

CHAPTER 32

AN ACT

Transferring between appropriations made to the Department of Public Safety; and providing for an effective date.

(H.B. 459)

Be it enacted by the Legislature of the State of Alaska:

Section 1. The sum of \$4,150 is transferred from the line item appropriation for personal services made to the division of state police, Department of Public Safety, to the following line item appropriations for the fiscal year ending June 30, 1962:

(1) to contractual services, division of civil defense, \$1,700;

(2) to travel, division of fire prevention, \$1,600;

(3) to contractual services, division of fire prevention, \$850.

Sec. 2. The sum of \$6,470 is transferred from the line item appropriation for travel made to the division of state police, Department of Public Safety, to the line item appropriation made for contractual services, division of state police, Department of Public Safety, for the fiscal year ending June 30, 1962.

Sec. 3. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.

Approved March 20, 1962

CHAPTER 33

AN ACT

Prohibiting the live shipment of certain crabs taken in Alaska; providing penalties; and providing for an effective date.

(H.B. 295)

Be it enacted by the Legislature of the State of Alaska:

Section 1. No person may take out of, ship, transport, or send from the State of Alaska any live King crab, species paraliathodes camtschatica, or live Dungeness crab, species cancer magister.

Sec. 2. Any person, association, or corporation violating this Act or contributing to or cooperating in the violation of this Act is guilty of a misdemeanor, and upon conviction is punishable by a fine of not

more than \$5,000, or by imprisonment for not more than one year, or both. Each unlawful removal of live crab is a separate offense. Vessels and equipment used in or in aid of a violation of this Act may be seized and disposed of as provided in Sec. 23, Art. I, Ch. 94, SLA 1959, as amended. Conviction under this Act is grounds for suspension of any fishing license or permit by the Department of Fish and Game.

Sec. 3. This Act shall take effect 15 days after its passage or approval.

Approved March 22, 1962

CHAPTER 34

CODE OF CRIMINAL PROCEDURE

(H.C.S.S.B. 119)

TABLE OF CONTENTS

Article I. General Provisions	Sec. 1.02. General Time Limitation
Sec. 1.01. Applicability of Code; Supreme Court Rules	Sec. 1.03. Specific Time Limitation
	Sec. 1.04. When Period of Limitation Runs

- Sec. 1.05. **When Period of Limitation Does Not Run**
- Sec. 1.06. **Crime Commenced Outside State but Consummated Inside**
- Sec. 1.07. **Abrogation of Distinctions between Accessories and Principals**
- Sec. 1.08. **Accessories after the Fact**
- Sec. 1.09. **Prosecution of Accessory after the Fact**
- Sec. 1.10. **Prosecution of One Compounding or Concealing Crime**
- Sec. 1.11. **Conviction or Acquittal Elsewhere as Bar**
- Sec. 1.12. **When Acquittal or Dismissal Is No Bar**
- Sec. 1.13. **When Acquittal Is a Bar**
- Sec. 1.14. **When Conviction or Acquittal Is a Bar to Other Offenses**
- Sec. 1.15. **Dismissal as Bar**
- Sec. 1.16. **Discharge of Codefendant as Bar**
- Sec. 1.17. **Contempt**
- Sec. 1.18. **Indictment; Information; Complaint**
- Article II. Arrest**
- Sec. 2.01. **"Arrest" Defined**
- Sec. 2.02. **Persons Authorized to Arrest**
- Sec. 2.03. **Magistrate May Order Arrest**
- Sec. 2.04. **Grounds for Arrest by Private Person or Peace Officer without Warrant**
- Sec. 2.05. **Taking before Magistrate Person Arrested by Bystander**
- Sec. 2.06. **Method of Making Arrest**
- Sec. 2.07. **Method of Arrest by Officer without Warrant**
- Sec. 2.08. **Limitation or Restraint in Arrest**
- Sec. 2.09. **Means to Effect Resisted Arrest**
- Sec. 2.10. **Authority to Summon Aid to Make Arrest**
- Sec. 2.11. **Breaking into Building or Vessel to Effect Arrest**
- Sec. 2.12. **Breaking Open Building or Vessel to Liberate**
- Sec. 2.13. **Retaking Escaped Prisoner**
- Sec. 2.14. **Means Usable to Retake Prisoner**
- Sec. 2.15. **Property Taken from Defendant on Arrest**
- Sec. 2.16. **Rights of Prisoner after Arrest**
- Article III. Bail**
- Sec. 3.01. **Admission to Bail Defined**
- Sec. 3.02. **Taking of Bail Defined**
- Sec. 3.03. **Bail before Conviction Is Matter of Right**
- Sec. 3.04. **Arrest by Bail or Depositor for Purpose of Surrender**
- Article IV. Search and Seizure**
- Sec. 4.01. **Definition and Authority to Issue Search Warrants**
- Sec. 4.02. **Grounds for Issuance**
- Sec. 4.03. **Showing of Probable Cause**
- Sec. 4.04. **Authority of Officer Executing Warrant**
- Sec. 4.05. **Disposition of Property Taken**
- Sec. 4.06. **Malicious Procurement of Search Warrant**
- Sec. 4.07. **Search of Defendant in Presence of Judge or Magistrate**
- Sec. 4.08. **Magistrate or Officer to Hold Property Allegedly Stolen or Embezzled**
- Sec. 4.09. **Delivery of Property to Owner**
- Sec. 4.10. **Property Not Delivered to Owner**
- Sec. 4.11. **Disposal of Unclaimed Property**
- Article V. Grand Jury**
- Sec. 5.01. **Qualifications and Manner of Drawing Grand Jurors**
- Sec. 5.02. **Number of Jurors**
- Sec. 5.03. **Duty of Inquiry into Crimes; General Powers**
- Sec. 5.04. **Juror to Disclose Knowledge of Crime**
- Sec. 5.05. **Holding to Answer as Affecting Indictment or Presentment**
- Sec. 5.06. **Access to Public Jails and Prisons and Public Records**
- Sec. 5.07. **Prosecuting Attorney's Duty**
- Sec. 5.08. **Effect of Failure to Return Indictment; Re-examination by Jury**
- Sec. 5.09. **Questioning Juror for Conduct**
- Sec. 5.10. **Contents of Indictment**

Article VI. Trial

- Sec. 6.01. **Formation of Trial Jury**
- Sec. 6.02. **Conviction on Testimony of Accomplice; Corroboration**
- Sec. 6.03. **Necessary Evidence for False Pretenses**
- Sec. 6.04. **Necessary Evidence for Prostitution or Seduction**
- Sec. 6.05. **Limitation on Discovery of Statement of Prosecution Witness**
- Sec. 6.06. **Discovery after Direct Examination of Witness**
- Sec. 6.07. **Discovery of Portions of Statement**
- Sec. 6.08. **Disposition of Proceeding upon Failure of State to Comply with Order**
- Sec. 6.09. **Definitions**
- Sec. 6.10. **Commitment of Defendant on Ground of Insanity**
- Sec. 6.11. **Determination of Insanity During Trial or Probation**
- Sec. 6.12. **Commitment on Finding of Insanity**
- Sec. 6.13. **Authority to Compromise Misdemeanors for Which Victim Has Civil Action**
- Sec. 6.14. **Acknowledgment of Satisfaction by Injured Party**
- Sec. 6.15. **Compromise or Stay upon Compromise by Other Means Prohibited**
- Sec. 6.16. **Order for Private Prosecutor to Pay Costs for Malicious Prosecution without Probable Cause**

Article VII. Witnesses

- Sec. 7.01. **Undertaking for Material Witnesses**
- Sec. 7.02. **Commitment on Failure to Comply with Order**
- Sec. 7.03. **Definitions**
- Sec. 7.04. **Witness Subpoenaed in This State to Testify in Another State**
- Sec. 7.05. **Witness from Another State Subpoenaed to Testify in This State**
- Sec. 7.06. **Immunity of Witness from Arrest or Service of Process**
- Sec. 7.07. **Immunity of Foreign Witness Passing Through State from Arrest or Process**

- Sec. 7.08. **Uniformity of Interpretation**
- Sec. 7.09. **Party Seeking Witness**
- Sec. 7.10. **Short Title**

Article VIII. Sentencing and Probation

- Sec. 8.01. **Imprisonment on Judgment for Payment of Fine**
- Sec. 8.02. **Enforcing Judgment to Pay Money**
- Sec. 8.03. **Discharge of Indigents Imprisoned for Nonpayment of Fine**
- Sec. 8.04. **Increased Punishment for Habitual Criminal after Conviction of Petty Larceny or Misdemeanor Involving Fraud**
- Sec. 8.05. **Increased Punishment for Persons Convicted of More Than One Felony**
- Sec. 8.06. **Procedure upon Discovery of Prior Convictions**
- Sec. 8.07. **Notification of Prosecuting Attorney of Discovery of Prior Convictions**
- Sec. 8.08. **Suspension of Sentence and Probation**
- Sec. 8.09. **Granting of Probation**
- Sec. 8.10. **Conditions of Probation**
- Sec. 8.11. **Notice and Grounds for Revocation of Suspension**

Article IX. Prevention of Crimes

- Sec. 9.01. **Resistance to Commission of Crime**
- Sec. 9.02. **Manner of Preventing Crime**
- Sec. 9.03. **Justification of Persons Aiding Officers in Preventing Crime**
- Sec. 9.04. **Action on Threatened Crime**
- Sec. 9.05. **Examination of Complainant and Witnesses**
- Sec. 9.06. **Arrest**
- Sec. 9.07. **Examination of Charge**
- Sec. 9.08. **Adjournment of Examination**
- Sec. 9.09. **Discharge for Lack of Grounds**
- Sec. 9.10. **Requirement of Undertaking**
- Sec. 9.11. **Discharge upon Giving Undertaking**
- Sec. 9.12. **Security Where Crime Committed or Threatened before Court or Magistrate**

- Sec. 9.13. Discharge upon Giving Undertaking after Commitment
- Sec. 9.14. Forfeiture of Undertaking
- Sec. 9.15. Rights and Authorities of Sureties
- Sec. 9.16. Requiring Security of Convicted Person
- Sec. 9.17. Security to Keep Peace
- Sec. 9.18. Unlawful or Riotous Assembly; Command to Disperse
- Sec. 9.19. Arrest on Failure to Disperse; Commanding Aid of Persons
- Sec. 9.20. Person Refusing to Aid Officers as Rioter
- Sec. 9.21. Officer Failing to Act Is Guilty of Misdemeanor
- Sec. 9.22. Guilt Where Death Ensues
- Sec. 9.23. Reward for Information Leading to Conviction of Certain Persons
- Sec. 9.24. Payment of Reward
- Article X. Coroner's Inquest**
- Sec. 10.01. Appointment of Medical Examiner
- Sec. 10.02. Duties
- Sec. 10.03. Magistrate as Coroner
- Sec. 10.04. Inquiry into Cause of Death
- Sec. 10.05. Summoning Jurors for Inquest
- Sec. 10.06. Oath of Inquest Jurors
- Sec. 10.07. Subpoena and Examination of Witnesses
- Sec. 10.08. Verdict of Inquest Jury
- Sec. 10.09. Warrant for Arrest of Person Causing Death
- Sec. 10.10. Burial of Body
- Sec. 10.11. Property on Body
- Article XI. Extraditions**
- Sec. 11.01. Definitions
- Sec. 11.02. Fugitives from Other States; Duty of Governor
- Sec. 11.03. Form of Demand
- Sec. 11.04. Investigation of Demand and Report
- Sec. 11.05. Extradition of Persons Imprisoned or Awaiting Trial in Another State or Who Have Left the Demanding State under Compulsion
- Sec. 11.06. Extradition of Person Not Present in Demanding State at Time of Commission of Crime
- Sec. 11.07. Issue of Governor's Warrant of Arrest; Recitals
- Sec. 11.08. Manner and Place of Execution of the Warrant
- Sec. 11.09. Authority of Arresting Officer to Command Assistance
- Sec. 11.10. Rights of Accused Person; Application for Writ of Habeas Corpus
- Sec. 11.11. Penalty for Noncompliance with Preceding Section
- Sec. 11.12. Confinement in Jail When Necessary
- Sec. 11.13. Arrest Prior to Requisition
- Sec. 11.14. Arrest without Warrant
- Sec. 11.15. Commitment to Await Requisition; Bail
- Sec. 11.16. Bail
- Sec. 11.17. Extension of Time of Commitment; Adjournment
- Sec. 11.18. Forfeiture of Bail
- Sec. 11.19. Persons under Criminal Prosecution in This State at Time of Requisition
- Sec. 11.20. Guilt or Innocence of Accused; When Inquired Into
- Sec. 11.21. Governor's Warrant; Recall; Reissue
- Sec. 11.22. Fugitives from This State; Duty of Governors
- Sec. 11.23. Application for Issuance of Requisition; By Whom Made; Contents
- Sec. 11.24. Immunity from Service of Process in Certain Civil Action
- Sec. 11.25. Written Waiver of Extradition Proceedings
- Sec. 11.26. Nonwaiver by This State
- Sec. 11.27. No Right of Asylum; No Immunity from Other Criminal Prosecutions While in This State
- Sec. 11.28. Interpretation
- Sec. 11.29. Short Title
- Article XII. Habeas Corpus**
- Sec. 12.01. Persons Entitled to Prosecute Writ
- Sec. 12.02. Persons Not Entitled to Prosecute Writ
- Sec. 12.03. Offense Not Bailable
- Sec. 12.04. Production of Body
- Sec. 12.05. Hearing without Production of Person

Sec. 12.06.	Proceedings on Disobedience of Writ	Sec. 12.17.	Discharge as Bar to Subsequent Restraint
Sec. 12.07.	Precept to Peace Officer	Sec. 12.18.	Grounds for Warrant in Lieu of Writ
Sec. 12.08.	Discharge of Party	Sec. 12.19.	Warrant May Include Command for Arrest of Defendant
Sec. 12.09.	Remand of Party Legally Detained	Sec. 12.20.	Warrant in Lieu of Writ
Sec. 12.10.	Discharge of Person in Custody by Virtue of Civil Process	Sec. 12.21.	Proceedings as to Person Having Party in Custody
Sec. 12.11.	Limitation on Scope of Court's Inquiry	Sec. 12.22.	Penalty for Refusing to Deliver Copy of or Obey Authority to Detain Party
Sec. 12.12.	Proceedings Where Commitment Irregular	Sec. 12.23.	Appeal
Sec. 12.13.	Custody of Party Pending Judgment		
Sec. 12.14.	Admission to Bail	Article XIII.	Formal Provisions
Sec. 12.15.	Effect of Admitting to Bail	Sec. 13.01.	Short Title
Sec. 12.16.	Enforcing Judgment of Discharge	Sec. 13.02.	Repeals
		Sec. 13.03.	How Code to Take Effect

CHAPTER 34

AN ACT

To codify and revise the law relating to criminal procedure; and providing for an effective date.

(H.C.S.S.B. 119)

Be it enacted by the Legislature of the State of Alaska:

Article I. General Provisions

Section 1.01. **Applicability of Code; Supreme Court Rules.** The provisions of this code apply to all criminal actions and proceedings in all courts except where specific provision is otherwise made or where the Rules of Criminal Procedure adopted by the supreme court under its constitutional authority apply.

Sec. 1.02. **General Time Limitation.** A prosecution for murder may be commenced at any time. A prosecution for any other felony may be commenced only within three years after it is committed. A prosecution for a misdemeanor may be commenced only within one year after it is committed.

Sec. 1.03. **Specific Time Limitation.** a. Even if the general time limitation has expired, a prosecution for any offense which includes a material element of fraud or breach of fiduciary obligation may be commenced within one year after the discovery of the offense by an aggrieved party or by a person who has legal capacity to

represent an aggrieved party or a legal duty to report the offense and who is himself not a party to the offense, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years.

b. Even if the general time limitation has expired, a prosecution for any offense based upon misconduct in office by a public officer or employee may be commenced within one year after discovery of the offense by a person having a duty to report such offense, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years.

Sec. 1.04. **When Period of Limitation Runs.** a. An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.

b. A prosecution is commenced either when an indictment is found or when a warrant is issued, provided that such war-

rant is executed without unreasonable delay.

Sec. 1.05. When Period of Limitation Does Not Run. a. The period of limitation does not run during any time when the accused, with a purpose to avoid detection, apprehension, or prosecution, is outside the state or is absent from his usual place of abode within the state, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years.

b. The period of limitation does not run during any time when a prosecution against the accused for the same conduct is pending in this state.

Sec. 1.06. Crime Commenced Outside State but Consummated Inside. When the commission of a crime commenced outside the state is consummated inside the state, the defendant is liable to punishment in this state, though he was out of the state at the time of the commission of the crime charged, if he consummated the crime through the intervention of an innocent or guilty agent, or by other means proceeding directly from himself.

Sec. 1.07. Abrogation of Distinctions between Accessories and Principals. The distinction between an accessory before the fact and a principal, and between principals in the first and second degree is abrogated; and all persons concerned in the commission of a crime, whether they directly commit the act constituting the crime or, though not present, aid and abet in its commission, shall be prosecuted, tried, and punished as principals.

Sec. 1.08. Accessories after the Fact. All persons who, after the commission of any felony, conceal or aid the offender with knowledge that he has committed a felony and with intent that he may avoid or escape from arrest, trial, conviction, or punishment are accessories. There are no accessories in misdemeanors.

Sec. 1.09. Prosecution of Accessory after the Fact. An accessory after the fact to the commission of a felony may be prosecuted, tried, and punished, though the principal felon is neither prosecuted nor tried.

Sec. 1.10. Prosecution of One Compounding or Concealing Crime. A person may be prosecuted for having, with the knowledge of the commission of a crime,

taken money or property of another, or a gratuity or a reward, or an engagement or promise of money, property, gratuity, or reward upon an agreement or understanding, express or implied, to compound or conceal the crime, or to abstain from a prosecution of the crime, or to withhold any evidence of the crime, though the person guilty of the original crime is neither prosecuted nor tried.

Sec. 1.11. Conviction or Acquittal Elsewhere as Bar. When an act charged as a crime is within the jurisdiction of the United States, another state, or a territory, as well as of this state, a conviction or acquittal in the former is a bar to the prosecution for it in this state.

Sec. 1.12. When Acquittal or Dismissal Is No Bar. If the defendant is acquitted on the ground of a variance between the charge and the proof, or the charge is dismissed upon an objection to its form or substance, or discharged for want of prosecution, without a judgment of acquittal or in bar of another prosecution, it is not an acquittal of the crime and does not bar a subsequent prosecution for the same crime.

Sec. 1.13. When Acquittal Is a Bar. When the defendant is acquitted on the merits, he is acquitted of the same crime, notwithstanding any defect in form or substance in the charge, information, or complaint on which the trial was had.

Sec. 1.14. When Conviction or Acquittal Is a Bar to Other Offenses. When the defendant is convicted or acquitted of a crime consisting of different degrees, the conviction or acquittal is a bar to another prosecution for the crime charged in the former or for any inferior degree of that crime, or for an attempt to commit that crime, or for an offense necessarily included in the crime of which he might have been convicted under the information, indictment, or complaint.

Sec. 1.15. Dismissal as Bar. a. It is a bar to another prosecution for the same crime if the crime is a misdemeanor, but it is not a bar if the crime charged is a felony when a person is:

(1) held to answer to the grand jury and the court dismisses the charge before the case is presented to the grand jury upon the motion of the prosecuting attorney; or

(2) held to answer to the grand jury and the court dismisses the charge because the indictment is not found against him at the next session of the grand jury; or

(3) indicted for a crime and the indictment is dismissed because the trial is not held within a reasonable period of time, and there is not good cause shown for the delay, and the delay was not upon the application of the defendant or with his consent.

b. Unless the court directs a judgment of acquittal to be entered, it is not a bar to another action for the same crime if the court orders an indictment to be discharged because the prosecuting attorney is not prepared to go to trial when the indictment is called for trial and does not show sufficient cause for postponing the trial.

Sec. 1.16. Discharge of Codefendant as Bar. It is an acquittal of the defendant discharged and a bar to another prosecution for the same crime when two or more persons are charged in the same indictment, and the court dismisses the indictment against any defendant either:

(1) before the defendant has gone into his defense and on the application of the prosecuting attorney so that he may be a witness for the state; or

(2) before the evidence is closed and on the application of another defendant on trial so that he may be a witness for a codefendant, and when, in the opinion of the court, there is not sufficient evidence to put that defendant on his defense.

Sec. 1.17. Contempt. The provisions of the Code of Civil Procedure relating to contempt shall apply in criminal actions.

Sec. 1.18. Indictment; Information; Complaint. No person shall be held to answer for an infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the armed forces in time of war or public danger. Indictment may be waived by the accused. In that case the prosecution shall be by information or complaint in the manner and form set out in the Rules of Criminal Procedure.

Article II. Arrest

Sec. 2.01. "Arrest" Defined. Arrest is the taking of a person into custody in

order that he may be held to answer for the commission of a crime.

Sec. 2.02. Persons Authorized to Arrest. An arrest may be made by a peace officer or by a private person.

Sec. 2.03. Magistrate May Order Arrest. When a crime is committed in the presence of a magistrate, he may, by an oral or written order, command any person to arrest the offender, and may immediately proceed as though the offender had been brought before him on a warrant of arrest.

Sec. 2.04. Grounds for Arrest by Private Person or Peace Officer without Warrant. A private person or a peace officer without a warrant may arrest a person:

(1) for a crime committed or attempted in his presence;

(2) when the person has committed a felony, although not in his presence;

(3) when a felony has in fact been committed, and he has reasonable cause for believing the person to have committed it.

Sec. 2.05. Taking before Magistrate Person Arrested by Bystander. A peace officer may, without warrant, take before a magistrate a person who, being engaged in a breach of the peace, is arrested by a bystander and delivered to him.

Sec. 2.06. Method of Making Arrest. An arrest is made by the actual restraint of a person or by his submission to the custody of the person making the arrest.

Sec. 2.07. Method of Arrest by Officer without Warrant. When making an arrest without a warrant, the peace officer shall inform the person to be arrested of his authority and the cause of the arrest, unless the person to be arrested is then engaged in the commission of a crime, or is pursued immediately after its commission or after an escape.

Sec. 2.08. Limitation or Restraint in Arrest. No peace officer or private person may subject a person arrested to greater restraint than is necessary and proper for his arrest and detention.

Sec. 2.09. Means to Effect Resisted Arrest. If the person being arrested either flees or forcibly resists after notice of intention to make the arrest, the peace officer may use all the necessary and proper means to effect the arrest.

Sec. 2.10. Authority to Summon Aid to Make Arrest. Any peace officer making an arrest may orally summon as many persons as he considers necessary to aid him in making the arrest. Every person when required by an officer shall aid him in making the arrest.

Sec. 2.11. Breaking into Building or Vessel to Effect Arrest. A peace officer may break into a building or vessel in which the person to be arrested is or is believed to be, if the officer is refused admittance after he has announced his authority and purpose.

Sec. 2.12. Breaking Open Building or Vessel to Liberate. A peace officer may break open a building or vessel to liberate a person who entered to make an arrest and is detained, or to liberate himself when necessary.

Sec. 2.13. Retaking Escaped Prisoner. If a person arrested escapes or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and retake him at any time and in any place in the state.

Sec. 2.14. Means Usable to Retake Prisoner. To retake the person escaping or rescued, the person pursuing may use the same means and do any act necessary and proper in making an original arrest.

Sec. 2.15. Property Taken from Defendant on Arrest. When money or other property is taken from a person arrested upon a charge of a crime, the officer taking it shall immediately make duplicate receipts for the property, specifying particularly the amount of money or kind of property taken. The officer shall deliver one receipt to the person arrested and the other to the magistrate who examines the charge or, if the arrest is after the information or indictment, to the clerk of the court where the action is pending.

Sec. 2.16. Rights of Prisoner after Arrest. a. The person arrested shall be taken before the magistrate without unnecessary delay, and in any event within 24 hours after his arrest, including Sundays and holidays. This requirement shall apply to municipal police officers to the same extent as it does to state police officers.

b. Immediately after an arrest, a prisoner shall have the right to telephone or otherwise communicate with his attorney

and any relative or friend, and any attorney at law entitled to practice in the courts of Alaska shall, at the request of the prisoner or any relative or friends of the prisoner, have the right to immediately visit the person so arrested.

c. It shall be unlawful for any officer having custody of a person so arrested to willfully refuse or neglect to grant any prisoner the rights provided by this section. Any violation of this section shall be a misdemeanor, and, upon conviction of the offender, he shall be punished by a fine of not more than \$100, or imprisonment for not more than 30 days, or by both fine and imprisonment.

d. In addition to the criminal liability in Subsec. c., any officer having a prisoner in custody who refuses to allow an attorney to visit the prisoner when proper application is made therefor shall forfeit and pay to the party aggrieved the sum of \$500, recoverable in any court of competent jurisdiction.

Article III. Bail

Sec. 3.01. Admission to Bail Defined. Admission to bail is the order of a competent court or magistrate that the defendant be discharged from actual custody on bail.

Sec. 3.02. Taking of Bail Defined. The taking of bail consists of the acceptance by a competent court or magistrate of the undertaking of sufficient bail for the appearance of the defendant according to the terms of the undertaking, or that the bail will pay to the state a specified sum.

Sec. 3.03. Bail before Conviction Is Matter of Right. The defendant is entitled to be admitted to bail before conviction, as a matter of right.

Sec. 3.04. Arrest by Bail or Depositor for Purpose of Surrender. For the purpose of surrendering the defendant, the bail or any person who has deposited money to secure the release of the defendant, at any time before they are finally discharged and at any place within the state, may themselves arrest him, or, by a written authority endorsed on a certified copy of the undertaking, or a certified copy of the deposit receipt, may empower any other person to do so.

Article IV. Search and Seizure

Sec. 4.01. Definition and Authority to

Issue Search Warrants. A search warrant is an order in writing, signed by a judge or magistrate, directed to a peace officer, commanding him to search for personal property and bring it before the magistrate. Any judge or magistrate may issue a search warrant.

Sec. 4.02. Grounds for Issuance. A search warrant may be issued upon any of the following grounds:

(1) If the property was stolen or embezzled, it may be taken on the warrant from any house or other place in which it is concealed or may be found, or from the possession of the person by whom it was stolen or embezzled, or from any person who is in possession of the property.

(2) When the property is used as a means of committing a felony, it may be taken on the warrant from any house or other place in which it is concealed or may be found, or from the possession of the person by whom it was used in the commission of the crime, or from any person who is in possession of the property.

(3) When the property is in the possession of a person who intends to use it as the means of committing a crime, or in possession of another to whom he may have delivered it for the purpose of concealing it or preventing its being discovered, it may be taken on the warrant from the possession of that person, or from possession of the person to whom he may have delivered it, or from any house or other place occupied by them or under their control, or either of them.

Sec. 4.03. Showing of Probable Cause. A search warrant shall not issue except upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the things to be seized.

Sec. 4.04. Authority of Officer Executing Warrant. In the execution or service of a search warrant, the officer has the same power and authority in all respects to break open any door or window, to use the necessary and proper means to overcome any forcible resistance made to him, or to call any other person to his aid as he has in the execution or service of a warrant of arrest.

Sec. 4.05. Disposition of Property Taken. When the property is delivered to the judge

or magistrate, he shall, if it was stolen or embezzled, dispose of it as provided in Secs. 4.09 and 4.10. If it was taken on a warrant issued on the grounds stated in Sec. 4.02(2) and Sec. 4.02(3), he shall retain it in his possession, subject to the order of the court to which he is required to return the proceedings before him, or any other court in which the crime in respect to which the property was taken is triable.

Sec. 4.06. Malicious Procurement of Search Warrant. Any person who maliciously and without probable cause causes a search warrant to be issued and executed is guilty of a misdemeanor.

Sec. 4.07. Search of Defendant in Presence of Judge or Magistrate. When a person charged with a crime is believed by the judge or magistrate before whom he is brought to have on his person a dangerous weapon, or anything which may be used as evidence of the commission of the crime, the judge or magistrate may direct the accused to be searched in his presence, and the weapon or other thing be retained subject to his order or the order of the court in which the defendant may be tried.

Sec. 4.08. Magistrate or Officer to Hold Property Allegedly Stolen or Embezzled. When property alleged to have been stolen or embezzled comes into the custody of a magistrate or peace officer, he shall hold it subject to the order of the magistrate who examines the charge against the person accused of stealing or embezzling the property.

Sec. 4.09. Delivery of Property to Owner. On satisfactory proof of ownership of the property, the magistrate who examines the charge against the person accused of stealing or embezzling it shall order it to be delivered to the owner or his duly authorized agent, on his paying the reasonable and necessary expenses incurred in its preservation, to be certified by the magistrate. The order entitles the owner to demand and receive the possession of the property but does not affect the rights of third persons.

Sec. 4.10. Property Not Delivered to Owner. If the property stolen or embezzled has not been delivered to the owner, the court before which the trial is had for the theft or embezzlement of the property may order its delivery to the owner or his agent under the conditions of Sec. 4.09.

Sec. 4.11. Disposal of Unclaimed Property. If property stolen or embezzled is not claimed by the owner within 60 days after the conviction of the person for stealing or embezzling it, the magistrate or other officer having it in custody shall, if it is money, deposit it in court, or if it is other property, sell it in the same manner as a sale upon an execution. After paying the expenses of the sale and preservation of the property as certified by the court, the proceeds shall be disposed of in the same manner as monies collected upon judgments in favor of the state.

Article V. Grand Jury

Sec. 5.01. Qualifications and Manner of Drawing Grand Jurors. Grand jurors shall have the qualifications and be drawn as are trial jurors under Art. II of the Code of Civil Procedure.

Sec. 5.02. Number of Jurors. The grand jury consists of not less than 12 nor more than 18 members.

Sec. 5.03. Duty of Inquiry into Crimes; General Powers. The grand jury shall inquire into all crimes committed or triable within the jurisdiction of the court and present them to the court. The grand jury shall have the power to investigate and make recommendations concerning the public welfare or safety.

Sec. 5.04. Juror to Disclose Knowledge of Crime. If an individual grand juror knows or has reason to believe that a crime has been committed which is triable by the court, he shall disclose it to his fellow jurors, who shall investigate it.

Sec. 5.05. Holding to Answer as Affecting Indictment or Presentment. The grand jury may indict or present a person for a crime upon sufficient evidence, whether that person has been held to answer for the crime or not.

Sec. 5.06. Access to Public Jails and Prisons and Public Records. The grand jury is entitled to access, at all reasonable time, to the public jails and prisons, to offices pertaining to the courts of justice in the state, and to all other public offices, and to the examination of all public records in the state.

Sec. 5.07. Prosecuting Attorney's Duty. The prosecuting attorney (1) shall submit an indictment to the grand jury and cause the evidence in support of the indictment

to be brought before them in every case when a person is held to answer a criminal charge in the court where the jury is formed; (2) may submit an indictment in any case when he has good reason to believe a crime has been committed which is triable by the court; and (3) shall, when required by the grand jury, prepare indictments or presentments for them and attend their sittings to advise them in relation to their duties or to examine witnesses in their presence.

Sec. 5.08. Effect of Failure to Return Indictment; Re-examination by Jury. When a grand jury does not return an indictment, the charge is dismissed, and it may not be again submitted to or inquired into by the grand jury unless the court so orders.

Sec. 5.09. Questioning Juror for Conduct. A grand juror cannot be questioned for anything he may say or any vote he may give while acting as a grand juror, in relation to any matter legally pending before the grand jury, except for a perjury of which he may have been guilty in giving testimony before that jury.

Sec. 5.10. Contents of Indictment. a. The indictment shall be direct and certain as it regards:

- (1) the party charged;
- (2) the crime charged; and
- (3) the particular circumstances of the crime charged when they are necessary to constitute a complete crime.

b. The statement of the facts constituting the offense shall be in ordinary and concise language, without repetition, and in a manner which will enable a person of common understanding to know what is intended.

Article VI. Trial

Sec. 6.01. Formation of Trial Jury. The qualification, disqualification, and exemption of jurors, the preparation of jury lists, and the composition of jury panel in criminal actions are the same as provided in civil actions.

Sec. 6.02. Conviction on Testimony of Accomplice; Corroboration. A conviction shall not be had on the testimony of an accomplice unless it is corroborated by other evidence which tends to connect the defendant with the commission of the

crime; and the corroboration is not sufficient if it merely shows the commission of the crime or the circumstances of the commission.

Sec. 6.03. Necessary Evidence for False Pretenses. Upon a trial for having by any false pretense obtained the signature of any person to any written instrument, or obtained from any person any valuable thing, no evidence can be admitted of a false pretense expressed orally and unaccompanied by a false token or writing. The pretense or some note or memorandum of it shall be in writing and either subscribed by or in the handwriting of the defendant. This section does not apply to an action for falsely representing or personating another, and in that assumed character receiving any valuable thing.

Sec. 6.04. Necessary Evidence for Prostitution or Seduction. Upon a trial for inveigling, enticing, or taking away an unmarried female for the purposes of prostitution, or for seducing and having an illicit connection with an unmarried female, the defendant shall not be convicted upon the testimony of the injured female unless her testimony is corroborated by some other evidence tending to connect the defendant with the commission of the crime.

Sec. 6.05. Limitation on Discovery of Statement of Prosecution Witness. In any criminal prosecution, no statement or report in the possession of the state which was made by a prosecution witness or prospective prosecution witness (other than the defendant) to an agent of the state may be the subject of subpoena, discovery, or inspection until the witness has testified on direct examination in the trial of the case.

Sec. 6.06. Discovery after Direct Examination of Witness. After a witness called by the state has testified on direct examination, the court shall, on motion of the defendant, order the state to produce any statement of the witness in the possession of the state which relates to the subject matter as to which the witness has testified. If the entire contents of the statement relate to the subject matter of the testimony of the witness, the court shall order it to be delivered directly to the defendant for his examination and use.

Sec. 6.07. Discovery of Portions of State-

ment. If the state claims that any statement ordered to be produced under Sec. 6.06 contains matter which does not relate to the subject matter of the testimony of the witness, the court shall order the state to deliver the statement for the inspection of the court in chambers. Upon delivery the court shall excise the portions of the statement which do not relate to the subject matter of the testimony of the witness. With the material excised, the court shall then direct delivery of the statement to the defendant for his use. If, pursuant to this procedure, any portion of the statement is withheld from the defendant and the defendant objects to the withholding, and the trial is continued to an adjudication of the guilt of the defendant, the entire text of the statement shall be preserved by the state and, in the event the defendant appeals, shall be made available to the appellate court for the purpose of determining the correctness of the ruling of the trial judge. Whenever any statement is delivered to a defendant, the court may recess the trial for the examination of the statement by the defendant and his preparation for its use in the trial.

Sec. 6.08. Disposition of Proceeding upon Failure of State to Comply with Order. If the state elects not to comply with an order of the court to deliver to the defendant any statement or a portion of any statement as the court may direct, the court shall strike from the record the testimony of the witness, and the trial shall proceed unless the court in its discretion shall determine that the interests of justice require that a mistrial be declared.

Sec. 6.09. Definitions. The term "statement" as used in Secs. 6.06, 6.07, and 6.08, in relation to any witness called by the state, means:

(1) a written statement made by the witness and signed or otherwise adopted or approved by him; or

(2) a stenographic, mechanical, electrical, or other recording, or a transcription of the statement which is a substantially verbatim recital of an oral statement made by the witness to an agent of the state and recorded contemporaneously with the making of the oral statement.

Sec. 6.10. Commitment of Defendant on Ground of Insanity. If the jury finds the defendant not guilty on the ground of in-

sanity and the court considers his being at large dangerous to the public peace or safety, the court shall order him to be committed to an institution authorized by the commissioner of health and welfare to receive that person, and held in custody until he becomes sane or is otherwise discharged therefrom by authority of law.

Sec. 6.11. Determination of Insanity During Trial or Probation.

Whenever, after arrest and prior to the imposition of sentence or prior to the expiration of any period of probation, the attorney general, the district attorney, or the attorney for the accused has reasonable cause to believe that a person charged with an offense may be presently insane or otherwise so mentally incompetent as to be unable to understand the proceedings against him or properly to assist in his own defense, he may file a motion for a judicial determination of the mental competency of the accused. Upon that motion or upon a similar motion in behalf of the accused, or upon its own motion, the court shall have the accused, whether or not previously admitted to bail, examined as to his mental condition by at least one qualified psychiatrist, who shall report to the court. For the purpose of the examination the court may order the accused committed for a reasonable period as the court may determine to a suitable hospital or other facility to be designated by the court. If the report of the psychiatrist indicates a state of present insanity or of mental incompetency in the accused, the court shall hold a hearing, upon due notice, at which evidence as to the mental condition of the accused may be submitted, including that of the reporting psychiatrist, and make a finding with respect thereto. No statement made by the accused in the course of any examination into his sanity or mental competency provided for by this section, whether the examination is with or without the consent of the accused, may be admitted in evidence against the accused on the issue of guilt in any criminal proceeding. A finding by the judge that the accused is mentally competent to stand trial in no way prejudices the accused in a plea of insanity as a defense to the crime charged; the finding may not be introduced in evidence on that issue nor otherwise be brought to the notice of the jury.

Sec. 6.12. Commitment on Finding of Insanity. Whenever the trial court determines, in accordance with Sec. 6.11,

that an accused is or was mentally incompetent as to be unable to understand the proceedings against him or properly to assist in his own defense, the court may commit the accused to the custody of the commissioner of health and welfare or his authorized representative until the accused shall be mentally competent to stand trial, or until the pending charges against him are disposed of according to law.

Sec. 6.13. Authority to Compromise Misdemeanors for Which Victim Has Civil Action. When a defendant is held to answer on a charge of misdemeanor for which the person injured by the act constituting the crime has a remedy by a civil action, the crime may be compromised except when it was committed

- (1) by or upon a peace officer or magistrate while in the execution of the duties of his office;
- (2) riotously;
- (3) with an intent to commit a felony;
- (4) larcenously.

Sec. 6.14. Acknowledgment of Satisfaction by Injured Party. If the party injured appears before the court in which the defendant is bound to appear, at any time before trial, and acknowledges in writing that he has received satisfaction for the injury, the court may, on payment of the costs incurred, order the prosecution dismissed and the defendant discharged. The order is a bar to another prosecution for the same crime.

Sec. 6.15. Compromise or Stay upon Compromise by Other Means Prohibited. No crime may be compromised or the prosecution or punishment upon a compromise dismissed or stayed except as provided by law.

Sec. 6.16 Order for Private Prosecutor to Pay Costs for Malicious Prosecution without Probable Cause. The name of every person who voluntarily appears before any magistrate or grand jury to prosecute any person in a criminal action, either for a misdemeanor or felony, shall be indorsed upon the complaint, information, or indictment as a private prosecutor. If it is found by any magistrate or court trying that action or hearing that proceeding that the prosecution is malicious or without probable cause, those facts shall be entered upon the record in the action

or proceeding by the magistrate or court. Upon making the entry, the magistrate or court shall immediately render judgment against the private prosecutor for the costs and disbursements of the action or proceeding, which may be enforced by execution in the same manner as a judgment in a civil action.

Article VII. Witnesses

Sec. 7.01. Undertaking for Material Witnesses. On holding the defendant to answer, the magistrate may take from each of the material witnesses examined before him, on behalf of the state, an undertaking to the effect that he will appear and testify at the court in which the defendant is held to answer, or that he will forfeit to the state the sum of \$100.

Sec. 7.02. Commitment on Failure to Comply with Order. If a witness required to enter into an undertaking to appear and testify, either with or without sureties, refuses compliance with the order for that purpose, the magistrate shall commit him to the custody of a peace officer until he complies or is legally discharged.

Sec. 7.03. Definitions. As used in Secs. 7.03 through 7.10:

(1) "witness" includes a person whose testimony is desired in any proceeding or investigation by a grand jury or in a criminal action, prosecution, or proceeding;

(2) "state" means any state, territory of the United States, and the District of Columbia;

(3) "subpoena" includes a summons in any state where a summons is used in lieu of subpoena, order, or other notice requiring the appearance of a witness. The word subpoena also includes a subpoena duces tecum.

Sec. 7.04. Witness Subpoenaed in This State to Testify in Another State. a. If a judge of a court of record in any state which by its laws has made provision for commanding persons within the state to attend and testify in this state certifies under the seal of the court that there is a criminal prosecution pending in the court, or that a grand jury investigation has commenced or is about to commence, that a person within this state is a material witness in that prosecution or grand jury investigation, and that his presence will

be required for a specified number of days, then, upon presentation of the certificate to a judge of a court of record in the judicial district in which the person is, the judge shall fix a time and place for a hearing and shall make an order directing the witness to appear at a time and place certain for the hearing.

b. If at a hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution or grand jury investigation in the other state, and that the laws of the state in which the prosecution is pending or grand jury investigation has commenced or is about to commence will give to the witness protection from arrest and the service of civil and criminal process, he shall issue a subpoena, with a copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution is pending or where a grand jury investigation has commenced or is about to commence at a time and place specified in the subpoena. In any such hearing the certificate shall be prima facie evidence of all of the facts stated therein.

c. If the certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure his attendance in the requesting state, the judge may, in lieu of notification of the hearing, direct that the witness be forthwith brought before him for said hearing; and if the judge at the hearing is satisfied of the desirability of the custody and delivery, for which determination the certificate shall be prima facie proof of this desirability, he may, in lieu of issuing subpoena, order that the witness be forthwith taken into custody and delivered to an officer of the requesting state.

d. If the witness who is subpoenaed as above provided, after being paid or tendered by a properly authorized person a sum equivalent to the cost of air fare round trip passage on a certificated carrier or such prepaid passage and reasonable incidental travel allowance for going to and from airports plus \$20 per day for each day that he is required to travel and attend as a witness, fails without good cause to attend and testify as directed in the subpoena, he shall be punished in the manner provided for the punishment of any wit-

ness who disobeys a subpoena issued from a court of record in this state.

Sec. 7.05. Witness from Another State Subpoenaed to Testify in This State. a. If a person in any state which by its laws has made provision for commanding persons within its borders to attend and testify in criminal prosecutions or grand jury investigations commenced or about to commence in this state as a material witness in a criminal action pending in a court of record of this state, or in a grand jury investigation which has commenced or is about to commence, a judge of the court may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required. The certificate may include a recommendation that the witness be taken into immediate custody and delivered to an officer of this state to assure his attendance in this state. This certificate shall be presented to a judge of a court of record in the county or judicial district in which the witness is found. This order of a court in the other state delivering custody of a witness to an officer of this state shall be sufficient authority to an officer of this state to take the witness into custody and hold him until discharged by a court of this state.

b. If the witness is subpoenaed to attend and testify in this state he shall be tendered a sum equivalent to the cost of air fare round trip passage on a certificated carrier or such prepaid passage and reasonable incidental travel allowance for going to and from airports plus \$20 per day for each day that he is required to travel and attend as a witness. A witness who has appeared in accordance with the provisions of the subpoena shall not be required to remain within the state a longer period of time than the period mentioned in the certificate, unless otherwise ordered by the court. If the witness, after coming into this state, fails without good cause to attend and testify as directed in the subpoena, he shall be punished in the manner provided for the punishment of any witness who disobeys a subpoena issued from a court of record in this state.

Sec. 7.06. Immunity of Witness from Arrest or Service of Process. If a person comes into this state in obedience to a subpoena directing him to attend and testify in this state, he shall not, while in this state pursuant to the subpoena, be subject to arrest or the service of process,

civil or criminal, in connection with matters which arose before his entrance into this state under the subpoena.

Sec. 7.07. Immunity of Foreign Witness Passing Through State from Arrest or Process. If a person passes through this state while going to another state in obedience to a subpoena to attend and testify in that state or while returning therefrom, he shall not, while so passing through this state, be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this state under the subpoena.

Sec. 7.08. Uniformity of Interpretation. Secs. 7.02 through 7.09 shall be so interpreted and construed as to effectuate the general purpose to make uniform the laws of the states which enact similar legislation.

Sec. 7.09. Party Seeking Witness. The right to obtain witnesses under Secs. 7.03 through 7.10 in criminal proceedings shall extend to the state or a defendant. Witness fees shall be paid by the party calling the witness except as provided in Rule 17(b), Rules of Criminal Procedure, State of Alaska. If the time estimate in the certificate of the requesting court is exceeded, the nonindigent defendant shall be required to tender additional per diem or post bond to insure payment of total witness fees.

Sec. 7.10. Short Title. Secs. 7.03 through 7.09 may be cited as the "Uniform Act to Secure Attendance of Witnesses in Criminal Proceedings."

Article VIII. Sentencing and Probation

Sec. 8.01. Imprisonment on Judgment for Payment of Fine. A judgment that the defendant pay a fine shall also direct that he be imprisoned until the fine is satisfied, specifying the extent of the imprisonment, which cannot exceed one day for every \$5 of the fine. In case the entry of judgment should omit to direct the imprisonment and the extent thereof, the judgment to pay the fine shall operate to authorize and require the imprisonment of the defendant until the fine is satisfied at the rate above mentioned. If the defendant chooses to work during the imprisonment, he may be granted an additional reduction of \$5 of fine for each day worked. Prisoners may be employed only in undertakings that do not put them in competition with the product of free labor.

Sec. 8.02. Enforcing Judgment to Pay Money. A judgment that a defendant pay money, whether the same be a fine or costs and disbursements or both, constitutes a lien in the same manner as a judgment for money rendered in a civil action. Execution may issue on it as on a judgment in a civil action.

Sec. 8.03. Discharge of Indigents Imprisoned for Nonpayment of Fine. When an indigent defendant sentenced to be imprisoned and to pay a fine has been confined in prison 30 days solely for the nonpayment of the fine, the defendant may make application in writing to any magistrate in the district where he is imprisoned, setting out his inability to pay the fine, and, after notice to the district attorney, the magistrate shall proceed to hear and determine the matter. If on examination it shall appear to him that the defendant is unable to pay the fine and that he has not any property exceeding \$50 in value, except property which is by law exempt from being taken on execution for debt, the magistrate shall administer to him the following oath: "I do solemnly swear that I do not have any property, real or personal, to the amount of \$50, except property which is by law exempt from being taken on civil process for debt, and that I have no property in any way conveyed or concealed or any way disposed of for my future use or benefit. So help me God." The magistrate shall discharge the defendant after he takes the oath.

Sec. 8.04. Increased Punishment for Habitual Criminal after Conviction of Petty Larceny or Misdemeanor Involving Fraud. Every person convicted of petty larceny or a misdemeanor in which fraud or intent to defraud is an element who, subsequent to March 9, 1939, has been three times convicted in this state or elsewhere of a crime which would constitute burglary, larceny except changing brands, embezzlement, or obtaining money or property by false pretenses under Alaska law shall be adjudged an habitual criminal, and shall be sentenced to imprisonment in the penitentiary for a term of not more than 10 years.

Sec. 8.05. Increased Punishment for Persons Convicted of More Than One Felony. Every person convicted of a felony in this state who has been previously convicted of a felony in this state or else-

where, if the same crime elsewhere would constitute a felony under Alaska law, shall be punished as follows:

(1) if that person is convicted of a felony which would be punishable by imprisonment for any term less than his natural life, and that person had previously been convicted of one felony, then that person shall be sentenced to imprisonment in the penitentiary for not more than twice the longest term prescribed for the felony of which that person is convicted.

(2) if that person has previously been convicted of two felonies, then that person shall be sentenced to imprisonment in the penitentiary for not more than twice the longest term prescribed herein for a second conviction of felony;

(3) if that person has previously been convicted of three or more felonies, then on the fourth conviction that person shall be adjudged an habitual criminal, and sentenced to imprisonment in the penitentiary for not less than 20 years nor more than the remainder of his natural life.

Sec. 8.06. Procedure upon Discovery of Prior Convictions. Before conviction or while sentence is effective, if it appears that a person convicted of a crime in this state has previously been convicted and has not been charged under Secs. 8.04 and 8.05, the district attorney may file an information in the superior court accusing that person of the previous conviction or convictions. The court shall cause that person, whether confined in prison or otherwise, to be brought before it and shall inform him of the allegations contained in the information and of his right to be tried as to the truth of the allegations, and shall require the accused person to plead to the information. If the accused acknowledges or confesses in open court, after being cautioned as to his rights, that he was previously convicted of the crimes charged, or any of them, the court shall sentence him as provided in Sec. 8.04 or Sec. 8.05, and shall vacate the previous sentence, deducting from the new sentence all time actually served on the sentence so vacated. If the accused says he is not the same person, or refuses to answer, or remains silent, or pleads not guilty, the court shall examine the charge of previous conviction, which shall be the only matter in issue. If it appears from the examination that there is sufficient cause to believe the accused has been previously convicted

as charged in the information, the accused shall be committed to await the action of the grand jury, which shall consider only the fact of previous conviction of the accused. If the grand jury indicts the accused and he pleads not guilty, he shall be tried by jury in the superior court, and the only issue before the jury shall be whether the accused was previously convicted as charged. If the jury finds that the accused has been previously convicted as charged, or if, after being cautioned as to his rights, the accused acknowledges or confesses in open court that he was previously convicted as charged, the court shall sentence him as provided in Sec. 8.04 or Sec. 8.05, and shall vacate the previous sentence, deducting from the new sentence all time served on the vacated sentence. The accused may be admitted to bail either while awaiting examination, action of the grand jury, or trial.

Sec. 8.07. Notification of Prosecuting Attorney of Discovery of Prior Convictions. Whenever it shall become known to a prison, probation, parole, or police officer that a person charged with or convicted of a crime has been previously convicted of another crime, he shall immediately report the fact to the district attorney.

Sec. 8.08. Suspension of Sentence and Probation. Upon entering a judgment of conviction of a crime, or at any time within 60 days from the date of entry of that judgment of conviction, any court, when satisfied that the ends of justice and the best interest of the public as well as the defendant will be served thereby, may suspend the imposition or execution or balance of the sentence or any portion thereof, and place the defendant on probation for a period and upon the terms and conditions as the court considers best.

Sec. 8.09. Granting of Probation. a. Probation may be granted whether the crime is punishable by fine or imprisonment or both. If a crime is punishable by both fine and imprisonment, the court may impose a fine and place the defendant on probation as to imprisonment. Probation may be limited to one or more counts or indictments, but, in the absence of express limitation, shall extend to the entire sentence and judgment.

b. The court may revoke or modify any condition of probation, or may change the period of probation.

c. The period of probation, together with any extension, shall not exceed five years.

Sec. 8.10. Conditions of Probation. a. While on probation and among the conditions of probation, the defendant may be required

(1) to pay a fine in one or several sums;

(2) to make restitution or reparation to aggrieved parties for actual damages or loss caused by the crime for which conviction was had; and

(3) to provide for the support of any persons for whose support he is legally responsible.

b. The defendant's liability for any fine or other punishment imposed as to which probation is granted shall be fully discharged by the fulfillment of the terms and conditions of probation.

Sec. 8.11. Notice and Grounds for Revocation of Suspension. When sentence has been suspended, it shall not be revoked except for good cause shown. In all proceedings for the revocation of a suspended sentence, the defendant is entitled to reasonable notice and the right to be represented by counsel.

Article IX. Prevention of Crimes

Sec. 9.01. Resistance to Commission of Crime. Lawful resistance to the commission of crime may be made by the party about to be injured, or by any other person in aid or defense of the person about to be injured

(1) to prevent a crime against his person or his family;

(2) to prevent an illegal attempt by force to take or injure property in his possession.

Sec. 9.02. Manner of Preventing Crime. Crimes may be prevented by the intervention of the peace officers

(1) by requiring security to keep the peace;

(2) by forming a police in cities, towns, villages, and settlements, and by requiring their attendance at exposed places;

(3) by suppressing riots.

Sec. 9.03. Justification of Persons Aiding Officers in Preventing Crime. When peace officers act in the prevention of crime, other persons who, by their command, act in their aid are justified in doing so.

Sec. 9.04. Action on Threatened Crime. Any person may bring a complaint in the magistrate court against a person who has threatened to commit a crime against the person or property of another.

Sec. 9.05. Examination of Complainant and Witnesses. When the complaint is brought, the magistrate shall examine the complainant and require him to sign the complaint under oath, and take signed statements under oath of any witnesses he produces.

Sec. 9.06. Arrest. If it appears that there is good reason to fear the commission of the crime threatened by the person complained of, the magistrate shall have the person complained of arrested and immediately brought before him.

Sec. 9.07. Examination of Charge. When the person complained of appears or is brought before the magistrate, if the charge in the complaint is controverted, the magistrate may subpoena witnesses, hear any statement to the charges made by the person complained of, and all other testimony.

Sec. 9.08. Adjournment of Examination. The magistrate may adjourn the examination and commit the person complained of, or take bail or a deposit of money in lieu thereof.

Sec. 9.09. Discharge for Lack of Grounds. If it appears that there is no good reason to fear the commission of the crime alleged to have been threatened, the person complained of shall be discharged.

Sec. 9.10. Requirement of Undertaking. If there is good reason to fear the commission of the crime, the person complained of may be required to enter into an undertaking in a sum not exceeding \$2,000 as the magistrate may direct, with one or more sufficient sureties, to keep the peace toward the people of the state and particularly toward the complainant. The undertaking is valid and binding for a period not to exceed one year and may, upon the renewal of the action, be ex-

tended for an additional period not to exceed one year, or a new undertaking required.

Sec. 9.11. Discharge upon Giving Undertaking. If the undertaking is given, the party complained of shall be discharged. If he does not give it, the magistrate shall commit him to the custody of a peace officer.

Sec. 9.12. Security Where Crime Committed or Threatened before Court or Magistrate. A person who, in the presence of a court or magistrate, assaults or threatens to assault another, or to commit an offense against his property, or who contends with another with angry words to the disturbance of the peace may be ordered by the court or magistrate without warrant or other proof to give security as provided in this article and, if he omits to do so, may be committed.

Sec. 9.13. Discharge upon Giving Undertaking after Commitment. If the person complained of is committed for not giving the undertaking required, he may be discharged by any magistrate upon giving the undertaking.

Sec. 9.14. Forfeiture of Undertaking. The undertaking is forfeited upon the person complained of being convicted of a breach of the peace.

Sec. 9.15. Rights and Authorities of Sureties. The sureties in an undertaking to keep the peace are entitled to the rights and authority of bail, including the right to arrest the defendant as provided in Sec. 3.04 of this Act and the Rules of Criminal Procedure, and may be exonerated from their undertaking in the manner prescribed therein.

Sec. 9.16. Requiring Security of Convicted Person. The court before whom any person is convicted of a crime which, by the judgment of the court, is punished otherwise than by imprisonment in the penitentiary may require that person to enter into an undertaking as provided in Sec. 9.10 for a period not exceeding two years. If he does not provide the undertaking, the court may commit him until the undertaking is given or the period expired.

Sec. 9.17. Security to Keep Peace. An undertaking to keep the peace shall also

be considered an undertaking to be of good behavior, and cannot be required except as prescribed in this article.

Sec. 9.18. Unlawful or Riotous Assembly; Command to Disperse. Where three or more persons, whether armed or not, are unlawfully or riotously assembled, any magistrate, peace officer, or the chief executive officer of a city, town, village, or settlement shall go among the persons assembled, or as near to them as they can with safety, and command them in the name of the state to disperse.

Sec. 9.19. Arrest on Failure to Disperse; Commanding Aid of Persons. If the persons assembled do not immediately disperse, the magistrates and officers shall arrest them. Any two of the officers mentioned in Sec. 9.18 may command the aid of a sufficient number of persons, armed or otherwise, as may be necessary, and may proceed in the manner as in their judgment may be most expedient to disperse the assembly and arrest the offenders.

Sec. 9.20. Person Refusing to Aid Officers as Rioter. If a person is commanded to aid the magistrate or officer or any of them mentioned in Sec. 9.18, and neglects to do so, he is considered one of the rioters, and may be treated and is punishable accordingly.

Sec. 9.21. Officer Failing to Act Is Guilty of Misdemeanor. If a magistrate or officer having notice of an unlawful or riotous assembly, mentioned in Sec. 9.18, neglects to proceed to the place of assembly, or as near as he can with safety, and to exercise the authority with which he is invested for suppressing the same and arresting the offenders, he is guilty of a misdemeanor.

Sec. 9.22. Guilt Where Death Ensues. If, in the effort to suppress or disperse any unlawful or riotous assembly, or to arrest or detain any of the person engaged in the assembly, any of the rioters or other persons then present as spectators or otherwise are killed or wounded, the magistrate and officers and persons acting in their aid are guiltless of the killing or wounding. However, if any magistrate or officer or person acting in their aid is killed or wounded, all the persons unlawfully engaged in the assembly are guilty of the killing or wounding.

Sec. 9.23. Reward for Information Leading to Conviction of Certain Persons. A reward of \$200 shall be paid to any person not a peace officer who lodges information that leads to the arrest and conviction of any person or persons maliciously breaking into and entering any cache, cabin, house, or warehouse, whether occupied or unoccupied, located outside the boundaries of any incorporated town in the state.

Sec. 9.24. Payment of Reward. The Department of Revenue shall pay all claims for rewards upon certificate by a magistrate or clerk of the superior court, showing that the claimant has lodged information that resulted in an arrest and conviction under the provisions of Sec. 9.23.

Article X. Coroner's Inquest

Sec. 10.01 Appointment of Medical Examiner. The commissioner of health and welfare may appoint medical examiners in each of the judicial districts. He may appoint any number and designate them to serve in those areas as, in his opinion, the administration of justice requires. To be eligible for medical examiner, a person shall be a physician licensed to practice in this state or a physician employed by the state, or by any agency of the United States government within the state if he is licensed in a state other than Alaska. Appointments shall be for a term not to exceed one year.

Sec. 10.02. Duties. Whenever any person dies unattended by a physician, or whenever no physician is prepared to execute the certificate of death prescribed by the Vital Statistics Act, the district magistrate or deputy magistrate assigned to serve the place where the death occurs may, by written order, direct a medical examiner to view the remains of the deceased person and to perform the post mortem examination, including an autopsy, as is, in the opinion of the medical examiner, necessary to make a proper determination of the cause of death and to execute the prescribed death certificate. Upon the completion of the examination, the examiner shall, without delay, submit a report of his findings and conclusions to the district magistrate or deputy magistrate. The magistrate shall order an inquest under this article if the findings and conclusions of the medical examiner, together with other information available to the magistrate, warrant the inquest. Otherwise he

shall enter an order dispensing with the inquest and shall record the certificate of death as prescribed by law.

Sec. 10.03. Magistrate as Coroner. District magistrates and deputy magistrates shall serve as ex officio coroners and shall perform the duties and exercise the authority of that office.

Sec. 10.04. Inquiry into Cause of Death. The coroner shall, when he is informed that a person has been killed by another or has suddenly died under such circumstances as to afford a reasonable ground to suspect that his death has been occasioned by criminal means or has committed suicide, inquire by the intervention of a jury into the cause of the death, and perform the other duties incidental thereto in the manner prescribed by law. The coroner shall go to the place where the dead person is, or, in the alternative, arrange for a peace officer to do so and report his findings to the coroner, on the basis of which the coroner may proceed with an inquest if an inquest is warranted.

Sec. 10.05. Summoning Jurors for Inquest. If an inquest is warranted, the coroner shall immediately summon six persons qualified by law to serve as jurors to appear before him at a specified place, to inquire into the cause of the death.

Sec. 10.06. Oath of Inquest Jurors. When six jurors attend, they shall be sworn by the coroner to inquire who the person was and when, where, and by what means he came to his death, and to inquire into the circumstances attending his death, and to give a true verdict according to the evidence offered them or arising from the inspection of the body.

Sec. 10.07. Subpoena and Examination of Witnesses. The magistrate or deputy magistrate may subpoena and examine as witnesses persons who, in his opinion, have knowledge of the material facts, and also an appointed medical examiner when available, or otherwise a physician, who shall examine the body and give professional opinion as to the cause of the death. The testimony shall be reduced to writing.

Sec. 10.08. Verdict of Inquest Jury. After hearing the testimony, the jury or two-thirds of their number shall give its written verdict, signed by them and setting forth

(1) the name of the person killed and when, where, and by what means he came to his death; and

(2) if he was killed or his death was occasioned by the act of another by criminal means, who is guilty.

Sec. 10.09. Warrant for Arrest of Person Causing Death. If the jury finds that a crime was committed in the killing, and also charges a person with the commission of the crime, the coroner, as a magistrate, shall immediately issue a warrant for the arrest of that person.

Sec. 10.10. Burial of Body. When a coroner holds an inquest upon the body of a stranger or pauper, and no friend or relative appears to claim the body for burial, the coroner shall notify the Department of Health and Welfare which shall cause the body to be plainly and decently buried.

Sec. 10.11. Property on Body. If money or other property is found on the body, the magistrate shall make an inventory of it for his records and take it into his possession. He shall, within 30 days after the inquest, transmit a certified copy of the inventory and the money or property to the clerk of the superior court. The clerk shall cause the property to be sold as upon execution and shall deduct the expenses of the sale from the proceeds. He shall deposit the remainder of the proceeds of the sale and any moneys delivered to him by the magistrate in the same manner as moneys collected on judgments in favor of the state.

Article XI. Extraditions

Sec. 11.01. Definitions. Where appearing in this article:

(1) "governor" includes any person performing the functions of governor by authority of the law of this state;

(2) "executive authority" includes the governor and any person performing the functions of governor in a state other than this state;

(3) "state," referring to a state other than this state, includes any other state or possession of the United States of America.

Sec. 11.02. Fugitives from Other States; Duty of Governor. Subject to the provisions of Secs. 11.01 to 11.29 inclusive, the

provisions of the Constitution of the United States controlling, and any and all acts of Congress enacted in pursuance thereof, it is the duty of the governor of this state to have arrested and delivered up to the executive authority of any other state any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in this state.

Sec. 11.03. Form of Demand. a. No demand for the extradition of a person accused but not yet convicted of a crime in another state shall be recognized by the governor of this state unless made in writing and containing the following:

(1) An allegation that the accused was present in the demanding state at the time of the commission of the alleged crime and that thereafter he fled the demanding state; except that this allegation shall not be required in a proceeding based on Sec. 11.06.

(2) A copy of an indictment found or an information supported by affidavit in the state having jurisdiction of the crime or by a copy of a complaint, affidavit, or other equivalent accusation made before a magistrate there. The indictment, information, or complaint, affidavit, or other equivalent accusation must substantially charge the person demanded with having committed a crime under the law of that state, and the copy must be authenticated by the executive authority making the demand.

b. No demand for the extradition of a person convicted of a crime in another state shall be recognized by the governor of this state unless made in writing and containing the following:

(1) A statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of bail, probation, or parole;

(2) A copy of the judgment of conviction or of a sentence imposed in execution thereof. The copy must be authenticated by the executive authority making the demand.

Sec. 11.04. Investigation of Demand and Report. When a demand is made upon the governor of this state by the executive authority of another state for a surrender of a person so charged with crime, the governor shall investigate the demand.

Sec. 11.05. Extradition of Persons Imprisoned or Awaiting Trial in Another State or Who Have Left the Demanding State under Compulsion. a. When it is desired to have returned to this state a person charged in this state with a crime, and that person is imprisoned or is held under criminal proceedings then pending against him in another state, the governor of this state may agree with the executive authority of the other state for the extradition of that person before the conclusion of the proceedings or his term of sentence in the other state, upon condition that the person be returned to the other state at the expense of this state as soon as the prosecution in this state is terminated.

b. The governor of this state may also surrender on demand of the executive authority of any other state any person in this state who is charged in the manner provided in Sec. 11.23 with having violated the laws of the state whose executive authority is making the demand, even though that person left the demanding state involuntarily.

Sec. 11.06. Extradition of Person Not Present in Demanding State at Time of Commission of Crime. The governor of this state may also surrender, on demand of the executive authority of any other state, any person in this state charged in the other state in the manner provided in Sec. 11.03 with committing an act in this state, or a third state, intentionally resulting in a crime in the state whose executive authority is making the demand, and the provisions of Secs. 11.01 to 11.29, inclusive, not otherwise inconsistent shall apply to those cases, even though the accused was not in that state at the time of the commission of the crime and has not fled from that state.

Sec. 11.07. Issue of Governor's Warrant of Arrest; Recitals. If the governor decides that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to any peace officer or other person whom he may think fit to entrust with the execution of the warrant. The warrant must substantially recite the facts necessary to the validity of its issuance.

Sec. 11.08. Manner and Place of Execution of the Warrant. The warrant shall authorize the peace officer or other person to whom directed to arrest the accused at

any time and any place where he may be found within the state and to command the aid of all peace officers or other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of Secs. 11.01 to 11.29, inclusive, to the duly authorized agent of the demanding state.

Sec. 11.09. Authority of Arresting Officer to Command Assistance. Every officer or other person empowered to make the arrest has the same authority in arresting the accused to command assistance therein as peace officers have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance.

Sec. 11.10. Rights of Accused Person; Application for Writ of Habeas Corpus. No person arrested upon a warrant shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he is first taken forthwith before a judge of the superior court or a district magistrate of this state, who shall inform him of the demand made for his surrender, and of the crime with which he is charged, and that he has the right to demand and procure legal counsel. If the prisoner or his counsel shall state that he or they desire to test the legality of the arrest, the judge of the superior court or the district magistrate shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. When that writ is applied for, notice thereof and of the time and place of hearing thereon shall be given to the prosecuting attorney of the judicial district in which the arrest is made and in which the accused is in custody, and to the agent of the demanding state.

Sec. 11.11. Penalty for Noncompliance with Preceding Section. Any officer or other person who delivers to the agent for extradition of the demanding state a person in his custody under the governor's warrant, in wilful disobedience to the last section, is guilty of a misdemeanor and, on conviction, shall be fined not more than \$1,000, or be imprisoned not more than six months, or both.

Sec. 11.12. Confinement in Jail When Necessary. a. The officer or person executing the governor's warrant of arrest, or the agent of the demanding state to whom the prisoner may have been deliv-

ered may, when necessary, confine the prisoner in a jail in any political subdivision, judicial district, or city of this state through which he may pass. The keeper of the jail shall receive and safely keep the prisoner until the officer or person having charge of him is ready to proceed on his route. The officer or person is chargeable with the expense of keeping.

b. The officer or agent of a demanding state to whom a prisoner may have been delivered following extradition proceedings in another state, or to whom a prisoner may have been delivered after waiving extradition in the other state, and who is passing through this state with a prisoner for the purpose of immediately returning that prisoner to the demanding state may, when necessary, confine the prisoner in a jail in any political subdivision, judicial district, or city of this state through which he may pass. The keeper of the jail shall receive and safely keep the prisoner until the officer or agent having charge of him is ready to proceed on his route. The officer or agent is chargeable with the expense of keeping. The officer or agent shall produce and show to the keeper of the jail satisfactory written evidence of the fact that he is actually transporting the prisoner to the demanding state after a requisition by the executive authority of the demanding state. The prisoner shall not be entitled to demand a new requisition while in this state.

Sec. 11.13. Arrest Prior to Requisition. Whenever any person within this state is charged on the oath of any credible person before any judge of the superior court or district magistrate of this state with the commission of any crime in any other state and, except in cases arising under Sec. 11.06, with having fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation, or parole; or whenever complaint is made before any judge of the superior court or district magistrate in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in the other state and that the accused has been charged in that state with the commission of the crime and, except in cases arising under Sec. 11.06, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of

his bail, probation, or parole and is believed to be in this state, the judge of the superior court or district magistrate shall issue a warrant directed to any peace officer commanding him to apprehend the person named in the warrant, wherever he may be found in this state, and to bring him before the same or any other judge of the superior court or district magistrate who is available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit. A certified copy of the sworn charge or complaint or affidavit upon which the warrant is issued shall be attached to the warrant.

Sec. 11.14. Arrest without Warrant. The arrest of a person may also be lawfully made by any peace officer or a private person without a warrant upon reasonable information that the accused stands charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a superior court judge or district magistrate without unnecessary delay and, in any event, within 24 hours after his arrest, including Sundays and holidays, and complaint shall be made against him under oath setting forth the ground for the arrest as in the preceding section. Thereafter his answer shall be heard as if he had been arrested on a warrant.

Sec. 11.15. Commitment to Await Requisition; Bail. If at the examination before the superior court judge or district magistrate it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under Sec. 11.06, that he has fled from justice, the superior court judge or district magistrate shall commit him to jail for a time, not exceeding 30 days, as will enable the arrest of the accused to be made under a warrant of the governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused gives bail as provided in Sec. 11.16, or until he is legally discharged. The commitment by the judge of the superior court or by the district magistrate shall be by a warrant which shall recite the following:

- (1) the accusation against him;
- (2) the fact that the commitment is

for a time as will enable the arrest of the accused to be made under a warrant of the governor of this state; and

(3) that in any event the commitment shall be for a period not to exceed 30 days.

Sec. 11.16. Bail. Unless the offense with which the prisoner is charged is shown to be an offense punishable by death under the laws of the state in which it was committed, a superior court judge or district magistrate in this state shall admit the person arrested to bail by bond or undertaking, with sufficient sureties, and in such sum as he considers proper, conditioned upon his appearance before him at a time specified in the bond or undertaking and for his surrender, to be arrested upon the warrant of the governor of this state.

Sec. 11.17. Extension of Time of Commitment; Adjournment. If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant, bond, or undertaking, a judge of the superior court or district magistrate may discharge him or may recommit him for a further period not to exceed 60 days, or a judge of the superior court or district magistrate may again take bail for his appearance and surrender, as provided in Sec. 11.16, but within a period not to exceed 60 days after the date of the new bond or undertaking.

Sec. 11.18. Forfeiture of Bail. If the prisoner is admitted to bail and fails to appear and surrender himself according to the conditions of his bond or undertaking, the superior court judge or district magistrate, by proper order, shall declare the bond or undertaking forfeited, and order his immediate arrest if he is within this state. Recovery may be had on the bond or undertaking in the name of the state as in the case of other bonds or undertakings given by the accused in criminal proceedings within this state.

Sec. 11.19. Persons under Criminal Prosecution in This State at Time of Requisition. If a criminal prosecution has been instituted against the person under the laws of this state and is still pending, the governor, in his discretion, either may surrender him on demand of the executive authority of another state or may hold him until he has been tried and discharged, or convicted and punished in this state.

Sec. 11.20. Guilt or Innocence of Accused; When Inquired into. The guilt or innocence of the accused as to the crime of which he is charged may not be inquired into by the governor in any proceeding after the demand for extradition, accompanied by a charge of crime in legal form as above provided, has been presented to the governor, except as it may be involved in identifying the person held as the person charged with the crime.

Sec. 11.21. Governor's Warrant; Recall; Reissue. The governor may recall his warrant of arrest or may issue another warrant whenever he deems proper.

Sec. 11.22. Fugitives from This State; Duty of Governors. Whenever the governor of this state demands a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation, or parole in this state from the executive authority of any other state, or from a judge of the District Court of the United States for the District of Columbia authorized to receive the demand under the laws of the United States, he shall issue a warrant under the seal of this state to an agent, commanding him to receive the person so charged if delivered to him and convey him to the proper officer of the judicial district in this state in which the offense was committed.

Sec. 11.23. Application for Issuance of Requisition; By Whom Made; Contents.

a. When the return to this state of a person charged with a crime in this state is required, the prosecuting attorney of the judicial district in which the offense is committed, or the attorney general, shall present to the governor his written application for a requisition for the return of the person charged. In the application there shall be stated the name of the person so charged, the crime charged against him, the approximate time, place, and circumstances of its commission, the state in which he is believed to be, including the location of the accused therein at the time the application is made, and certifying that in the opinion of the said prosecuting attorney or the attorney general, the ends of justice require the arrest and return of the accused to this state for trial, and that the proceeding is not instituted to enforce a private claim.

b. When the return to this state is required of a person who has been convicted

of a crime in this state and has escaped from confinement or broken the terms of his bail, probation, or parole, the prosecuting attorney of the judicial district in which the offense was committed, or the attorney general, the parole or probation authority having jurisdiction over him, or the commissioner of the Department of Health and Welfare shall present to the governor a written application for a requisition for the return of that person. In the application there shall be stated the name of the person, the crime for which he was convicted, the circumstances of his escape from confinement or of the breach of the terms of his bail, probation, or parole, and the state in which he is believed to be, including the location of the person therein at the time the application is made.

c. The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or the complaint made to the superior court judge or district magistrate, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The attorney general or the prosecuting attorney, the parole or probation authority, or the commissioner of the Department of Health and Welfare may also attach further affidavits and other documents in duplicate as he deems proper to be submitted with the application. One copy of the application, with the action of the governor indicated by endorsement on the application, and one of the certified copies of the indictment, complaint, information and affidavits, or judgment of conviction or sentence shall be filed in the office of the governor to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

Sec. 11.24. Immunity from Service of Process in Certain Civil Action. A person brought into this state by or after waiver of extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceeding to answer which he is being or has been returned, until he has been convicted in the criminal proceedings, or, if acquitted, until he has had reasonable opportunity to return to the state from which he was extradited.

Sec. 11.25. Written Waiver of Extradition Proceedings. a. Any person arrested in this state charged with having committed any crime in another state or alleged to have escaped from confinement, or broken the terms of his bail, probation, or parole may waive the issuance and service of the warrant provided for in Secs. 11.07 and 11.08 and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of any superior court judge or district magistrate within this state a writing which states that he consents to return to the demanding state; provided, however, that before the waiver is executed or subscribed by that person, the judge or district magistrate shall inform that person of his right to the issuance and service of a warrant of extradition and of his right to apply for a writ of habeas corpus as provided for in Sec. 11.10.

b. If and when that consent is executed, it shall forthwith be forwarded to the office of the governor of this state and filed therein. The judge or district magistrate shall direct the officer having the person in custody to deliver forthwith that person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of the consent.

c. Nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights, or duties of the officers of the demanding state or of this state.

Sec. 11.26. Nonwaiver by This State. Nothing in Secs. 11.01 to 11.29, inclusive, shall be deemed to constitute a waiver by this state of its right, power, or privilege to try the demanded person for crime committed within this state, or of its right, power, or privilege to regain custody of that person by extradition proceedings or otherwise for the purpose of trial, sentence, or punishment for any crime committed within this state, nor shall any proceedings had under these sections which result in, or fail to result in, extradition be deemed a waiver by this state of any of its rights, privileges, or jurisdiction in any way whatsoever.

Sec. 11.27. No Right of Asylum; No Immunity from Other Criminal Prosecutions

While in This State. After a person has been brought back to this state through extradition proceedings, or after waiver of extradition proceedings by that person, he may be tried in this state for other crimes which he may be charged with having committed here as well as that specified in the requisition for his extradition.

Sec. 11.28. Interpretation. The provisions of Secs. 11.01 to 11.29, inclusive, shall be so interpreted and construed as to effectuate the general purposes to make uniform the law of those states which enact it.

Sec. 11.29. Short Title. Secs. 11.01 to 11.29, inclusive, may be cited as the "Uniform Criminal Extradition Act."

Article XII Habeas Corpus

Sec. 12.01. Persons Entitled to Prosecute Writ. Every person imprisoned or otherwise restrained of his liberty under any pretense whatsoever, except in the cases specified in the next section, may prosecute a writ of habeas corpus to inquire into the cause of the imprisonment or restraint, and, if illegal, to be delivered therefrom. Procedure may be as prescribed in the Rules of Civil Procedure.

Sec. 12.02. Persons Not Entitled to Prosecute Writ. Persons properly imprisoned or restrained by virtue of the legal judgment of a competent tribunal of civil or criminal jurisdiction, or by virtue of an execution regularly and lawfully issued upon that judgment or decree shall not be allowed to prosecute the writ.

Sec. 12.03. Offense Not Bailable. When it appears that the cause or offense for which the person prosecuting the writ is imprisoned or restrained is not bailable, the production of the party may be dispensed with and the writ issued accordingly.

Sec. 12.04. Production of Body. The person on whom the writ is served shall bring the body of the person in his custody or under his restraint, according to the command of the writ, except in the cases provided in the next section.

Sec. 12.05. Hearing without Production of Person. Whenever, from the sickness or infirmity of the person directed to be produced, he cannot without danger be brought before the court, the person in whose custody or power he is may state

that fact in his return to the writ. If the court is satisfied of the truth of the return and the return is otherwise sufficient, the court shall proceed to decide on the return and to dispose of the matter as if the party had been produced.

Sec. 12.06. Proceedings on Disobedience of Writ. If the person upon whom the writ is served refuses or neglects to obey it within the time required, and no sufficient excuse is shown, it is the duty of the court before whom the writ is returnable, upon due proof of service, to immediately issue a warrant against that person, directed to a peace officer commanding him to immediately apprehend and bring the person before the court. Upon that person being brought before the court, the court shall commit him to custody until he makes return to the writ and complies with any order that may be made.

Sec. 12.07. Precept to Peace Officer. The court which issues a writ without requiring the production of the person or which issues a warrant may also, at any time before final decision, issue a precept to the peace officer to whom the writ or warrant is directed commanding him to immediately bring the person for whose benefit the writ was allowed before the court. That person shall remain in the custody of the peace officer until discharged or remanded.

Sec. 12.08. Discharge of Party. If no legal cause is shown for the imprisonment or restraint, or for its continuation, the court shall discharge the party from the custody or restraint under which he is held.

Sec. 12.09. Remand of Party Legally Detained. The court shall remand the party if it appears that he is legally detained in custody.

Sec. 12.10. Discharge of Person in Custody by Virtue of Civil Process. If it appears on the return of the writ that the prisoner is in custody by virtue of an order or civil process of any court legally constituted, or issued by an officer in the course of judicial proceedings before him, authorized by law, the prisoner shall be discharged in either of the following cases:

(1) when the jurisdiction of the court or officer has been exceeded, either as to matter, place, sum, or person;

(2) when, though the original imprisonment was lawful, yet by some act, omis-

sion, or event which has take place afterwards, the party has become entitled to a discharge;

(3) when the order or process is defective in some matter or substance required by law, rendering the process void;

(4) when the order or process, though in proper form, has been issued in a case not allowed by law;

(5) when the person having the custody of the prisoner under the order or process is not the person empowered by law to detain him; or

(6) when the order or process is not authorized by any judgment of any court or by any provision of law.

Sec. 12.11. Limitation on Scope of Court's Inquiry. No court or judge, on the return of a writ of habeas corpus, may inquire into the legality or justice of any order, judgment, or process specified in Sec. 12.02, or into the justice, propriety, or legality of any commitment for a contempt made by a court, officer, or body, according to law, and charged in the commitment, as provided by law.

Sec. 12.12. Proceedings Where Commitment Irregular. If it appears by the testimony offered with the return, or upon the hearing that the party is probably guilty of a criminal offense, the court, although the commitment is irregular, shall immediately remand him to the custody of the proper person.

Sec. 12.13. Custody of Party Pending Judgment. Until judgment is given upon the return, the party may either be committed to the custody of a peace officer or placed in his care or under such custody as his age or circumstances require.

Sec. 12.14. Admission to Bail. Any person prosecuting a writ of habeas corpus may, at any time after the writ is allowed, be admitted to bail by the court allowing the writ, or by any other magistrate designated by that court or judge, pending the hearing upon the writ and the final order of the court and, in case of appeal, during the pendency of the appeal and until the final order of the appellate court. The bail shall be by written undertaking and executed as bail upon arrest, and the undertaking shall be conditioned that the person so admitted to bail shall appear in the designated court or before the design-

nated judge whenever required, and shall at all times render himself amenable to the order or process of that court or judge, and that if he fails to perform either of those conditions, the surety or sureties on the undertaking will pay to the state the sum in which that person is so admitted to bail.

Sec. 12.15. Effect of Admitting to Bail. The admitting to bail of a person prosecuting a writ of habeas corpus does not in any manner affect the writ or other proceedings or the full right of that person to have the cause and legality of his imprisonment inquired into and determined both in the trial court and upon appeal.

Sec. 12.16. Enforcing Judgment of Discharge. Obedience to a judgment for the discharge of a person imprisoned or restrained, pursuant to the provisions of this article, may be enforced by the court by proceedings for a contempt. No peace officer or other person is liable to any action or proceeding for obeying the judgment of discharge.

Sec. 12.17. Discharge as Bar to Subsequent Restraint. No person who has been discharged by the order of a court upon habeas corpus shall again be imprisoned, restrained, or kept in custody for the same cause except in the following cases:

(1) if he has been discharged from a commitment on a criminal charge and is afterwards committed for the same offense by legal order or process;

(2) if, after a judgment or discharge for a defect of evidence, or for a material defect in the commitment, in a criminal case, the party is again arrested on sufficient evidence and committed by legal process for the same offense;

(3) if, after a civil action, the party has been discharged for any illegality in the judgment, decree, or process specified in Sec. 12.10, and is afterwards imprisoned for the same cause of action;

(4) if, in a civil action, he has been discharged from commitment on an order of arrest, and is afterwards committed on execution, in the same action, or on order of arrest in another action, after the dismissal of the first action.

Sec. 12.18. Grounds for Warrant in Lieu of Writ. Whenever it appears to any court authorized to issue the writ of habeas

corpus that any person is illegally imprisoned or restrained, and that there is good reason to believe that he will be carried out of the state or suffer some irreparable injury before he can be relieved by the issuing of a writ of habeas corpus, any court or judge authorized to issue the writ may issue a warrant reciting the facts, and directed to a peace officer commanding him to immediately bring the person before the court to be dealt with according to law.

Sec. 12.19. Warrant May Include Command for Arrest of Defendant. When the proof mentioned in Sec. 12.18 shall also be sufficient to justify an arrest of the person having the party in his custody, as for a criminal offense, committed in the taking or detaining of the party, the warrant may also contain an order for the arrest of the person for that offense.

Sec. 12.20. Warrant in Lieu of Writ. The peace officer to whom the warrant is directed shall execute it by bringing the party named and the person who detains him, if so commanded by the warrant, before the judge issuing the warrant. The person detaining the party shall make a return to the warrant as in the case of a writ of habeas corpus, and a proceeding shall be had as if a writ of habeas corpus had been issued in the first instance.

Sec. 12.21. Proceedings as to Person Having Party in Custody. If the person having the party in his custody is brought before the court as for a criminal offense, he shall be examined, committed, bailed, or discharged by the court in like manner as in other criminal cases of like nature.

Sec. 12.22. Penalty for Refusing to Deliver Copy of or Obey Authority to Detain Party. If any peace officer or other person refuses to deliver a copy of any order, warrant, process, or other authority by which he detains any person to anyone who demands a copy and tenders the fees therefor, he shall forfeit and pay to the person detained a sum not to exceed \$200.

Sec. 12.23. Appeal. Any party to a proceeding by habeas corpus may appeal from the judgment of the court refusing to allow the writ or any final judgment therein in like manner and with like effect as in an action. No question once finally determined upon a proceeding by habeas corpus shall be re-examined upon another or subsequent proceeding of the same kind.

Article XIII. Formal Provisions

Sec. 13.01 **Short Title.** This Act may be cited as the "Code of Criminal Procedure."

Sec. 13.02 **Repeals.** The following laws and parts of laws are repealed: Secs. 65-3-2 through 65-3-4, ACLA 1949, inclusive; Secs. 66-1-1 through 66-26-46, ACLA 1949, in clusive, as amended by Ch. 7, SLA 1949, Ch. 11, SLA 1955, Ch. 45, SLA 1955, Ch. 195, SLA 1955, Ch. 37, SLA 1957, Ch. 93, SLA 1957, Ch. 128, SLA 1957, Ch. 132, SLA 1957, Ch. 8, SLA 1960, Ch. 71, SLA 1960, and Ch. 105, SLA 1960; Secs. 69-1-1 through 69-6-11, ACLA 1949, inclusive, as amended

by Ch. 47, SLA 1957; Ch. 121, SLA 1957; Ch. 30, SLA 1960; Ch. 103, SLA 1960; Ch. 104, SLA 1960; and Ch. 153, SLA 1960.

Sec. 13.03 **How Code to Take Effect.** This Act takes effect on January 1, 1963. It governs all proceedings in actions brought after that date and all further proceedings in actions then pending, except to the extent that, in the opinion of the court, their application in a particular action pending when the rules take effect would not be feasible, or would work injustice, in which event, the laws repealed by this Act apply.

Approved March 23, 1962

CHAPTER 35**AN ACT**

Relating to bounties; amending Sec. 33-3-119, ACLA 1949; amending Sec. 33-3-131, ACLA 1949, as amended by Ch. 16, SLA 1949, Ch. 122, SLA 1951, and Ch. 162, SLA 1960; and providing for an effective date.

(H.B. 269)

Be it enacted by the Legislature of the State of Alaska:

Section 1. Sec. 33-3-119, ACLA 1949, is amended to read:

Sec. 33-3-119. **Bounty Not to Be Paid.** No bounty shall be paid under this Act to any person who is not a resident of the state, or to any salaried employee of any federal or state agency which is engaged in fish or game protection, management, or research activity. For the purposes of this section, "resident" means a person who for the immediately preceding year has maintained a permanent place of abode within the state and

who has continually maintained his legal residence in the state.

Sec. 2. Sec. 33-3-131, ACLA 1949, as amended by Ch. 16, SLA 1949, Ch. 122, SLA 1951, and Ch. 162, SLA 1960, is repealed and re-enacted to read:

Sec. 33-3-131. **Bounty on Hair Seal Declared.** There is hereby placed on every hair seal inhabiting the inland and coastal waters of Alaska a bounty of \$3, such sum to be paid in accordance with the provisions following.

Sec. 3. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.

Approved March 24, 1962

CHAPTER 36**AN ACT**

To prohibit the misuse, damage, or destruction of camps; and providing for an effective date.

(H.B. 364)

Be it enacted by the Legislature of the State of Alaska:

Section 1. No person shall misuse, damage, or destroy any camp not his own if it

is capable of use for protection of life or property.

Sec. 2. "Camp" means any improved site intended for habitation or use during