

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT
DIVISION OF INSURANCE
550 WEST SEVENTH AVENUE, SUITE 1560
ANCHORAGE, ALASKA 99501.3567
INVESTIGATION SECTION
(907) 269.7900 FAX: (907) 269.7910
ORI: AK020015Y

The State of Alaska Division of Insurance is responsible for regulating the insurance industry in the State of Alaska. That responsibility includes protecting the consumer from unfair practices by the insurance industry as well as investigating and prosecuting suspected fraudulent and/or criminal insurance acts. The State of Alaska, Division of Insurance, Investigation Unit currently consists of four investigators and one staff support person located in the Anchorage, Alaska office.

The State of Alaska, Division of Insurance report format allows the investigators to explain in detail the facts of the complaint and the exact steps taken in the investigation. The final investigative report although voluminous in content, is easily understandable as each aspect is individually explained. Before being submitted to the Director of the Division of Insurance and the Department of Law, the report clearly details how the investigation shows the facts as found and, if illicit activities as defined in the appropriate statutes. The minimal requirement to opening an investigation is that a statute in AS 21 governing the insurance laws must be suspected of being infringed. Once the insurance statute has been identified, we can also report violations of other laws such as those governing general criminal laws.

The investigative staff answers directly to the director and deputy director. The investigation unit is separate from the rest of the division although we work in conjunction with each other. There is a definite invisible wall, which requires certain rules of procedure when divulging or receiving information with the other sections. At times, a search warrant is obtained and served on the other sections to obtain privileged information.

The investigation section investigates all areas of fraudulent insurance activities. This includes claimant fraud, agent fraud, insurance company fraud, medical care provider fraud, insurance document fraud, premium fraud, and agents / agencies / companies operating without a license or certificate of authority, and worker's compensation premium fraud. The investigation unit also conducts background checks of insurance license applicants. The State of Alaska, Division of Workers' Compensation now have their own investigation section to address workers' comp claimant fraud.

The investigators have been issued a special commission from the State of Alaska, Department of Public Safety authorizing the application for, obtaining and executing search warrants and service of subpoenas and summonses in insurance related criminal investigations. Alaska Statutes also provide the authority for the investigators to utilize the subpoena duces' tecum issued by the Director for the collection of information in non-criminal administrative matters.

All investigations are conducted following the criminal rules of procedure and Alaska Rules of Court. In this way we insure that all facts and evidence collected are admissible in a court of law regardless of whether it is being processed criminally or administratively.

The investigative section's guidelines are defined mostly within Alaska Statutes Title 21. The workers' compensation guidelines are defined in Title 23. Alaska Statutes Title 21, Section 36, relates to the trade practices and frauds. AS 21.36.360 defines fraudulent and criminal insurance acts. We also refer to Alaska Statutes Title 11, the general criminal statutes and refer any that are appropriate along with violations of the insurance statute.

In Alaska Statutes Title 21, Section 36, the criminal penalties and class of offense are determined by the amount of money involved. The statutes do not require an actual monetary loss, an attempt to get the money is sufficient. A misdemeanor offense deals with figures up to \$500.00. A felony offense deals with figures over \$500.00. In cases where the dollar amount between \$500.00 and \$5000.00 the suspect may be ultimately charged as a misdemeanor because of the time and resources necessary to prosecute a felony case. In a felony case, a case must be presented to a grand jury unless the suspect waives such. If a grand jury is called and the suspect indicted an arrest warrant is issued unless the person is in custody. The suspect's first court appearance on a felony count is known as an initial appearance and no plea can be taken at that time. The suspect is advised of the charges and a determination as to an attorney is made. All these steps take up valuable time and resources, which may be needed for more serious crimes. In an agreement between the Department of Law and the Division of Insurance we accept the value of their time and have no problem with those cases prosecuted and sentenced as misdemeanors as long as the restitution amount is for the actual amount of loss. The suspect is more willing to accept a misdemeanor conviction instead of a felony for obvious reasons. The

end result is the case gets into the prosecutorial system and processed through provided all the statutory requirements can be proven. This system will also cut down on court time and expedite the cases through more smoothly.

After a review by the Director, the final report in its entirety is submitted to the State of Alaska, Department of Law for consideration of criminal prosecution and/or administrative action. The criminal prosecutions statewide are prosecuted by the Division of Insurance dedicated prosecutor housed with the Office of Special Prosecution and Appeals. This prosecutor is funded by the Division of Insurance. The Division of Insurance has three assigned assistant attorneys general that handle all administrative action cases, the third being funded 50% criminal and 50% administrative functions.

Upon initial complaint, we require a written letter of complaint, which must include how the complainant was the victim of insurance fraud or has information regarding insurance fraud. Attached to that need to be corroborating documentation and/or evidence already obtained. Once this letter is received, we review it and determine if there is cause to believe that has been a violation of criminal and/or fraudulent insurance acts. Once that has been determined or there is cause to believe the incident requires further investigating, a case number is generated and a request for appointment is addressed to the director.

INFORMATION REQUESTED PRIOR TO INVESTIGATION

Pursuant to AS 21.36.390, the Director requires the following to file a report of suspected insurance statute violation:

The National Association of Insurance Commissioners (NAIC) has adopted a Uniform Fraud Reporting Form, which must be filled out. In addition to this form, please submit the following:

A: **DETAILED LETTER OF COMPLAINT**: Explains how the subject may have been the victim of or has information concerning a fraudulent and/or criminal insurance act.

B: **CORROBORATING DOCUMENTS AND EVIDENCE**: Includes the following:

1) **Witness list**: Provides all information needed to have the investigator contact witnesses without having to search from scratch. Includes adjusters, agents, etc.

SUSPECT / WITNESS LIST

NAME:	DOB :
ADDRESS:	SSN :
	AKOL :
PHONE (H):	OCC :
(W)	EMP :
(F)	
Can testify that	

2) **Copy of insurance Policy**: Clearly shows what the subject’s policy covers and that there was a policy to be defrauded.

3) **Sworn statement in support of loss**: Something that shows the subject’s signature for a benefit material to the claim.

4) **Photos or videos:** Prosecutors' office wants to see the actual photos or videos in the report packet. At time of discovery they are required to provide a copy to the defense. A copy of the still negatives needs to be included. We request a transcript of the video depositions and examinations under oath. Include transcript on 3.5" computer disk.

5) **Copy of settlement check:** Shows exactly how much the subject was paid, the date of issue, and the subject's signature of endorsement on the back, which clearly shows the subject(s) received the money.

6) **Interview transcripts:** Expedites the investigator's time in not having to listen to the actual taped interview. Our secretary is too busy transcribing our interviews. Prosecutors' office requires a transcript and a copy of the tape, as they have to provide a copy of the tape to the defense at time of discovery. Include transcript on 3.5" computer disk.

Once the letter and documentation are received, we review it and determine if there is cause to believe that there may been a violation of any of the insurance statutes. Once that has been determined or there is cause to believe the incident requires further investigating, a case number is generated and a request for appointment is addressed to the director.

As a tool to the investigators, we have direct access at our computer terminals to valuable database information. These include the Federal Bureau of Investigation Nationwide Law Enforcement Telecommunication System (NLETS) which provides direct electronic communication with all municipal, state, and federal law enforcement agencies throughout the Unites States and Canada through our own assigned Originating Agency Identifier (ORI). This database also provides access into the National Crime Information Center (NCIC). We are also directly connected to the Alaska Public Safety Information Network (APSIN) which provides us with information on Alaska residents. We are connected to the National Insurance Crime Bureau (NICB) ISONet database, which provides worldwide information on insurance claims filed and provides direct electronic communication with all participating insurance companies and agents, which provides a wealth of information. We have direct access to the National Association of Insurance Commissioners database (NAIC) which provides direct electronic communication

with all the other state Division of Insurance offices nationwide. They also provide a support staff to assist in complicated cases. We also have direct access to the State of Alaska, Division of Corporations, Business, and Professional Licensing database and the State of Alaska Corporation Commission database via the Internet. The investigation section along with the licensing section is responsible for conducting background checks on insurance license applicants and federal law requires all applicants be cleared with the Child Support Enforcement Division (CSED) in addition to other checks being conducted. We are prohibited from using APSIN and NCIC for license background checks. The State of Alaska, Division of Insurance, is the first voting member in the National White Collar Crime Center from any state division of insurance. This is a federally funded agency with the Department of Justice to provide assistance in combating white-collar crime. They provide training at no charge to the voting members. The training received includes basic forensic computer training and financial investigation training. They can provide assistance, including financial help in complicated cases involving multi jurisdictions.

The ultimate goal of the investigative staff is to educate the public, insurance and medical industry persons that fraudulent insurance activity cannot be tolerated and there could be a price for their illicit actions and they can weigh the consequences.

ALASKA STATUTES COMMONLY REFERENCED BY THE INVESTIGATION
SECTION

SECTION 21.36.360 FRAUDULENT OR CRIMINAL INSURANCE ACTS

(a) A person may not commit a fraudulent or criminal insurance act involving an insurance transaction that is subject to the provisions of this title. The penalty for a fraudulent or criminal insurance act described in this section is in addition to a civil penalty levied under this title.

(b) A fraudulent insurance act is committed by a person who, with intent to injure, defraud, or deceive

(1) collects a sum as premium or charge for insurance if the insurance has not been provided or is not in due course to be provided, subject to acceptance of the risk by the insurer, by an insurance policy authorized under this title;

(2) presents to an insurer a written or oral statement in support of a claim for payment or other benefit under an insurance policy, knowing that the statement contains false, incomplete, or misleading information concerning a matter material to the claim;

(3) assists or conspires with another to prepare or make a written or oral statement that is presented to an insurer in support of a claim for a benefit under an insurance policy, knowing that the statement contains false, incomplete, or misleading information concerning a matter material to the claim;

(4) wilfully collects as premium or charge for insurance a sum in excess of the premium or charge applicable to the insurance as specified in the policy by the insurer in accordance with the applicable classifications and rates approved by the director, or in cases where classifications and rates are not subject to approval, the premiums and charges applicable to the insurance as specified in the policy and fixed by the insurer;

(5) fails to make disposition of funds received or held or misappropriates funds received or held representing premiums or return premiums; or

(6) fails to pay its tax liability under this title when due.

(c) A fraudulent insurance act is committed by a person forming or proposing to form an insurer, an insurance holding corporation, a stock corporation to finance an insurer or insurance production, a corporation to manage an insurer, a corporation to be attorney in fact for a reciprocal insurer, or a syndicate for any of these purposes that advertises, or solicits or receives funds, agreement, stock subscription, or membership on account unless the person has applied for and has received from the director a solicitation permit as required by AS 21.69.

(d) A fraudulent insurance act is committed by a person who makes a false sworn statement that the person does not believe to be true as to matter material to an examination, investigation, or hearing of the division.

(e) A fraudulent insurance act is committed by a person if

(1) as to a matter material to an examination, investigation, or hearing by the division, the person makes two or more sworn statements that are irreconcilably inconsistent to the degree that one of them is necessarily false; and

(2) the person does not believe one of the statements to be true at the time the statement is made.

(f) A fraudulent insurance act is committed by a person who with intent to deceive, knowingly exhibits a false account, document, or advertisement, relative to the affairs of an insurer, a corporation, or syndicate of the kind described in AS 21.69.060, formed or proposed to be formed.

(g) A fraudulent insurance act is committed by a person who wrongfully removes or attempts to remove records from the place where they are required to be kept under AS 21.69.390(a) or who conceals or attempts to conceal records from the director.

(h) A fraudulent insurance act is committed by a person who deliberately perpetrates a fraud upon the director under AS 21.22.

(i) A criminal insurance act is committed by an insurer doing business in this state who knowingly

(1) writes, places, or causes to be written or placed in this state a policy, duplicate policy, or contract of insurance of any kind or character, or general or floating policy upon persons or property resident, situated, or located in this state, from or through a broker, agent, surplus line broker, or person who has not secured a general agent license in this state; or

(2) pays a commission or form of remuneration to a person, firm, or organization for the writing or placing of insurance coverage in this state unless that person, firm, or organization holds a license issued by the director for the kind of insurance written or placed.

(j) A criminal insurance act is committed by a person in this state who acts as an insurance agent, broker, solicitor, or adjuster without being licensed by the director. A criminal insurance act is committed by an agent, broker, or solicitor who solicits or takes application for, procures, or places for others any insurance for which the person is not licensed or for which the license of the person has been suspended or revoked. This subsection does not apply to a person described in AS 21.90.910 or to a person securing and forwarding information required for the purpose of a group insurance covering the unpaid balance or remaining payments proposed to be made in connection with the purchase of merchandise or services if no commission or other compensation is payable on account of the insurance to the person.

(k) A criminal insurance act is committed by an agent, general agent, broker, or solicitor who knowingly compensates or offers to compensate in any manner a person other than an agent, general agent, broker, or solicitor licensed in this or another state or province, for procuring or in any manner helping to procure applications for or to place insurance in this state. This subsection does not apply to the payment of compensation that is not contingent upon volume of business transacted in the form of salaries to the regular employees of the agent, general agent, broker, or solicitor.

(l) A criminal insurance act is committed by a person who has placed insurance with an unauthorized insurer and refuses to obey an order by the director to produce for examination all

policies and other documents evidencing the insurance and the amount of premiums paid or agreed to be paid for the insurance.

(m) A criminal insurance act is committed by a director of a domestic stock or mutual insurer who votes for or concurs in a declaration or payment of a dividend to stockholders or members other than as authorized under AS 21.69.490 - 21.69.500.

(n) A criminal insurance act is committed by an agent or other representative of an insurer involved in the procuring or issuance of an insurance contract who intentionally fails to report to the insurer the exact amount of consideration charged as premium for the contract and to maintain records showing that information.

(o) A fraudulent insurance act is committed by a person who, with intent to injure, defraud, or deceive, knowingly makes a false or fraudulent statement or representation in or with reference to an application for insurance.

(p) A fraudulent insurance act is committed by a person who

- (1) with intent to violates a provision of this title or a regulation issued under it;
- (2) falsely makes, completes, or alters a certificate of insurance or other document relating to insurance;
- (3) knowingly possesses a forged certificate of insurance or other document relating to insurance; or
- (4) knowingly issues a forged certificate of insurance or other document relating to insurance.

(q) A fraudulent or criminal insurance act described in

- (1)(b) of this section that is committed to obtain \$10,000 or more is a class B felony;
- (2)(c) or (d) of this section is a class B felony;
- (3)(b) of this section that is committed to obtain \$500 or more but less than \$10,000 is a class C felony;
- (4)(e), (f), (g), or (h) of this section is a class C felony;

- (5)(b) of this section that is committed to obtain less than \$500 is a class A misdemeanor;
- (6)(i), (j), (k), (l), (m), or (n) of this section is a class A misdemeanor;
- (7)(o) of this section is a class B misdemeanor; and
- (8)(p)(1) of this section is a class B misdemeanor unless another specific penalty is provided for the violation of the provision; and
- (9)(p)(2)-(4) of this section may be prosecuted under AS 11.46.

SECTION 21.36.365 IMMUNITY FOR REPORTS ON FRAUD

(a) A person is not liable for civil damages for filing a report with or furnishing other information whether written or oral, concerning suspected, anticipated, or completed fraudulent acts to

- (1) law enforcement officials, their agents, and employees;
- (2) the National Association of Insurance Commissioners, the division of insurance, an agency in a state that regulates insurance, or an organization established to detect and prevent fraudulent insurance acts, their agents, employees, or designees;
- (3) a person involved in the prevention and detection of fraudulent insurance acts or that person's employees, agents, or representatives.

(b) This section does not preclude liability for civil damages as a result of reckless, wilful, or intentional misconduct.

SECTION 21.36.390 NOTICE TO DIRECTOR

(a) An insurer that has reason to believe that a fraudulent claim has been made against it shall send the director a report disclosing information that the director may require.

(b) An insurer, employee, or agent of an insurer or another person acting without malice is not subject to civil liability for the filing of the report or furnishing other information required by this section or by the director.

(c) The director shall investigate facts reported under this section and shall refer facts indicating a violation of law to the appropriate prosecutor.

SECTION 21.36.400 CONFIDENTIALITY

(a) The papers, reports, documents, and evidence received under AS 21.36.390 or an investigation arising out of information received under AS 21.36.390 are not subject to public inspection for so long as the director considers confidentiality to be in the public interest or reasonably necessary to complete an investigation or protect the person investigated from unwarranted injury. Papers, reports, documents, and evidence relative to an investigation under this section are confidential and not subject to subpoena unless, after notice to the director and a hearing, a court determines the director would not be unduly hindered by public inspection.

(b) An investigator of the director is not subject to subpoena in a civil action by a court of this state to testify concerning a matter that the investigator has knowledge of under a pending insurance fraud investigation by the director.

SECTION 21.27.010 LICENSE REQUIRED

(a) A person may not act as or represent to be an insurance producer, managing general agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus lines broker, or independent adjuster in this state or relative to a subject resident, located, or to be performed in this state unless licensed under this chapter. A person may not act as or represent to be a managing general agent, reinsurance intermediary broker, or reinsurance intermediary manager representing an insurer domiciled in this state regarding a risk located outside this state unless licensed by this state.

(b) An insurance producer, a managing general agent, a reinsurance intermediary broker, a reinsurance intermediary manager, or a surplus lines broker may not solicit or take applications for, procure, place for others, or otherwise transact business for a kind or class of insurance for which the person is not licensed.

(c) A person who for a resident of this state, or for a resident of another jurisdiction from a place of business in this state, performs administrative functions, including claims administration and payment, marketing administrative functions, premium accounting, premium billing, coverage verification, underwriting authority, or certificate issuance only in regard to life insurance, disability insurance, or annuities is not required to be licensed as a managing general agent if the person

(1) is registered under this chapter as a third-party administrator; or

(2) only investigates and adjusts claims and is licensed under this chapter as an independent adjuster.

(d) A licensee may not use a fictitious name or alias unless the licensee's legal name and fictitious name or alias are on the license.

(e) A person who is an employee of an admitted insurer, who acts within the course and scope of that employment, and within the scope of the insurer's certificate of authority is not required to be additionally licensed under this section.

(f) A person who performs management services under a written contract for an admitted insurer is not required to be licensed as a managing general agent, if

(1) either (A) the person is a United States manager of the United States branch of an alien admitted insurer; or (B) the person's compensation is not based on the volume of premium written; and

(2) the person (A) is a wholly-owned subsidiary of the admitted insurer; (B) wholly owns the admitted insurer; (C) is a wholly-owned subsidiary of the insurance holding company subject to AS 21.22 that owns or controls the admitted insurer.

(g) A person who performs management services for an admitted reinsurer is not required to be licensed as a reinsurance intermediary manager if

(1) the person's compensation is not based on the volume of premium written and the person

(A) is a wholly-owned subsidiary of the admitted insurer; (B) wholly owns the admitted

insurer; or (C) is a wholly-owned subsidiary of an insurance holding company subject to AS 21.22 that owns or controls the admitted insurer;

(2) the person is a United States manager of the United States branch of an alien admitted insurer; or

(3) the person is the manager of a group, association, pool, or organization of insurers that does joint underwriting and that is subject to examination by its resident insurance regulator in a state that (A) the director has determined has enacted provisions substantially similar to those contained in this chapter; and (B) is accredited by the National Association of Insurance Commissioners.

(h) This chapter does not apply to a person licensed to practice as an attorney at law while the person is acting as an attorney at law.

(i) A person licensed under AS 21.75 as an attorney-in-fact is not required to be additionally licensed under this chapter while acting on behalf of subscribers and within the scope and authority of a subscribers agreement of a reciprocal insurer or exchange licensed under AS 21.75.

(j) This section does not apply to a person who

(1) is employed on salary or hourly wage by a person licensed under this section solely for the performance of accounting, clerical, stenographic, and similar office duties;

(2) only secures and forwards information required for the purposes of group insurance covering the unpaid balance, or remaining payments proposed to be made, in connection with the purchase of merchandise or services, if the person receives no compensation, directly or indirectly, arising out of or in any way relating to the insurance transactions; or

(3) is employed on salary by a licensee at the licensee's place of business, is supervised by and reports directly to a licensee in the firm, and who, after explaining that the matter must be reviewed by a licensee, may (A) furnish premium estimates from published or printed lists of standard rates if the person does not advise, counsel, or suggest what coverage may be needed, or otherwise solicit insurance coverage; (B) arrange appointments for a licensee if the person does not solicit insurance coverage; (C) record information from an applicant or

policyholder and complete for the licensee's personal review and signature, a certificate of insurance that is not a contract of insurance; the licensee's signature may be by facsimile; (D) inform a policyholder of the type of coverage shown in the licensee's policy record if the person does not advise that an event or hypothetical event is or is not covered; or (E) in the physical presence of the licensee, record information from an applicant or policyholder and complete for a licensee's personal review and personal signature, applications, binders, endorsements, or identification cards if the person discloses to the applicant or policyholder that the applicant or policyholder may review the matter with a licensee.

(k) In addition to the business activities expressly exempt from licensing under this section, the director may adopt regulations that exempt other activities from the licensing requirements of this section.

SECTION 11.16.130 LEGAL ACCOUNTABILITY OF ORGANIZATIONS

(a) Except as otherwise expressly provided, an organization is legally accountable for conduct constituting an offense if the conduct

(1) is the conduct of its agent and (A) within the scope of the agent's employment and in behalf of the organization; or (B) is solicited, subsequently ratified, or subsequently adopted by the organization; or

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

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

SECTION 11.31.110 SOLICITATION

(a) A person commits the crime of solicitation if, with intent to cause another to engage in conduct constituting a crime, the person solicits the other to engage in that conduct.

(b) In a prosecution under this section,

(1) it is not a defense (A) that the defendant belongs to a class of persons who by definition are legally incapable in an individual capacity of committing the crime that is the object of the solicitation; or (B) that a person whom the defendant solicits could not be guilty of the crime that is the object of the solicitation;

(2) it is an affirmative defense that the defendant, under circumstances manifesting a voluntary and complete renunciation of the defendant's criminal intent, after soliciting another person to engage in conduct constituting a crime, prevented the commission of the crime.

(c) Solicitation is a

(1) class A felony if the crime solicited is an unclassified felony;

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

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

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

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

(d) If the crime solicited is an unclassified crime described in a state law which is not part of this title and no provision for punishment of a solicitation to commit the crime is specified, the punishment for the solicitation is imprisonment for a term of not more than half the maximum period prescribed as punishment for the unclassified crime, or a fine of not more than half the maximum fine prescribed as punishment for the unclassified crime, or both. If the crime solicited is punishable by an indeterminate or life term, the solicitation is a class A felony.

SECTION 11.46.100 THEFT DEFINED

A person commits theft if

(1) with intent to deprive another of property or to appropriate property of another to oneself or a third person, the person obtains the property of another;

(2) the person commits theft of lost or mislaid property under AS 11.46.160;

(3) the person commits theft by deception under AS 11.46.180;

- (4) the person commits theft by receiving under AS 11.46.190;
- (5) the person commits theft of services under AS 11.46.200;
- (6) the person commits theft by failure to make required disposition of funds received or held under AS 11.46.210.

SECTION 11.46.110 CONSOLIDATION OF THEFT OFFENSES: PLEADING AND PROOF

- (a) Each instance of conduct defined as theft under AS 11.46.100 constitutes theft in the first, second, third, or fourth degree.
- (b) An accusation of theft is sufficient if it alleges that the defendant committed theft of property or services of the nature or value required for the commission of the crime charged without designating the particular way or manner in which the theft was committed.
- (c) Proof that the defendant engaged in conduct constituting theft as defined in AS 11.46.100 is sufficient to support a conviction based upon any indictment, information, or complaint for theft.

SECTION 11.46.120 THEFT IN THE FIRST DEGREE

- (a) A person commits the crime of theft in the first degree if the person commits theft as defined in AS 11.46.100 and the value of the property or services is \$25,000 or more.
- (b) Theft in the first degree is a class B felony.

SECTION 11.46.130 THEFT IN THE SECOND DEGREE

- (a) A person commits the crime of theft in the second degree if the person commits theft as defined in AS 11.46.100 and
 - (1) the value of the property or services is \$500 or more but less than \$25,000;
 - (2) the property is a firearm or explosive;

- (3) the property is taken from the person of another;
- (4) the property is taken from a vessel and is vessel safety or survival equipment;
- (5) the property is taken from an aircraft and the property is aircraft safety or survival equipment; or
- (6) the value of the property is \$50 or more but less than \$500 and within the preceding five years the person has been convicted and sentenced on two or more separate occasions in this or another jurisdiction of (A) AS 11.46.120, or an offense under another law or ordinance with similar elements; (B) a crime set out in this subsection or an offense under another law or ordinance with similar elements; (C) AS 11.46.140(a)(1) or (2), or an offense under another law or ordinance with similar elements; or (D) AS 11.46.220(c)(1) or (c)(2)(A), or an offense under another law or ordinance with similar elements.

(c) Theft in the second degree is a class C felony.

SECTION 11.46.140 THEFT IN THE THIRD DEGREE

(a) A person commits the crime of theft in the third degree if the person commits theft as defined in AS 11.46.100 and

- (1) the value of the property or services is \$50 or more but less than \$500;
- (2) the property is a credit card; or
- (3) the value of the property is less than \$50 and within the past five years the person has been convicted and sentenced on two or more separate occasions in this or another jurisdiction of theft or concealment of merchandise, or an offense under another law or ordinance with similar elements.

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

SECTION 11.46.150 THEFT IN THE FOURTH DEGREE

(a) A person commits the crime of theft in the fourth degree if the person commits theft as defined in AS 11.46.100 and the value of the property or services is less than \$50.

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

SECTION 11.46.180 THEFT BY DECEPTION

(a) A person commits theft by deception if, with intent to deprive another of property or to appropriate property of another to oneself or a third person, the person obtains the property of another by deception.

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

(c) As used in this section, “deception” has the meaning ascribed to it in AS 11.81.900 but does not include falsity as to matters having no pecuniary significance or “puffing” by statements unlikely to deceive reasonable persons in the group addressed.

SECTION 11.46.210 THEFT BY FAILURE TO MAKE REQUIRED DISPOSITION OF FUNDS RECEIVED OR HELD

(a) A person commits theft by failure to make required disposition of funds received or held if the person

(1) obtains property from anyone or personal services from an employee upon an agreement or subject to a known legal obligation to make specified payment or other disposition to a third person, whether from that property or its proceeds or from the person’s own property to be reserved in equivalent amount; and

(2) exercises control over the property or services as the person’s own and fails to make the required payment or disposition.

(b) It is not a defense to a prosecution based on theft by failure to make required disposition of funds received or held that it may be impossible to identify particular property as belonging to the victim at the time of the defendant's failure to make the required payment or disposition.

(c) In a prosecution based on theft by failure to make required disposition of funds received or held, the fact that the defendant was a fiduciary or an officer or employee of a government or a financial institution is prima facie evidence

(1) that the defendant exercised control over property or services as the defendant's own if the defendant failed to pay or account upon lawful demand or if an audit reveals a shortage or falsification of accounts; and

(2) that the defendant knew any legal obligation relevant under (a)(1) of this section.

SECTION 11.46.295 PRIOR CONVICTIONS

For purposes of considering prior convictions in prosecuting a crime of theft under AS 11.46.130(a)(6) or 11.46.140(a)(3), or in prosecuting the crime of concealment of merchandise under AS 11.46.220(c), a conviction for an offense under another law or ordinance with similar elements is a conviction of an offense having elements similar to those of an offense defined as such under Alaska law at the time the offense was committed.

SECTION 11.46.400 ARSON IN THE FIRST DEGREE

(a) A person commits the crime of arson in the first degree if the person intentionally damages any property by starting a fire or causing an explosion and by that act recklessly places another person in danger of serious physical injury. For purposes of this section, "another person" includes but is not limited to fire and police service personnel or other public employees who respond to emergencies, regardless of rank, functions, or duties being performed.

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

SECTION 11.46.410 ARSON IN THE SECOND DEGREE

- (a) A person commits the crime of arson in the second degree if the person intentionally damages a building by starting a fire or causing an explosion.

- (b) In a prosecution under this section, it is an affirmative defense
 - (1) that no person other than the defendant had a possessory, proprietary, or security interest in the building or that all persons having such an interest consented to the defendant's conduct; and
 - (2) that the sole intent of the defendant was to damage or destroy the building for a lawful purpose.

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

SECTION 11.46.500 FORGERY IN THE FIRST DEGREE

- (a) A person commits the crime of forgery in the first degree if the person violates AS 11.46.510 and the written instrument is or purports to be
 - (1) part of an issue of money, securities, postage, revenue stamps, or other valuable instruments issued by a government or governmental agency; or
 - (2) part of an issue of stock, bonds, or other instruments representing interests in or claims against an organization or its property.

- (b) Forgery in the first degree is a class B felony.

SECTION 11.46.505 FORGERY IN THE SECOND DEGREE

- (a) A person commits the crime of forgery in the second degree if the person violates AS 11.46.510 and the instrument is or purports to be

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

(2) a public record.

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

SECTION 11.46.510 FORGERY IN THE THIRD DEGREE

(a) A person commits the crime of forgery in the third degree if, with intent to defraud, the person

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

(2) knowingly possesses a forged instrument; or

(3) knowingly utters a forged instrument.

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

SECTION 11.46.520 CRIMINAL POSSESSION OF A FORGERY DEVICE

(a) A person commits the crime of criminal possession of a forgery device if, with intent to use it or aid another to use it for purposes of forgery, the person makes or possesses

(1) a plate, die, or other device, apparatus, equipment, or article specifically designed for use in forging written instruments; or

(2) a device, apparatus, equipment, or article capable of or adaptable for purposes of forgery.

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

SECTION 11.46.580 DEFINITIONS

(a) In AS 11.46.500 - 11.46.580, unless the context requires otherwise,

(1) to “falsely alter” a written instrument means to change, without authorization by anyone entitled to grant it, a written instrument, whether complete or incomplete, by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or any other manner, so that the instrument so altered falsely appears or purports to be in all respects an authentic creation of its ostensible maker or authorized by the ostensible maker;

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

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

(b) In AS 11.46.500 - 11.46.580,

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

(2) “utter” means to issue, deliver, publish, circulate, disseminate, transfer, or tender a written instrument or other object to another;

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

SECTION 11.46.600 SCHEME TO DEFRAUD

(a) A person commits the crime of scheme to defraud if the person engages in conduct constituting a scheme

(1) to defraud five or more persons or to obtain property or services from five or more persons by false or fraudulent pretense, representation, or promise and obtains property or services in accordance with the scheme; or

(2) to defraud one or more persons of \$10,000 or to obtain \$10,000 or more from one or more persons by false or fraudulent pretense, representation, or promise and obtains property or services in accordance with the scheme.

(b) Scheme to defraud is a class B felony.

SECTION 11.46.620 MISAPPLICATION OF PROPERTY

(a) A person commits the crime of misapplication of property if the person knowingly misapplies property that has been entrusted to that person as a fiduciary or that is property of the government or a financial institution.

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

(c) For purposes of this section, "misapply" means to deal with or dispose of property contrary to (1) law; (2) a judicial rule or order; or (3) the obligations of a fiduciary relationship.

(d) Misapplication of property is

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

(2) a class A misdemeanor if the value of the property misapplied is less than \$500.

SECTION 11.46.630 FALSIFYING BUSINESS RECORDS

(a) A person commits the crime of falsifying business records if, with intent to defraud, the person

- (1) makes or causes a false entry in the business records of an enterprise;
- (2) alters, erases, obliterates, deletes, removes, or destroys a true entry in the business records of an enterprise;
- (3) omits to make a true entry in the business records of an enterprise in violation of a duty to do so which the person knows to be imposed upon that person by law or by the nature of that person's position; or
- (4) prevents the making of a true entry or causes the omission of a true entry in the business records of an enterprise.

(b) For purposes of this section,

- (1) "business record" means a writing or article kept or maintained by an enterprise for the purpose of evidencing or reflecting its condition or activity;
- (2) "enterprise" means a private entity of one or more persons, corporate or otherwise, engaged in business, commercial, professional, charitable, political, industrial, or social activity.

(c) Falsifying business records is a class C felony.

SECTION 11.56.200 PERJURY

(a) A person commits the crime of perjury if the person makes a false sworn statement which the person does not believe to be true.

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

- (1) the statement was inadmissible under the rules of evidence; or
- (2) the oath or affirmation was taken or administered in an irregular manner.

(c) Perjury is a class B felony.

SECTION 11.56.210 UNSWORN FALSIFICATION

(a) A person commits the crime of unsworn falsification if, with the intent to mislead a public servant in the performance of a duty, the person submits a false written or recorded statement which the person does not believe to be true

(1) in an application for a benefit; or

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

(b) Unsworn falsification is a class A misdemeanor.

SECTION 11.56.220 PROOF OF GUILT

In a prosecution for perjury or unsworn falsification it is not necessary that proof be made by a particular number of witnesses or by documentary or other type of evidence.

SECTION 11.56.230 PERJURY BY INCONSISTENT STATEMENTS

(a) A person commits the crime of perjury by inconsistent statements if

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

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

(3) each statement is made within the jurisdiction of this state and within the period of the statute of limitations for the crime charged.

(b) In a prosecution under this section, it is not necessary for the state to prove which statement was false but only that one or the other was false and not believed by the defendant to be true at

the time the defendant made the statement. Proof of the irreconcilable inconsistency of the statements is prima facie evidence that one or the other of the statements was false.

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

SECTION 11.56.800 MAKING A FALSE REPORT

(a) A person commits the crime of making a false report if the person knowingly

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

(2) makes a false report to a peace officer that a crime has occurred or is about to occur;

(3) makes a false report or gives a false alarm that a fire or other incident dangerous to life or property calling for an emergency response has occurred or is about to occur; or

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

SECTION 28.35.110 PENALTY FOR GIVING FALSE INFORMATION IN REPORT OR FAILING TO REPORT (MOTOR VEHICLES)

(a) A person who gives information in reports as required in AS 28.35.080 knowing or having reason to believe that the information is false is punishable by a fine of not more than \$1,000, or by imprisonment for not more than one year, or by both.

SECTION 23.30.250 PENALTY FOR MISREPRESENTATION (WORKERS' COMPENSATION)

A person who wilfully makes a false or misleading statement or representation for the purposes of obtaining or denying a benefit or payment under this chapter is guilty of theft by deception as defined in AS 11.46.180 and is punishable as provided in AS 11.46.120 - 11.46.150.