 in a manner constituting an intentional violation of the regulations of
13 the department is subject to the penalties provided under AS 11.66.200 -
14 11.66.270 to the full extent that the offenses established in those
15 sections apply.

16 (b) A person, not being authorized to do so under sec. 150 of this
17 chapter, who knowingly shares in the net proceeds of an activity li-
18 censed under this chapter commits the crime of theft and is punishable
19 as provided in AS 11.46.130 - 11.46.150.

20 (c) Every permittee and every officer, agent, or employee of the
21 permittee and every other person or corporation who intentionally [WIL-
22 FULLY] violates or who procures, aids, or abets in the intentional
23 [WILFUL] violation of this chapter or a regulation adopted under it
24 is guilty of a class B misdemeanor.

25 (d) A person who violates this chapter or a regulation adopted
26 under it or who knowingly fails or refuses to obey a valid order or
27 request for inspection under sec. 70 of this chapter is guilty of a
28 violation.

29 * Sec. 19. AS 05.15.210 is amended by adding new paragraphs to read:

1 (22) "commissioner" means the commissioner of revenue;

2 (23) "department" means the Department of Revenue.

3 * Sec. 20. AS 05 is amended by adding a new chapter to read:

4 CHAPTER 17. MISCELLANEOUS EVENTS.

5 Sec. 05.17.010. ARCTIC WINTER GAMES. (a) No person may use, dis-
6 play, or publish the symbol of the Arctic Winter Games, consisting of
7 the triple circle symbol and ulu combination, for commercial purposes or
8 private gain without the written authorization of the Arctic Winter
9 Games Incorporated.

10 (b) No person may use, display, or publish any name, title, or
11 device that tends to indicate that he is affiliated with or supported by
12 the Arctic Winter Games without the written authorization of the Arctic
13 Winter Games Incorporated.

14 (c) A person who violates this section is guilty of a misdemeanor
15 and upon conviction is punishable by a fine of not more than \$100. Each
16 day of unauthorized use, display, or publication is a separate offense.

17 * Sec. 21. AS 05.25 is amended by adding a new section to read:

18 Sec. 05.25.065. INTERFERING WITH BUOYS AND BEACONS. A person who
19 moors a vessel, boat, skiff, barge, scow, raft, or part of a raft to a
20 buoy or beacon placed in the navigable waters of the state, or in a bay,
21 river, or arm of the sea bordering the state by the authority of the
22 United States Coast Guard, or who hangs on with a vessel, boat, skiff,
23 barge, scow, raft, or part of a raft to the buoy or beacon is guilty of
24 a misdemeanor, and upon conviction is punishable by a fine of not less
25 than \$100 nor more than \$200, or by imprisonment for not less than one
26 month nor more than six months, or by both.

27 * Sec. 22. AS 05.25.070 is amended to read:

28 Sec. 05.25.070. EXEMPTIONS. Watercraft and persons operating
29 watercraft are exempt from this chapter except secs. 60(b) and 65 [SEC.

1 60(b)] of this chapter when participating in the area set aside for a
2 public regatta, race, marine parade, tournament or exhibition on inland
3 waters.

4 * Sec. 23. AS 08.64 is amended by adding a new section to read:

5 Sec. 08.64.106. ABORTIONS. (a) No abortion may be performed in
6 this state unless (1) the abortion is performed by a physician or sur-
7 geon licensed by the State Medical Board under sec. 230 of this chapter;
8 (2) the abortion is performed in a hospital or other facility approved
9 for the purpose by the Department of Health and Social Services or a
10 hospital operated by the federal government or an agency of the federal
11 government; (3) consent has been received from the parent or guardian of
12 an unmarried woman under 18 years of age; and (4) the woman is domiciled
13 or physically present in the state for 30 days before the abortion.

14 "Abortion" in this section means an operation or procedure to terminate
15 the pregnancy of a nonviable fetus. Nothing in this section requires a
16 hospital or person to participate in an abortion, nor is a hospital or
17 person liable for refusing to participate in an abortion under this sec-
18 tion.

19 (b) A person who knowingly violates this section, upon conviction,
20 is punishable by a fine of not more than \$1,000, or by imprisonment for
21 not more than five years, or by both.

22 * Sec. 24. AS 12.45.045(a) is amended to read:

23 (a) In prosecutions for the crime of sexual assault in any degree
24 [RAPE AND ASSAULT WITH INTENT TO COMMIT RAPE], evidence of the complain-
25 ing witness' previous sexual conduct may [SHALL] not be admitted nor
26 reference made to it in the presence of the jury except as provided in
27 this section. When the defendant seeks to admit the evidence for any
28 purpose, he may apply for an order of the court at any time before or
29 during the trial or preliminary hearing. After the application is made,

1 the court shall conduct a hearing in camera to determine the admissibi-
2 lity of the evidence. If the court finds that evidence offered by the
3 defendant regarding the sexual conduct of the complaining witness is
4 relevant, and that the probative value of the evidence offered is not
5 outweighed by the probability that its admission will create undue pre-
6 judice, confusion of the issues, or unwarranted invasion of the privacy
7 of the complaining witness, the court shall make an order stating what
8 evidence may be introduced and the nature of the questions which shall
9 be permitted. The defendant may then offer evidence under the order of
10 the court.

11 * Sec. 25. AS 12.60.180 is amended to read:

12 Sec. 12.60.180. UNLAWFUL OR RIOTOUS ASSEMBLY. Where six [THREE]
13 or more persons, whether armed or not, are [UNLAWFULLY OR] riotously
14 assembled, a district judge, magistrate, peace officer, or the chief
15 executive officer of a city, town, village, or settlement shall go among
16 the persons assembled, or as near to them as he can with safety, and
17 command them in the name of the state to disperse.

18 * Sec. 26. AS 18.40.050 is amended to read:

19 Sec. 18.40.050. PROHIBITED ACTS AND PENALTIES. A person who
20 intentionally [WILFULLY REMOVES, DESTROYS OR DEFACTS A CABIN OR PART OF
21 A CABIN, OR STOVE OR OTHER FURNISHING, OR WHO] occupies a cabin for a
22 length of time other than that necessary and incident to ordinary travel
23 is guilty of violation of this chapter, and upon conviction is punish-
24 able by a fine of not less than \$100 nor more than \$500, or by imprison-
25 ment [IN A JAIL] for not less than three months nor more than one year,
26 or by both.

27 * Sec. 27. AS 29.48 is amended by adding new sections to read:

28 Sec. 29.48.204. EXTENSION OF CURFEWS OUTSIDE CITIES. A curfew
29 ordinance adopted by a city or village of any class concerning minors

1 shall be imposed in the total area within 20 miles of the limits of that
2 city or village. If a given area lies within 20 miles of two or more
3 cities with conflicting curfew ordinances, the provisions of the curfew
4 ordinance of the city having the largest population prevails as to that
5 overlapping area.

6 Sec. 29.48.205. ENFORCEMENT OF CURFEWS. (a) The municipal peace
7 officers shall enforce the ordinance inside the city limits. Under
8 secs. 204 - 206 of this chapter the state peace officers shall enforce
9 the ordinance in the area outside the city limits.

10 (b) In an area where state peace officers are not available, the
11 municipal peace officer may enforce the ordinance in the area outside
12 the city limits if the enforcement responsibilities are delegated by
13 contract between the state and the municipality.

14 Sec. 29.48.206. PENALTY FOR VIOLATION OF CURFEW. The penalty for
15 violation of secs. 204 - 206 of this chapter is as prescribed by the
16 curfew ordinance of the city, and a fine so paid shall be paid to the
17 city when the violation takes place in the city. Otherwise the fine
18 shall be paid to the state. However, the penalty may not exceed a fine
19 of \$300, or imprisonment for 30 days, or both.

20 * Sec. 28. AS 33.30 is amended by adding a new section to read:

21 Sec. 33.30.255. EMPLOYMENT OF IMPRISONED PERSONS. The attorney
22 general may adopt regulations governing the employment on public works
23 of persons sentenced to imprisonment inside the state.

24 * Sec. 29. AS 44.19 is amended by adding a new section to read:

25 Sec. 44.19.047. IMPROPER USE OF STATE SEAL. (a) It is unlawful
26 to use or make a die or impression of the state seal for any advertising
27 or commercial purpose, unless written permission has first been obtained
28 from the lieutenant governor.

29 (b) Violation of this section constitutes a misdemeanor, and upon

1 conviction is punishable by a fine of not more than \$500, or by impri-
2 sonment for not more than six months, or by both.

3 * Sec. 30. AS 46.03 is amended by adding a new section to read:

4 Sec. 46.03.752. DISCHARGING BALLAST INTO NAVIGABLE WATERS. A
5 person, whether or not he is an officer of a vessel, who discharges the
6 ballast of a vessel into the navigable portion or channel of a bay,
7 harbor, or river of the state, or within the jurisdiction of the state,
8 so as to injuriously affect the navigable portion or channel, or to ob-
9 struct the navigation of the navigable portion or channel, upon convic-
10 tion, is punishable by imprisonment in a jail for not less than three
11 months nor more than one year, or by a fine of not less than \$100 nor
12 more than \$500.

13 * Sec. 31. The following laws are repealed: AS 02.30.020; AS 03.35.060;
14 AS 03.40.100; AS 06.05.515; AS 06.30.875; AS 11.05; AS 11.10; AS 11.15; AS
15 11.20; AS 11.22; AS 11.25; AS 11.30; AS 11.35; AS 11.36; AS 11.40; AS 11.45;
16 AS 11.50; AS 11.55; AS 11.60; AS 11.65; AS 11.67; AS 11.70; AS 11.75; AS
17 12.15.010 - 12.15.040; AS 12.25.070, 12.25.130; AS 12.45.030, 12.45.040,
18 12.45.083(a) and (b), 12.45.085; AS 12.55.010, 12.55.020, 12.55.040 - 12.55.-
19 120; AS 12.60.010, 12.60.030, 12.60.200; AS 18.65.070; AS 23.10.005, 23.10.-
20 010; AS 27.05.100 - 27.05.130; AS 28.35.010, 28.35.020; AS 33.30.055; AS 34.-
21 05.030; AS 35.10.140, 35.10.150; AS 38.05.360; AS 39.51.010; and AS 45.75.-
22 370.

23 * Sec. 32. Except as provided in sec. 5 of this Act, secs. 1 - 14 of this
24 Act govern the construction of and punishment for any offense defined in
25 secs. 1 - 14 of this Act and committed on or after the effective date of this
26 Act, as well as the construction and application of any defense to a prosecu-
27 tion for the offense. Sections 1 - 14 of this Act do not apply to or govern
28 the construction of and punishment for any offense committed before the
29 effective date of this Act or the construction and application of any defense

1 to the prosecution for the offense. An offense shall be construed and
2 punished according to the law existing at the time of the commission of the
3 offense in the same manner as if this Act had not become law.

4 * Sec. 33. AS 11.37.310(e) and (f), enacted in sec. 5 of this Act, apply
5 retroactively.

6 * Sec. 34. This Act takes effect July 1, 1979.

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