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IN SENATE

INTRODUCTORY NO. 3064

PRINT NO. 3250

IN ASSEMBLY

INTRODUCTORY NO. 4924

PRINT NO. 5085

6/3/65 (THURS): ASSEMBLY

Pr. 5085 (main bill); 106-24 (Passed)

Pr. 7135 (no vote): ? (Passed) (6109 was recommended)

Pr. 7166 } cruelty to animals (128-2) Passed Intro 6099

Pr. 7165 } (128-2) Passed Intro 6098

Pr. 5156 Transfer (118-12) Passed

Pr. 5147 Vol. 117 } adultery (76-49) slow vote Defeated (76 is majority)

Pr. 5148 Vol. 117 } sodomy (117-13) Passed

Pr. 7134 Savings clause) Passed (A Intro 6085)

6/8/65 (Tues)

Pr. 5147 (96-32)* (adultery) Passed

6/9/65 (Wed)

Senate: Passed Main Bill; Transfer; Adultery; Sodomy

STATE OF NEW YORK



Intro. S. 3064

Intro. A. 4924

Print. S. 3250

Print. A. 5085

SENATE — ASSEMBLY

March 16, 1965

IN SENATE—Introduced by Mr. HUGHES—read twice and ordered printed, and when printed to be committed to the Committee on Codes

IN ASSEMBLY—Introduced by Mr. BARTLETT—read once and referred to the Committee on Codes

AN ACT

Providing for the punishment of offenses, constituting chapter forty of the consolidated laws

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 CHAPTER 40 OF THE CONSOLIDATED LAWS

2 PENAL LAW

3 Article 1. General purposes (§§ 1.00–1.05).

4 5. General rules of construction and application (§§ 5.00–
5 5.10).

6 10. Definitions (§ 10.00).

7 15. Culpability (§§ 15.00–15.25).

8 EXPLANATION — Matter in *italics* is new; matter in brackets [] is old law to be omitted.

- 1 20. Parties to offenses and liability through accessorial
2 conduct (§§ 20.00-20.25).
- 3 25. Defenses in general (§§ 25.00).
- 4 30. Defenses involving lack of criminal responsibility
5 (§§ 30.00-30.05).
- 6 35. Defenses involving lack of culpability (§§ 35.00-35.45).
- 7 55. Classification and designation of offenses (§§ 55.00-
8 55.10).
- 9 60. Authorized disposition of offenders (§ 60.00).
- 10 65. Sentences of probation, conditional discharge and
11 unconditional discharge (§§ 65.00-65.20).
- 12 70. Sentences of imprisonment (§§ 70.00-70.40).
- 13 75. Reformatory sentence of imprisonment for young
14 adults (§§ 75.00-75.20).
- 15 80. Fines (§§ 80.00-80.15).
- 16 100. Criminal solicitation (§§ 100.00-100.20).
- 17 105. Conspiracy (§§ 105.00-105.30).
- 18 110. Attempt (§§ 110.00-110.10).
- 19 115. Criminal facilitation (§§ 115.00-115.15).
- 20 120. Assault and related offenses (§§ 120.00-120.35).
- 21 125. Homicide, abortion and related offenses (§§ 125.00-
22 125.60).
- 23 130. Sex offenses (§§ 130.00-130.65).
- 24 135. Kidnapping, coercion and related offenses (§§ 135.00-
25 135.75).
- 26 140. Burglary and related offenses (§§ 140.00-140.35).
- 27 145. Criminal mischief (§§ 145.00-145.30).

- 1 150. Arson (§§ 150.00–150.15).
- 2 155. Larceny (§§ 155.00–155.45).
- 3 160. Robbery (§§ 160.00–160.15).
- 4 165. Other offenses relating to theft (§§ 165.00–165.65).
- 5 170. Forgery and related offenses (§§ 170.00–170.60).
- 6 175. Offenses involving false written statements (§§ 175.00–
- 7 175.50).
- 8 180. Bribery not involving public servants and related
- 9 offenses (§§ 180.00–180.55).
- 10 185. Frauds on creditors (§§ 185.00–185.15).
- 11 190. Other frauds (§§ 190.00–190.35).
- 12 195. Official misconduct and obstruction of public servants
- 13 generally (§§ 195.00–195.15).
- 14 200. Bribery involving public servants and related offenses
- 15 (§§ 200.00–200.50).
- 16 205. Escape and other offenses relating to custody
- 17 (§§ 205.00–205.65).
- 18 210. Perjury and related offenses (§§ 210.00–210.50).
- 19 215. Other offenses relating to judicial and other proceed-
- 20 ings (§§ 215.00–215.75).
- 21 220. Dangerous drug offenses (§§ 220.00–220.45).
- 22 225. Gambling offenses (§§ 225.00–225.40).
- 23 230. Prostitution offenses (§§ 230.00–230.40).
- 24 235. Obscenity and related offenses (§§ 235.00–235.30).
- 25 240. Offenses against public order (§§ 240.00–240.50).
- 26 245. Offenses against public sensibilities (§§ 245.00–245.20).
- 27 250. Offenses against the right to privacy (§§ 250.00–250.35).

1 255. Offenses affecting the marital relationship (§§ 255.00-
2 255.30).

3 260. Offenses relating to children and incompetents
4 (§§ 260.00-260.25).

5 265. Firearms and other dangerous weapons (§§ 265.00-
6 265.35).

7 270. Other offenses relating to public safety (§§ 270.00-
8 270.15).

9 400. Licensing and other provisions relating to firearms
10 (§§ 400.00-400.05).

11 405. Licensing and other provisions relating to fireworks
12 (§§ 405.00-405.05).

13 410. Seizure and forfeiture of equipment used in promoting
14 pornography (§ 410.00).

15 500. Laws repealed; time of taking effect (§§ 500.00-500.05).

16 **PART ONE**

17 **GENERAL PROVISIONS**

18 **TITLE A**

19 **GENERAL PURPOSES, RULES OF CONSTRUCTION, AND DEFINITIONS**

20 **ARTICLE 1**

21 **GENERAL PURPOSES**

22 Section 1.00 Short title.

23 1.05 General purposes.

24 § 1.00 Short title.

25 This chapter shall be known as the "Penal Law."

26 § 1.05 General purposes.

27 The general purposes of the provisions of this chapter are:

- 1 1. To proscribe conduct which unjustifiably and inexcusably
2 causes or threatens substantial harm to individual or public inter-
3 ests;
- 4 2. To give fair warning of the nature of the conduct proscribed
5 and of the sentences authorized upon conviction;
- 6 3. To define the act or omission and the accompanying mental
7 state which constitute each offense;
- 8 4. To differentiate on reasonable grounds between serious and
9 minor offenses and to prescribe proportionate penalties therefor;
10 and
- 11 5. To insure the public safety by preventing the commission of
12 offenses through the deterrent influence of the sentences authorized,
13 the rehabilitation of those convicted, and their confinement when
14 required in the interests of public protection.

15 ARTICLE 5

16 GENERAL RULES OF CONSTRUCTION AND APPLICATION

17 Section 5.00 Penal law not strictly construed.

18 5.05 Application of chapter to offenses committed before
19 and after enactment.

20 5.10 Other limitations on applicability of this chapter.

21 § 5.00 Penal law not strictly construed.

22 The general rule that a penal statute is to be strictly construed
23 does not apply to this chapter, but the provisions herein must be
24 construed according to the fair import of their terms to promote
25 justice and effect the objects of the law.

26 § 5.05 Application of chapter to offenses committed before and
27 after enactment.

1 1. The provisions of this chapter shall govern the construction
2 of and punishment for any offense defined in this chapter and
3 committed after the effective date hereof, as well as the construc-
4 tion and application of any defense to a prosecution for such an
5 offense.

6 2. Unless otherwise expressly provided, or unless the context
7 otherwise requires, the provisions of this chapter shall govern the
8 construction of and punishment for any offense defined outside of
9 this chapter and committed after the effective date thereof, as well
10 as the construction and application of any defense to a prosecution
11 for such an offense.

12 3. The provisions of this chapter do not apply to or govern the
13 construction of and punishment for any offense committed prior to
14 the effective date of this chapter, or the construction and applica-
15 tion of any defense to a prosecution for such an offense. Such an
16 offense must be construed and punished according to the provisions
17 of law existing at the time of the commission thereof in the same
18 manner as if this chapter had not been enacted.

19 § 5.10 Other limitations on applicability of this chapter.

20 1. Except as otherwise provided, the procedure governing the
21 accusation, prosecution, conviction and punishment of offenders and
22 offenses is not regulated by this chapter but by the code of criminal
23 procedure.

24 2. This chapter does not affect any power conferred by law upon
25 any court-martial or other military authority or officer to prosecute
26 and punish conduct and offenders violating military codes or laws.

27 3. This chapter does not bar, suspend, or otherwise affect any

1 public or private corporation, an unincorporated association, a part-
2 nership, a government or a governmental instrumentality.

3 7. "Possess" means to have physical possession or otherwise to
4 exercise dominion or control over tangible property.

5 8. "Physical injury" means impairment of physical condition
6 or substantial pain. *See p. 70 lines 21-22*

7 9. "Serious physical injury" means physical injury which cre-
8 ates a substantial risk of death, or which causes serious and pro-
9 tracted disfigurement, protracted impairment of health or pro-
10 tracted loss or impairment of the function of any bodily organ.

11 10. "Deadly physical force" means physical force which, under
12 the circumstances in which it is used, is readily capable of causing
13 death or serious physical injury.

14 11. "Deadly weapon" means any loaded weapon from which a
15 shot may be discharged by gunpowder, or a switchblade knife,
16 gravity knife, billy, blackjack, bludgeon, metal knuckles, or slung-
17 shot.

18 12. "Dangerous instrument" means any instrument, article or
19 substance which, under the circumstances in which it is used,
20 attempted to be used or threatened to be used, is readily capable
21 of causing death or serious physical injury, and includes a
22 "vehicle" as that term is defined in this section

23 13. "Vehicle" means a "motor vehicle" as defined in the vehicle
24 and traffic law, any aircraft, or any vessel equipped for propulsion
25 by mechanical means or by sail.

26 14. "Public servant" means (a) any public officer or employee
27 of the state or of any political subdivision thereof or of any gov-

disposition unincorporated association resulting from some factor other than natural death

1 ermental instrumentality within the state, or (b) any person
2 exercising the functions of any such public officer or employee.
3 The term public servant includes a person who has been elected or
4 designated to become a public servant.

5 15. "Juror" means any person who is a member of any jury,
6 including a grand jury, impaneled by any court in this state in any
7 action or proceeding or by any public servant authorized by law
8 to impanel a jury in any action or proceeding. The term juror also
9 includes a person who has been drawn or summoned to attend as a
10 prospective juror.

11 16. "Benefit" means any gain or advantage to the beneficiary
12 and includes any gain or advantage to a third person pursuant to
13 the desire or consent of the beneficiary.

14 TITLE B

15 PRINCIPLES OF CRIMINAL LIABILITY

16 ARTICLE 15

17 CULPABILITY

18 Section 15.00 Culpability; definitions of terms.

19 15.05 Culpability; definitions of culpable mental states.

20 15.10 Requirements for criminal liability in general and
21 for offenses of strict liability and mental culpa-
22 bility.

23 15.15 Construction of statutes with respect to culpability
24 requirements.

25 15.20 Effect of ignorance or mistake upon liability.

26 15.25 Effect of intoxication upon liability.

27 § 15.00 Culpability; definitions of terms.

Proposed amendments

1 The following definitions are applicable to this chapter :

2 1. "Act" means a bodily movement.

3 2. "Voluntary act" means a bodily movement performed con-
4 sciously as a result of effort or determination, and includes the
5 possession of property if the actor was aware of his physical posses-
6 sion or control thereof for a sufficient period to have been able to
7 terminate it.

8 3. "Omission" means a failure to perform an act as to which a
9 duty of performance is imposed by law.

10 4. "Conduct" means an act or omission and its accompanying
11 mental state.

12 5. "To act" means either to perform an act or to omit to per-
13 form an act.

14 6. "Culpable mental state" means "intentionally" or "know-
15 ingly" or "recklessly" or with "criminal negligence," as these
16 terms are defined in section 15.05.

17 § 15.05 Culpability; definitions of culpable mental states.

18 The following definitions are applicable to this chapter :

19 1. "Intentionally." A person acts intentionally with respect to
20 a result or to conduct described by a statute defining an offense
21 when his conscious objective is to cause such result or to engage in
22 such conduct.

23 2. "Knowingly." A person acts knowingly with respect to con-
24 duct or to a circumstance described by a statute defining an offense
25 when he is aware that his conduct is of such nature or that such
26 circumstance exists.

27 3. "Recklessly." A person acts recklessly with respect to a

1 result or to a circumstance described by a statute defining an offense
2 when he is aware of and consciously disregards a substantial and
3 unjustifiable risk that such result will occur or that such circum-
4 stance exists. The risk must be of such nature and degree that
5 disregard thereof constitutes a gross deviation from the standard of
6 conduct that a reasonable person would observe in the situation.
7 A person who creates such a risk but is unaware thereof solely by
8 reason of voluntary intoxication also acts recklessly with respect
9 thereto.

10 4. "Criminal negligence." A person acts with criminal negli-
11 gence with respect to a result or to a circumstance described by a
12 statute defining an offense when he fails to perceive a substantial
13 and unjustifiable risk that such result will occur or that such cir-
14 cumstance exists. The risk must be of such nature and degree that
15 the failure to perceive it constitutes a gross deviation from the
16 standard of care that a reasonable person would observe in the
17 situation.

18 § 15.10 Requirements for criminal liability in general and for
19 offenses of strict liability and mental culpability.

20 The minimal requirement for criminal liability is the perform-
21 ance by a person of conduct which includes a voluntary act or the
22 omission to perform an act which he is physically capable of per-
23 forming. If such conduct is all that is required for commission of
24 a particular offense, or if an offense or some material element
25 thereof does not require a culpable mental state on the part of the
26 actor, such offense is one of "strict liability." If a culpable mental
27 state on the part of the actor is required with respect to every

1 material element of an offense, such offense is one of "mental culp-
2 ability."

3 § 15.15 Construction of statutes with respect to culpability
4 requirements.

5 1. When the commission of an offense defined in this chapter, or
6 some element of an offense, requires a particular culpable mental
7 state, such mental state is ordinarily designated in the statute
8 defining the offense by use of the terms "intentionally," "know-
9 ingly," "recklessly" or "criminal negligence," or by use of terms,
10 such as "with intent to defraud" and "knowing it to be false,"
11 describing a specific kind of intent or knowledge. When one and
12 only one of such terms appears in a statute defining an offense, it
13 is presumed to apply to every element of the offense unless an
14 intent to limit its application clearly appears.

15 2. Although no culpable mental state is expressly designated in a
16 statute defining an offense, a culpable mental state may neverthe-
17 less be required for the commission of such offense, or with respect
18 to some or all of the material elements thereof, if the proscribed
19 conduct necessarily involves such culpable mental state. A statute
20 defining a crime, unless clearly indicating a legislative intent to
21 impose strict liability, should be construed as defining a crime of
22 mental culpability. This subdivision applies to offenses defined
23 both in and outside this chapter.

24 § 15.20 Effect of ignorance or mistake upon liability.

25 1. A person is not relieved of criminal liability for conduct
26 because he engages in such conduct under a mistaken belief of
27 fact, unless:

1 (a) Such factual mistake negatives the culpable mental
2 state required for the commission of an offense; or

3 (b) The statute defining the offense or a statute related
4 thereto expressly provides that such factual mistake con-
5 stitutes a defense or exemption; or

6 (c) Such factual mistake is of a kind that supports a
7 defense of justification as defined in article thirty-five of this
8 chapter.

9 2. A person is not relieved of criminal liability for conduct
10 because he engages in such conduct under a mistaken belief that
11 it does not, as a matter of law, constitute an offense, unless such
12 mistaken belief is founded upon an official statement of the law con-
13 tained in (a) a statute or other enactment, or (b) an administra-
14 tive order or grant of permission, or (c) a judicial decision of a
15 state or federal court, or (d) an interpretation of the statute or
16 law relating to the offense, officially made or issued by a public
17 servant, agency or body legally charged or empowered with the
18 responsibility or privilege of administering, enforcing or interpret-
19 ing such statute or law.

20 3. Notwithstanding any other provision of this chapter and not-
21 withstanding the use of the term "knowingly" in any offense
22 defined in this chapter in which the age of a child is an element
23 thereof, knowledge by the defendant of the age of such child is
24 not an element of any such offense and it is no defense to a prose-
25 cution therefor that the defendant did not know the age of the
26 child or believed such age to be the same as or greater than that
27 specified in the statute.

1 § 15.25 Effect of intoxication upon liability.

2 Intoxication is not, as such, a defense to a criminal charge; but
3 in any prosecution for an offense, evidence of intoxication of the
4 defendant may be offered by the defendant whenever it is relevant
5 to negative an element of the crime charged.

6 ARTICLE 20

7 PARTIES TO OFFENSES AND LIABILITY THROUGH ACCESSORIAL CONDUCT

8 Section 20.00 Criminal liability for conduct of another.

9 20.05 Criminal liability for conduct of another; no defense.

10 20.10 Criminal liability for conduct of another; exemption.

11 20.15 Convictions for different degrees of offense.

12 20.20 Criminal liability of corporations.

13 20.25 Criminal liability of an individual for corporate
14 conduct.

15 § 20.00 Criminal liability for conduct of another.

16 When one person engages in conduct which constitutes an offense,
17 another person is criminally liable for such conduct when, acting
18 with the mental culpability required for the commission ^{of such offense,} ~~(thereof)~~ he
19 solicits, requests, commands, importunes, or intentionally aids such
20 person to engage in such conduct.

21 § 20.05 Criminal liability for conduct of another; no defense.

22 In any prosecution for an offense in which the criminal liability
23 of the defendant is based upon the conduct of another person pur-
24 suant to section 20.00, it is no defense that:

25 1. Such other person is not guilty of the offense in question
26 owing to criminal irresponsibility or other legal incapacity or
27 exemption, or to unawareness of the criminal nature of the conduct

These words cover compell

Part in duress

Perhaps this covers duress & entrapment

excuse or defense! (strike rest of subd.)

e.g., A + B A has gun but has license B is guilty of gun

*into the availability of
the defense of duress; or*

1 in question or of the defendant's criminal purpose (or to other) *perhaps*
2 factors precluding the mental state required for the commission of *covers*
3 the offense in question; or *intox.*

4 2. Such other person has not been prosecuted for or convicted of
5 any offense based upon the conduct in question, or has previously
6 been acquitted thereof, or has legal immunity from prosecution
7 therefor; or

8 3. The offense in question, as defined, can be committed only by a
9 particular class or classes of persons, and the defendant, not
10 belonging to such class or classes, is for that reason legally incap-
11 able of committing the offense in an individual capacity.

12 § 20.10 Criminal liability for conduct of another; exemption.

13 Notwithstanding the provisions of sections 20.00 and 20.05, a per-
14 son is not criminally liable for conduct of another person constitut-
15 ing an offense when his own conduct, though causing or aiding the
16 commission of such offense, is of a kind that is necessarily inci-
17 dental thereto. If such conduct constitutes a related but separate
18 offense upon the part of the actor, he is liable for that offense only
19 and not for the conduct or offense committed by the other person.

20 § 20.15 Convictions for different degrees of offense.

21 Except as otherwise expressly provided in this chapter, when,
22 pursuant to section 20.00, two or more persons are criminally liable
23 for an offense which is divided into degrees, each person is guilty
24 of such degree as is compatible with his own culpable mental state
25 and with his own accountability for an aggravating fact or circum-
26 stance.

*1. Such other person is not guilty of the offense in question
owing to unawareness of the criminal nature of the conduct
in question or of the def's crim. purpose or to other factors
precluding the mental state required for the commis-
sion of the offense in question or to a bona fide error*

1 § 20.20 Criminal liability of corporations.

2 1. As used in this section :

3 (a) "Agent" means any director, officer or employee of a
4 corporation, or any other person who is authorized to act in
5 behalf of the corporation.

6 (b) "High managerial agent" means an officer of a corpor-
7 ation or any other agent in a position of comparable authority
8 with respect to the formulation of corporate policy or the
9 supervision in a managerial capacity of subordinate employees.

10 2. A corporation is guilty of an offense when :

11 (a) The conduct constituting the offense consists of an
12 omission to discharge a specific duty of affirmative performance
13 imposed on corporations by law ; or

14 (b) The conduct constituting the offense is engaged in,
15 authorized, solicited, requested, commanded, or recklessly tol-
16 erated by the board of directors or by a high managerial agent
17 acting within the scope of his employment and in behalf of the
18 corporation ; or

19 (c) The conduct constituting the offense is engaged in by
20 an agent of the corporation while acting within the scope of
21 his employment and in behalf of the corporation and (i) the
22 offense is a misdemeanor or a violation, or (ii) the offense is one
23 defined by a statute which clearly indicates a legislative intent
24 to impose such criminal liability on a corporation.

25 § 20.25 Criminal liability of an individual for corporate conduct.

26 A person is criminally liable for conduct constituting an offense
27 which he performs or causes to be performed in the name of or in

1 behalf of a corporation to the same extent as if such conduct were
2 performed in his own name or behalf.

3 TITLE C

4 DEFENSES

5 ARTICLE 25

6 DEFENSES IN GENERAL

7 Section 25.00 Defenses; burden of proof.

8 § 25.00 Defenses; burden of proof.

9 1. When a "defense," other than an "affirmative defense,"
10 defined by statute is raised at a trial, the people have the burden
11 of disproving such defense beyond a reasonable doubt.

12 2. When a defense declared by statute to be an "affirmative
13 defense" is raised at a trial, the defendant has the burden of
14 establishing such defense by a preponderance of the evidence.

15 ARTICLE 30

16 DEFENSES INVOLVING LACK OF CRIMINAL RESPONSIBILITY

17 Section 30.00 Infancy.

18 30.05 Mental disease or defect.

19 § 30.00 Infancy.

20 1. A person less than sixteen years old is not criminally respon-
21 sible for conduct.

22 2. In any prosecution for an offense, lack of criminal responsi-
23 bility by reason of infancy, as defined in subdivision one of this
24 section, is a defense.

25 § 30.05 Mental disease or defect.

26 1. A person is not criminally responsible for conduct if at the

1 time of such conduct, as a result of mental disease or defect, he
2 lacks substantial capacity to know or appreciate either:

3 (a) The nature and consequence of such conduct; or

4 (b) That such conduct ^{IS} [was] wrong.

5 2. In any prosecution for an offense, lack of criminal responsi-
6 bility by reason of mental disease or defect, as defined in subdi-
7 vision one of this section, is a defense.

8 ARTICLE 35

9 DEFENSES INVOLVING LACK OF CULPABILITY

10 Section 35.00 Justification; a defense.

11 35.05 Justification; generally.

12 35.10 Justification; use of physical force generally.

13 35.15 Justification; use of physical force in defense of a
14 person.

15 35.20 Justification; use of physical force in defense of
16 premises.

17 35.25 Justification; use of physical force in defense of
18 property.

19 35.30 Justification; use of physical force in making an
20 arrest or in preventing an escape.

21 35.35 Duress.

22 35.40 Entrapment.

23 35.45 Renunciation.

24 § 35.00 Justification; a defense.

25 In any prosecution for an offense, justification, as defined in
26 sections 35.05 through 35.30, is a defense.

27 § 35.05 Justification; generally.

5/13/15 Lt. Monahan (R.D.W.) some provisions excluding police acting in case of duty e.g., pursuing

1 Unless inconsistent with the ensuing provisions of this article
2 defining justifiable use of physical force, or with some other pro-
3 vision of law, conduct which would otherwise constitute an offense
4 is justifiable and not criminal when:

5 1. Such conduct is required or authorized by a provision of law
6 or by a judicial decree. Among the kinds of such provisions and
7 decrees are (a) laws defining duties and functions of public serv-
8 ants, (b) laws defining duties of private citizens to assist public
9 servants in the performance of certain of their functions, (c) laws
10 governing the execution of legal process, (d) laws governing the
11 military services and the conduct of war, and (e) judgments and
12 orders of competent courts; or

13 2. Such conduct is necessary as an emergency measure to avoid
14 an imminent public or private injury which is about to occur by
15 reason of a situation occasioned or developed through no fault of
16 the actor, and which is of such gravity that, according to ordinary
17 standards of intelligence and morality, the desirability and urgency
18 of avoiding such injury clearly outweigh the desirability of avoid-
19 ing the injury sought to be prevented by the statute defining the
20 offense in issue. The necessity and justifiability of such conduct
21 may not rest upon considerations pertaining only to the morality
22 and advisability of the statute, either in its general application or
23 with respect to its application to a particular class of cases arising
24 thereunder. Whenever evidence relating to the defense of justifi-
25 cation under this subdivision is offered by the defendant, the court
26 shall rule as a matter of law whether the claimed facts and cir-
27 cumstances would, if established, constitute a defense.

provisions excluding police acting in case of duty e.g., pursuing

1 § 35.10 Justification; use of physical force generally.

2 The use of physical force upon another person which would other-
3 wise constitute an offense is justifiable and not criminal under any
4 of the following circumstances:

5 1. A parent, guardian or other person entrusted with the care
6 and supervision of a minor or an incompetent person, and a teacher
7 or other person entrusted with the care and supervision of a minor
8 for a special purpose, may use physical force, but not deadly phys-
9 ical force, upon such minor or incompetent person when and to
10 the extent that he reasonably believes it necessary to maintain
11 discipline or to promote the welfare of such minor or incompetent
12 person.

13 2. A warden or other authorized official of a jail, prison or cor-
14 rectional institution may, in order to maintain order and discipline;
15 use such physical force as is authorized by the correction law.

16 3. A person responsible for the maintenance of order in a com-
17 mon carrier of passengers, or a person acting under his direction,
18 may use physical force when and to the extent that he reasonably
19 believes it necessary to maintain order, but he may use deadly
20 physical force only when he reasonably believes it necessary to
21 prevent death or serious physical injury.

22 4. A person acting under a reasonable belief that another person
23 is about to commit suicide or to inflict serious physical injury
24 upon himself may use physical force upon such person to the extent
25 that he reasonably believes it necessary to thwart such result.

26 5. A duly licensed physician, or a person acting under his direc-
27 tion, may use physical force for the purpose of administering a

1 recognized form of treatment which he reasonably believes to be
2 adapted to promoting the physical or mental health of the patient
3 if (a) the treatment is administered with the consent of the patient
4 or, if the patient is a minor or an incompetent person, with the
5 consent of his parent, guardian or other person entrusted with his
6 care and supervision, or (b) the treatment is administered in an
7 emergency when the physician reasonably believes that no one com-
8 petent to consent can be consulted and that a reasonable person,
9 wishing to safeguard the welfare of the patient, would consent.

10 6. A person may use physical force upon another person in
11 defending himself or a third person, in defending property, in
12 making an arrest or in preventing an escape, as hereafter pre-
13 scribed in this article.

14 § 35.15 Justification; use of physical force in defense of a person.

15 1. Except as provided in subdivisions two, three and four of this
16 section, a person is justified in using physical force upon another
17 person in order to defend himself or a third person from what he
18 reasonably believes to be the use or imminent use of unlawful
19 physical force by such other person, and he may use a degree of
20 force which he reasonably believes to be necessary for such pur-
21 pose; except that deadly physical force may not be used unless the
22 actor reasonably believes that such other person is (a) using or
23 about to use unlawful deadly physical force, or (b) using or about
24 to use physical force against an occupant of a dwelling while com-
25 mitting or attempting to commit a burglary of such dwelling, or
26 (c) committing or about to commit a kidnapping, robbery, forcible
27 rape or forcible sodomy.

1 2. Notwithstanding the provisions of subdivision one of this sec-
2 tion, a person is not justified in using physical force to resist an
3 arrest which he knows is being made or attempted by a peace
4 officer.

5 3. Notwithstanding the provisions of subdivison one of this sec-
6 tion, a person is not justified in using deadly physical force upon
7 another person if he knows that he can avoid the necessity of using
8 such force with complete safety (a) by retreating, except that the
9 actor is not required to retreat (i) if he is in his dwelling and was
10 not the initial aggressor, or (ii) if he is a peace officer or a private
11 person assisting him at his direction, and was acting pursuant to
12 section 35.30, or (b) by surrendering possession of property to a
13 person asserting a claim of right thereto, or (c) by complying with
14 a demand that he abstain from performing an act which he is not
15 obligated to perform.

16 4. Notwithstanding the provisions of subdivision one of this sec-
17 tion, a person is not justified in using physical force if (a) with
18 intent to cause physical injury or death to another person, he pro-
19 voked the use of unlawful physical force by such other person, or
20 (b) he was the initial aggressor, except that his use of physical
21 force upon another person under such circumstances is justifiable
22 if he withdraws from the encounter and effectively communicates
23 to such other person his intent to do so, but the latter notwith-
24 standing continues or threatens the use of unlawful physical force,
25 or (c) the physical force involved was the product of a combat
26 by agreement not specifically authorized by law.

27 § 35.20 Justification; use of physical force in defense of premises.

1 A person in possession or control of premises, as that term is
2 defined in section 140.00, or a person who is licensed or privileged
3 to be thereon, is justified in using physical force upon another
4 person when and to the extent that he reasonably believes it neces-
5 sary to prevent or terminate what he reasonably believes to be the
6 commission or attempted commission of a criminal trespass by such
7 other person in or upon such premises; but he may use deadly
8 physical force under such circumstances only (a) in defense of a
9 person as prescribed in section 35.15, or (b) when he reasonably
10 believes it necessary to prevent what he reasonably believes to be
11 an attempt by the trespasser to commit arson.

12 § 35.25 Justification; use of physical force in defense of property.

13 A person is justified in using physical force upon another person
14 when and to the extent that he reasonably believes it necessary to
15 prevent what he reasonably believes to be an attempt by such other
16 person to commit larceny or criminal mischief involving property;
17 but he may use deadly physical force under such circumstances only
18 in defense of a person as prescribed in section 35.15.

19 § 35.30 Justification; use of physical force in making an arrest
20 or in preventing an escape.

21 1. Except as provided in subdivision two of this section, a peace
22 officer is justified in using physical force upon another person when
23 and to the extent that he reasonably believes it necessary:

24 (a) to effect an arrest or to prevent the escape from custody
25 of a person whom he reasonably believes to have committed an
26 offense, unless he knows that the arrest is unauthorized; or

27 (b) to defend himself or a third person from what he reason-

1 ably believes to be the use or imminent use of physical force
2 while effecting or attempting to effect such an arrest or while
3 preventing or attempting to prevent such an escape.

4 2. A peace officer is justified in using deadly physical force
5 upon another person for a purpose specified in subdivision one of
6 this section only when he reasonably believes that such is necessary:

7 (a) to defend himself or a third person from what he reason-
8 ably believes to be the use or imminent use of deadly physical
9 force; or

10 (b) to effect an arrest or to prevent the escape from custody
11 of a person whom he reasonably believes (i) has committed or
12 attempted to commit a felony involving the use or threatened
13 use of deadly physical force, or (ii) is attempting to escape
14 by the use of a deadly weapon, or (iii) otherwise indicates
15 that he is likely to endanger human life or to inflict serious
16 physical injury unless apprehended without delay; provided
17 that nothing contained in this paragraph shall be deemed to
18 constitute justification for reckless or criminally negligent
19 conduct by such peace officer amounting to an offense against
20 or with respect to innocent persons whom he is not seeking to
21 arrest or retain in custody.

22 3. For purposes of this section, a reasonable belief that a person
23 has committed an offense means a reasonable belief in facts or cir-
24 cumstances which if true would in law constitute an offense. If
25 the believed facts or circumstances would not in law constitute an
26 offense, an erroneous though not unreasonable belief that the law
27 is otherwise does not render justifiable the use of physical force

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1 to make an arrest or to prevent an escape from custody. A peace
2 officer who is effecting an arrest pursuant to a warrant is justified
3 in using the physical force prescribed in subdivisions one and two
4 of this section unless the warrant is invalid and is known by such
5 officer to be invalid.

6 4. Except as provided in subdivision five of this section, a person
7 who has been directed by a peace officer to assist such peace officer
8 to effect an arrest or to prevent an escape from custody is justified
9 in using physical force when and to the extent that he reasonably
10 believes such to be necessary to carry out such peace officer's direc-
11 tion, unless he knows or believes that the arrest or prospective
12 arrest is not or was not authorized.

13 5. A person who has been directed to assist a peace officer under
14 circumstances specified in subdivision four of this section may use
15 deadly physical force to effect an arrest or to prevent an escape
16 from custody only when:

17 (a) he reasonably believes such to be necessary to defend
18 himself or a third person from what he reasonably believes to
19 be the use or imminent use of deadly physical force; or

20 (b) he is directed or authorized by such peace officer to use
21 deadly physical force and does not know that, if such happens
22 to be the case, the peace officer himself is not authorized to use
23 deadly physical force under the circumstances.

24 6. A private person acting on his own account is justified in using
25 physical force upon another person when and to the extent that he
26 reasonably believes it necessary to effect an arrest or to prevent
27 the escape from custody of an arrested person whom he reasonably

1 believes to have committed an offense and who in fact has com-
2 mitted such offense; but he is justified in using deadly physical
3 force for such purpose only when he reasonably believes it neces-
4 sary to defend himself or a third person from what he reasonably
5 believes to be the use or imminent use of deadly physical force.

6 7. A guard or other peace officer employed in a detention facility,
7 as that term is defined in section 205.00, is justified in using physi-
8 cal force when and to the extent that he reasonably believes it
9 necessary to prevent the escape of a prisoner from such detention
10 facility.

11 § 35.35 Duress.

12 1. In any prosecution for an offense, it is an affirmative defense
13 that the defendant engaged in the proscribed conduct because he
14 was coerced to do so by the use or threatened imminent use of unlaw-
15 ful physical force upon him or a third person, which force or
16 threatened force a person of reasonable firmness in his situation
17 would have been unable to resist.

18 2. The defense of duress as defined in subdivision one of this
19 section is not available when a person intentionally or recklessly
20 places himself in a situation in which it is probable that he will be
21 subjected to duress.

22 § 35.40 Entrapment.

23 In any prosecution for an offense, it is an affirmative defense that
24 the defendant engaged in the proscribed conduct because he was
25 induced or encouraged to do so by a public servant, or by a person
26 acting in cooperation with a public servant, seeking to obtain evi-
27 dence against him for purpose of criminal prosecution, and when

1 the methods used to obtain such evidence were such as to create a
2 substantial risk that the offense would be committed by a person
3 not otherwise disposed to commit it. Inducement or encourage-
4 ment to commit an offense means active inducement or encourage-
5 ment. Conduct merely affording a person an opportunity to com-
6 mit an offense does not constitute entrapment.

7 § 35.45 Renunciation.

8 1. In any prosecution for an offense, other than an attempt to
9 commit a crime, in which the defendant's guilt depends upon his
10 criminal liability for the conduct of another person pursuant to
11 section 20.00, it is an affirmative defense that, under circumstances
12 manifesting a voluntary and complete renunciation of his crim-
13 inal purpose, the defendant withdrew from participation in such
14 offense prior to the commission thereof and made a substantial
15 effort to prevent the commission thereof.

16 2. In any prosecution for criminal facilitation pursuant to article
17 one hundred fifteen, it is an affirmative defense that, prior to the
18 commission of the felony which he facilitated, the defendant made
19 a substantial effort to prevent the commission of such felony.

20 3. In any prosecution pursuant to section 110.00 for an attempt
21 to commit a crime, it is an affirmative defense that, under circum-
22 stances manifesting a voluntary and complete renunciation of his
23 criminal purpose, the defendant avoided the commission of the
24 crime attempted by abandoning his criminal effort and, if mere
25 abandonment was insufficient to accomplish such avoidance, by
26 taking further and affirmative steps which prevented the commis-
27 sion thereof.

1 4. In any prosecution for criminal solicitation pursuant to article
 2 one hundred or for conspiracy pursuant to article one hundred five
 3 in which the crime solicited or the crime contemplated by the con-
 4 spiracy was not in fact committed, it is an affirmative defense that,
 5 under circumstances manifesting a voluntary and complete renun-
 6 ciation of his criminal purpose, the defendant prevented the com-
 7 mission of such crime.

8 5. A renunciation is not "voluntary and complete" within the
 9 meaning of this section if it is motivated in whole or in part by
 10 (a) a belief that circumstances exist which increase the probability
 11 of detection or apprehension of the defendant or another participant
 12 in the criminal enterprise, or which render more difficult the accom-
 13 plishment of the criminal purpose, or (b) a decision to postpone the
 14 criminal conduct until another time or to transfer the criminal
 15 effort to another victim or another but similar objective.

16 **PART TWO**

17 **SENTENCES**

18 **TITLE E**

19 **SENTENCES**

20 **ARTICLE 55**

21 **CLASSIFICATION AND DESIGNATION OF OFFENSES**

22 Section 55.00 Offense; exclusion of traffic infraction.

23 55.05 Classifications of felonies and misdemeanors.

24 55.10 Designation of offenses.

25 § 55.00 Offense; exclusion of traffic infraction.

26 As used in this title, the term "offense" does not include a "traffic
 27 infraction."

1 § 55.05 Classifications of felonies and misdemeanors.

2 1. Felonies. Felonies are classified, for the purpose of sentence,
3 into five categories as follows:

4 (a) Class A felonies;

5 (b) Class B felonies;

6 (c) Class C felonies;

7 (d) Class D felonies; and

8 (e) Class E felonies.

9 2. Misdemeanors. Misdemeanors are classified, for the purpose of
10 sentence, into three categories as follows:

11 (a) Class A misdemeanors;

12 (b) Class B misdemeanors; and

13 (c) Unclassified misdemeanors.

14 § 55.10 Designation of offenses.

15 1. Felonies. The particular classification of each felony defined
16 in this chapter is expressly designated in the section or article
17 defining it. Any offense defined outside this chapter which is
18 declared by law to be a felony without specification of the classifica-
19 tion thereof, or for which a law outside this chapter provides a
20 sentence to a term of imprisonment in excess of one year, shall be
21 deemed a class E felony.

22 2. Misdemeanors.

23 (a) Each misdemeanor defined in this chapter is either a
24 class A misdemeanor or a class B misdemeanor, as expressly
25 designated in the section or article defining it.

1 (b) Any offense defined outside this chapter which is
2 declared by law to be a misdemeanor without specification of
3 the classification thereof or of the sentence therefor shall be
4 deemed a class A misdemeanor.

5 (c) Except as provided in paragraph (d) of this subdivision,
6 where an offense is defined outside this chapter and a sentence
7 to a term of imprisonment in excess of fifteen days but not in
8 excess of one year is provided in the law or ordinance defining
9 it, such offense shall be deemed an unclassified misdemeanor.

10 (d) An offense defined outside this chapter which was not
11 a crime prior to the effective date of this chapter shall not be
12 deemed a misdemeanor by virtue of any sentence specified in a
13 law or ordinance enacted prior to that date.

14 3. Violations. Every violation defined in this chapter is expressly
15 designated as such. Any offense defined outside this chapter which
16 is not expressly designated a violation shall be deemed a violation
17 if:

18 (a) Notwithstanding any other designation specified in the
19 law or ordinance defining it, a sentence to a term of imprison-
20 ment which is not in excess of fifteen days is provided therein,
21 or the only sentence provided therein is a fine; or

22 (b) A sentence to a term of imprisonment in excess of fifteen
23 days is provided for such offense in a law or ordinance enacted
24 prior to the effective date of this chapter but the offense was
25 not a crime prior to that date.

ARTICLE 60

AUTHORIZED DISPOSITION OF OFFENDERS

1
2
3 § 60.00 Authorized dispositions.

4 1. In general. Every person convicted of an offense shall be sen-
5 tenced in accordance with this title.

6 2. Class A felony. Every person convicted of a class A felony
7 shall be sentenced to imprisonment in accordance with section 70.00
8 unless such person is sentenced to death in accordance with section
9 125.35 or section 135.40.

10 3. Revocable dispositions; probation and conditional discharge.
11 When a person is convicted of an offense, the court, where author-
12 ized by article sixty-five, may sentence such person to a period of
13 probation or to a period of conditional discharge as provided in
14 that article. Such sentence shall be deemed a tentative one to the
15 extent that it may be altered or revoked in accordance with article
16 sixty-five, but for all other purposes shall be deemed to be a final
17 judgment of conviction.

18 In any case where the court imposes a sentence of probation, it
19 may also impose a fine authorized by article eighty.

20 4. Other dispositions. When a person is convicted of an offense,
21 other than a class A felony, and not sentenced to a period of proba-
22 tion or to a period of conditional discharge, or when a sentence of
23 probation or of conditional discharge is revoked, the sentence of
24 the court shall be as follows:

25 (a) A term of imprisonment authorized by article seventy;

26 or

27 (b) Where authorized by article seventy-five, a reformatory

1 period of imprisonment as provided in that article; or

2 (c) A fine authorized by article eighty, provided, however,
3 that when the conviction is of a class B felony or of any felony
4 defined in article two hundred twenty, the sentence shall not
5 consist solely of a fine; or

6 (d) Both imprisonment and a fine; or

7 (e) Where authorized by section 65.20, unconditional dis-
8 charge as provided in that section.

9 In any case where a person has been sentenced to a period of
10 probation and a fine, if the part of the sentence that provides for
11 probation is revoked, the court shall sentence such person to impris-
12 onment.

13 5. Corporations. When a corporation is convicted of an offense,
14 the sentence of the court shall be as follows:

15 (a) A fine authorized by section 80.10; or

16 (b) Where authorized by section 65.05, a period of condi-
17 tional discharge as provided in that section; or

18 (c) Where authorized by section 65.20, unconditional dis-
19 charge as provided in that section.

20 In any case where a corporation has been sentenced to a period
21 of conditional discharge and such sentence is revoked, the court
22 shall sentence the corporation to pay a fine.

23 6. Civil penalties. This section does not deprive the court of any
24 authority conferred by law to decree a forfeiture of property, sus-
25 pend or cancel a license, remove a person from office, or impose any
26 other civil penalty and any appropriate order exercising such
27 authority may be included as part of the judgment of conviction.

ARTICLE 65

SENTENCES OF PROBATION, CONDITIONAL DISCHARGE AND

UNCONDITIONAL DISCHARGE

1 Section 65.00 Sentence of probation.

2 65.05 Sentence of conditional discharge.

3 65.10 Conditions of probation and of conditional discharge.

4 65.15 Calculation of periods of probation and of condi-
5 tional discharge.

6 65.20 Sentence of unconditional discharge.

7 § 65.00 Sentence of probation.

8 1. Criteria. The court may sentence a person to a period of pro-
9 bation upon conviction of any crime other than a class A felony
10 if the court, having regard to the nature and circumstances of the
11 crime and to the history, character and condition of the defendant,
12 is of the opinion that:

13 (a) Institutional confinement of the defendant is not neces-
14 sary for the protection of the public;

15 (b) The defendant is in need of guidance, training or other
16 assistance which, in his case, can be effectively administered
17 through probation supervision; and

18 (c) Such disposition is not inconsistent with the ends of
19 justice.

20 Provided, however, that the court shall not impose a sentence of
21 probation in any case where it sentences a defendant for more than
22 one crime and imposes a sentence of imprisonment for any one of
23 the crimes, or where the defendant is subject to an undischarged
24 indeterminate or reformatory sentence of imprisonment which was

1 imposed at a previous time by a court of this state and has more
2 than one year to run.

3 2. Sentence. When a person is sentenced to a period of proba-
4 tion the court shall impose the period authorized by subdivision
5 three of this section and shall specify, in accordance with section
6 65.10, the conditions to be complied with. The court may modify
7 or enlarge the conditions or, if the defendant commits an additional
8 offense or violates a condition, revoke the sentence at any time prior
9 to the expiration or termination of the period of probation.

10 3. Periods of probation. Unless terminated sooner in accordance
11 with the code of criminal procedure, the period of probation shall
12 be as follows:

13 (a) For a felony, the period of probation shall be five years;

14 (b) For a class A misdemeanor, the period of probation
15 shall be three years;

16 (c) For a class B misdemeanor, the period of probation shall
17 be one year; and

18 (d) For an unclassified misdemeanor, the period of proba-
19 tion shall be three years if the authorized sentence of imprison-
20 ment is in excess of three months, otherwise the period of pro-
21 bation shall be one year.

22 § 65.05 Sentence of conditional discharge.

23 1. Criteria. The court may impose a sentence of conditional dis-
24 charge for an offense if the court, having regard to the nature and
25 circumstances of the offense and to the history, character and con-
26 dition of the defendant, is of the opinion that neither the public
27 interest nor the ends of justice would be served by a sentence of

1 imprisonment or a fine and that probation supervision is not appro-
2 priate; provided, however, that the court shall not impose a sen-
3 tence of conditional discharge for a class A or class B felony or for
4 any felony defined in article two hundred twenty.

5 When a sentence of conditional discharge is imposed for a felony,
6 the court shall set forth in the record the reasons for its action.

7 2. Sentence. When the court imposes a sentence of conditional
8 discharge the defendant shall be released with respect to the con-
9 viction for which the sentence is imposed without imprisonment,
10 fine or probation supervision but subject, during the period of con-
11 ditional discharge, to such conditions as the court may determine.
12 The court shall impose the period of conditional discharge author-
13 ized by subdivision three of this section and shall specify, in accord-
14 ance with section 65.10, the conditions to be complied with. The
15 court may modify or enlarge the conditions or, if the defendant
16 commits an additional offense or violates a condition, revoke the
17 sentence at any time prior to the expiration or termination of the
18 period of conditional discharge.

19 3. Periods of conditional discharge. Unless terminated sooner
20 in accordance with the code of criminal procedure, the period of
21 conditional discharge shall be as follows:

22 (a) Three years in the case of a felony; and

23 (b) One year in the case of a misdemeanor or a violation.

24 Where the court has required, as a condition of the sentence,
25 that the defendant make restitution of the fruits of his offense or
26 make reparation for the loss or damage caused thereby and such
27 condition has not been satisfied, the court, at any time prior to the

1 expiration or termination of the period of conditional discharge,
2 may impose an additional period. The length of the additional
3 period shall be fixed by the court at the time it is imposed and
4 shall not be more than two years. All of the incidents of the orig-
5 inal sentence, including the authority of the court to modify or
6 enlarge the conditions, shall continue to apply during such addi-
7 tional period.

8 § 65.10 Conditions of probation and of conditional discharge.

9 1. In general. The conditions of probation and of conditional
10 discharge shall be such as the court, in its discretion, deems reason-
11 ably necessary to insure that the defendant will lead a law-abiding
12 life or to assist him to do so.

13 2. Conditions relating to conduct and rehabilitation. When
14 imposing a sentence of probation or of conditional discharge, the
15 court may, as a condition of the sentence, require that the
16 defendant:

17 (a) Avoid injurious or vicious habits;

18 (b) Refrain from frequenting unlawful or disreputable
19 places or consorting with disreputable persons;

20 (c) Work faithfully at a suitable employment or faithfully
21 pursue a course of study or of vocational training that will
22 equip him for suitable employment;

23 (d) Undergo available medical or psychiatric treatment and
24 remain in a specified institution, when required for that pur-
25 pose;

26 (e) Support his dependents and meet other family repsonsi-
27 bilities;

1 (f) Make restitution of the fruits of his offense or make
2 reparation, in an amount he can afford to pay, for the loss or
3 damage caused thereby. When restitution or reparation is a
4 condition of the sentence, the court shall fix the amount thereof
5 and the manner of performance;

6 (g) If a minor, (i) reside with his parents or in a suitable
7 foster home or hostel as referred to in section six-f of the cor-
8 rection law, (ii) attend school, (iii) spend such part of the
9 period of the sentence as the court may direct, but not exceed-
10 ing two years, in a facility made available by the division for
11 youth pursuant to subdivision two of section five hundred two
12 of the executive law, provided that admission to such facility
13 may be made only with the prior consent of the division for
14 youth, (iv) attend a non-residential program for such hours
15 and pursuant to a schedule prescribed by the court as suitable
16 for a program of rehabilitation of youth, (v) contribute to his
17 own support in any home, foster home or hostel;

18 (h) Post a bond or other security for the performance of
19 any or all conditions imposed;

20 (i) Satisfy any other conditions reasonably related to his
21 rehabilitation.

22 3. Conditions relating to supervision. When imposing a sentence
23 of probation the court, in addition to any conditions imposed pur-
24 suant to subdivision two of this section, shall require as conditions
25 of the sentence, that the defendant:

26 (a) Report to a probation officer as directed by the court
27 or the probation officer and permit the probation officer to visit
28 him at his place of abode or elsewhere;

1 (b) Remain within the jurisdiction of the court unless
2 granted permission to leave by the court or the probation
3 officer; and

4 (c) Answer all reasonable inquiries by the probation officer
5 and promptly notify the probation officer of any change in
6 address or employment.

7 § 65.15 Calculation of periods of probation and of conditional
8 discharge.

9 1. A period of probation or a period or additional period of con-
10 ditional discharge commences on the day it is imposed. Multiple
11 periods, whether imposed at the same or at different times, shall run
12 concurrently.

13 2. When a person has violated the conditions of his probation or
14 conditional discharge and is declared delinquent by the court, the
15 declaration of delinquency shall interrupt the period of the sen-
16 tence as of the date of the delinquency and such interruption shall
17 continue until a final determination as to the delinquency has been
18 made by the court pursuant to a hearing held in accordance with
19 the provisions of the code of criminal procedure.

20 3. In any case where a person who is under a sentence of proba-
21 tion or of conditional discharge is also under an indeterminate
22 sentence of imprisonment, or a reformatory sentence of imprison-
23 ment authorized by section 75.00, imposed for some other offense by
24 a court of this state the service of the sentence of imprisonment
25 shall satisfy the sentence of probation or of conditional discharge
26 unless the sentence of probation or of conditional discharge is

1 revoked prior to the next to occur of parole or conditional release
 2 under, or satisfaction of, the sentence of imprisonment. Provided,
 3 however, that the service of an indeterminate or a reformatory
 4 sentence of imprisonment shall not satisfy a sentence of probation
 5 if the sentence of probation was imposed at a time when the sentence
 6 of imprisonment had one year or less to run.

7 § 65.20 Sentence of unconditional discharge.

8 1. Criteria. The court may impose a sentence of unconditional
 9 discharge in any case where it is authorized to impose a sentence of
 10 conditional discharge under section 65.05 if the court is of the
 11 opinion that no proper purpose would be served by imposing any
 12 condition upon the defendant's release.

13 When a sentence of unconditional discharge is imposed for a
 14 felony, the court shall set forth in the record the reasons for its
 15 action.

16 2. Sentence. When the court imposes a sentence of unconditional
 17 discharge, the defendant shall be released with respect to the con-
 18 viction for which the sentence is imposed without imprisonment,
 19 fine or probation supervision. A sentence of unconditional dis-
 20 charge is for all purposes a final judgment of conviction.

21 ARTICLE 70

22 SENTENCES OF IMPRISONMENT

23 Section 70.00 Indeterminate sentence of imprisonment for felony.

24 70.05 Alternative definite sentence for class D or E felony.

25 70.10 Sentence of imprisonment for persistent felony
 26 offender.

27 70.15 Sentences of imprisonment for misdemeanors and
 28 violation.

1 70.20 Place of imprisonment.

2 70.25 Concurrent and consecutive terms of imprisonment.

3 70.30 Calculation of terms of imprisonment.

4 70.35 Merger of certain definite and indeterminate sen-
5 tences.

6 70.40 Release on parole; conditional release.

7 § 70.00 Indeterminate sentence of imprisonment for felony.

8 1. Indeterminate sentence. A sentence of imprisonment for a
9 felony shall be an indeterminate sentence. When such a sentence
10 is imposed, the court shall impose a maximum term in accordance
11 with the provisions of subdivision two of this section and the min-
12 imum period of imprisonment shall be as provided in subdivision
13 three of this section.

14 2. Maximum term of sentence. The maximum term of an inde-
15 terminate sentence shall be at least three years and the term shall
16 be fixed as follows:

17 (a) For a class A felony, the term shall be life imprison-
18 ment;

19 (b) For a class B felony, the term shall be fixed by the court,
20 and shall not exceed twenty-five years;

21 (c) For a class C felony, the term shall be fixed by the court,
22 and shall not exceed fifteen years;

23 (d) For a class D felony, the term shall be fixed by the
24 court, and shall not exceed seven years; and

25 (e) For a class E felony, the term shall be fixed by the
26 court, and shall not exceed four years.

1 3. Minimum period of imprisonment. The minimum period of
2 imprisonment under an indeterminate sentence shall be at least one
3 year and shall be fixed as follows:

4 (a) In the case of a class A felony, the minimum period
5 shall be fixed by the court and specified in the sentence. Such
6 minimum period shall not be less than fifteen years nor more
7 ^{THAN} that twenty-five years;

8 (b) Where the sentence is for a class B, class C or class D
9 felony and the court, having regard to the nature and cir-
10 cumstances of the crime and to the history and character of
11 the defendant, is of the opinion that the ends of justice and
12 best interests of the public require that the court fix a minimum
13 period of imprisonment, the court may fix the minimum period.
14 In such event, the minimum period shall be specified in the
15 sentence and shall not be more than one-third of the maximum
16 term imposed. When the minimum period of imprisonment
17 is fixed pursuant to this paragraph, the court shall set forth in
18 the record the reasons for its action; and

19 (c) In any other case, the minimum period of imprisonment
20 shall be fixed by the state board of parole in accordance with
21 the provisions of the correction law.

22 § 70.05 Alternative definite sentence for class D or E felony.

23 Notwithstanding the provisions of section 70.00 of this article,
24 when a person is sentenced for a class D or class E felony and the
25 court, having regard to the nature and circumstances of the crime
26 and to the history and character of the defendant, is of the opinion
27 that a sentence of imprisonment is necessary but that it would be

1 T Y P O

1 unduly harsh to impose an indeterminate sentence, the court may
2 impose a definite sentence of imprisonment and fix a term of one
3 year or less.

4 § 70.10 Sentence of imprisonment for persistent felony offender.

5 1. Definition of persistent felony offender.

6 (a) A persistent felony offender is a person who stands con-
7 victed of a felony after having previously been convicted of
8 two or more felonies, as provided in paragraphs (b) and (c)
9 of this subdivision.

10 (b) A previous felony conviction within the meaning of
11 paragraph (a) of this subdivision is a conviction of a felony in
12 this state, or of a crime in any other jurisdiction, provided:

13 (i) that a sentence to a term of imprisonment in excess
14 of one year, or a sentence to death, was imposed therefor;
15 and

16 (ii) that the defendant was imprisoned under sentence
17 for such conviction prior to the commission of the present
18 felony; and

19 (iii) that the defendant was not pardoned on the
20 ground of innocence.

21 (c) For the purpose of determining whether a person has
22 two or more previous felony convictions, two or more convic-
23 tions of crimes that were committed prior to the time the
24 defendant was imprisoned under sentence for any of such
25 convictions shall be deemed to be only one conviction.

26 2. Authorized sentence. When the court has found, pursuant to
27 the provisions of the code of criminal procedure, that a person is a

1 persistent felony offender, and when it is of the opinion that the
2 history and character of the defendant and the nature and circum-
3 stances of his criminal conduct indicate that extended incarceration
4 and life-time supervision will best serve the public interest, the
5 court, in lieu of imposing the sentence of imprisonment authorized
6 by section 70.00 for the crime of which such person presently stands
7 convicted, may impose the sentence of imprisonment authorized by
8 that section for a class A felony. In such event the reasons for the
9 court's opinion shall be set forth in the record.

10 § 70.15 Sentences of imprisonment for misdemeanors and viola-
11 tion.

12 1. Class A misdemeanor. A sentence of imprisonment for a class
13 A misdemeanor shall be a definite sentence. When such a sentence
14 is imposed the term shall be fixed by the court, and shall not exceed
15 one year.

16 2. Class B misdemeanor. A sentence of imprisonment for a class
17 B misdemeanor shall be a definite sentence. When such a sentence
18 is imposed the term shall be fixed by the court, and shall not exceed
19 three months.

20 3. Unclassified misdemeanor. A sentence of imprisonment for
21 an unclassified misdemeanor shall be a definite sentence. When
22 such a sentence is imposed the term shall be fixed by the court, and
23 shall be in accordance with the sentence specified in the law or ordi-
24 nance that defines the crime.

25 4. Violation. A sentence of imprisonment for a violation shall
26 be a definite sentence. When such a sentence is imposed the term
27 shall be fixed by the court, and shall not exceed fifteen days.

1 In the case of a violation defined outside this chapter, if the sen-
2 tence is expressly specified in the law or ordinance that defines the
3 offense and consists solely of a fine, no term of imprisonment shall
4 be imposed.

5 § 70.20 Place of imprisonment.

6 1. Indeterminate sentence. When an indeterminate sentence of
7 imprisonment is imposed, the court shall commit the defendant to
8 the custody of the state department of correction for the term of his
9 sentence and until released in accordance with the law.

10 2. Definite sentence. When a definite sentence of imprisonment
11 is imposed, the court shall commit the defendant to the county or
12 regional correctional institution for the term of his sentence and
13 until released in accordance with the law.

14 § 70.25 Concurrent and consecutive terms of imprisonment.

15 1. Except as provided in subdivision two of this section, when
16 multiple sentences of imprisonment are imposed on a person at the
17 same time, or when a person who is subject to any undischarged
18 term of imprisonment imposed at a previous time by a court of this
19 state is sentenced to an additional term of imprisonment, the sen-
20 tence or sentences imposed by the court shall run either concur-
21 rently or consecutively with respect to each other and the undis-
22 charged term or terms in such manner as the court directs at the
23 time of sentence. If the court does not specify the manner in which
24 a sentence imposed by it is to run, the sentence shall run as follows:

25 (a) An indeterminate sentence shall run concurrently with
26 all other terms; and

27 (b) A definite sentence shall run concurrently with any

1 sentence imposed at the same time and shall be consecutive to
2 any other term.

3 2. When more than one sentence of imprisonment is imposed on
4 a person for two or more offenses committed through a single act
5 or omission, or through an act or omission which in itself consti-
6 tuted one of the offenses and also was a material element of the
7 other, the sentences must run concurrently.

8 3. Where consecutive definite sentences of imprisonment are not
9 prohibited by subdivision two of this section and are imposed on a
10 person for offenses which were committed as parts of a single inci-
11 dent or transaction, the aggregate of the terms of such sentences
12 shall not exceed one year.

13 § 70.30 Calculation of terms of imprisonment.

14 1. Indeterminate sentences. An indeterminate sentence of im-
15 prisonment commences when the prisoner is received in an institu-
16 tion under the jurisdiction of the state department of correction.
17 Where a person is under more than one indeterminate sentence, the
18 sentences shall be calculated as follows:

19 (a) If the sentences run concurrently, the time served under
20 imprisonment on any of the sentences shall be credited against
21 the minimum periods of all the concurrent sentences, and the
22 maximum terms merge in and are satisfied by discharge of the
23 term which has the longest unexpired time to run;

24 (b) If the sentences run consecutively, the minimum periods
25 of imprisonment merge in and are satisfied by service of the
26 period which has the longest unexpired time to run, and,
27 except as provided in paragraph (c) of this subdivision, the

1 maximum terms are added to arrive at an aggregate maximum
2 term equal to the sum of all the maximum terms;

3 (c) The aggregate maximum term of consecutive sentences
4 imposed for two or more crimes committed prior to the time the
5 person was imprisoned under any of such sentences shall, if it
6 exceeds twenty years, be deemed to be twenty years, unless one
7 of the sentences was imposed for a class B felony, in which case
8 the aggregate maximum term shall, if it exceeds thirty years,
9 be deemed to be thirty years.

10 2. Definite sentences. A definite sentence of imprisonment com-
11 mences when the prisoner is received in the institution named in
12 the commitment. Where a person is under more than one definite
13 sentence, the sentences shall be calculated as follows:

14 (a) If the sentences run concurrently and are to be served
15 in a single institution, the terms merge in and are satisfied by
16 discharge of the term which has the longest unexpired time to
17 run;

18 (b) If the sentences run consecutively and are to be served
19 in a single institution, the terms are added to arrive at an
20 aggregate term and are satisfied by discharge of such aggregate
21 term, or by service of two years imprisonment plus any term
22 imposed for an offense committed while the person is under
23 the sentences, whichever is less;

24 (c) If the sentences run concurrently and are to be served
25 in more than one institution, the term of each such sentence
26 shall be credited with the portion of any concurrent term served
27 after that sentence was imposed;

1 (d) If the sentences run consecutively and are to be served
2 in more than one institution, the aggregate of the time served
3 in all of the institutions shall not exceed two years plus any
4 term imposed for an offense committed while the person is
5 under the sentences.

6 3. Jail time. The term of a definite sentence or the maximum
7 term of an indeterminate sentence imposed on a person shall be
8 credited with and diminished by the amount of time the person
9 spent in custody prior to the commencement of such sentence as a
10 result of the charge that culminated in the sentence. In the case
11 of an indeterminate sentence, if the minimum period of imprison-
12 ment has been fixed by the court, the credit shall also be applied
13 against such portion of the minimum period as exceeds one year.
14 The credit herein provided shall be calculated from the date cus-
15 tody under the charge commenced to the date the sentence com-
16 mences and shall not include any time that is credited against the
17 term or maximum term of any previously imposed sentence to which
18 the person is subject. Where the charge or charges culminate in
19 more than one sentence, the credit shall be applied as follows:

20 (a) If the sentences run concurrently, the credit shall be
21 applied against each such sentence;

22 (b) If the sentences run consecutively, the credit shall be
23 applied against the aggregate term or aggregate maximum term
24 of the sentences and against each minimum period of imprison-
25 ment fixed by the court.

26 In any case where a person has been in custody due to a charge
27 that culminated in a dismissal or an acquittal, the amount of time

1 that would have been credited against a sentence for such charge,
2 had one been imposed, shall be credited against any sentence that
3 is based on a charge for which a warrant or commitment was lodged
4 during the pendency of such custody.

5 4. Good behavior time. Time allowances earned for good
6 behavior, pursuant to the provisions of the correction law, shall be
7 computed and applied as follows:

8 (a) In the case of a person serving an indeterminate sen-
9 tence, the total of such allowances shall not exceed one-third
10 of his maximum or aggregate maximum term and the allow-
11 ances shall be applied as provided in subdivision one (b) of
12 section 70.40;

13 (b) In the case of a person serving a definite sentence, the
14 total of such allowances shall not exceed one-sixth of his term
15 or aggregate term and the allowances shall be applied as a
16 credit against such term.

17 5. Time served under vacated sentence. When a sentence of
18 imprisonment that has been imposed on a person is vacated and a
19 new sentence is imposed on such person for the same offense, or
20 for an offense based upon the same act, the new sentence shall be
21 calculated as if it had commenced at the time the vacated sentence
22 commenced, and all time credited against the vacated sentence shall
23 be credited against the new sentence.

24 6. Escape. When a person who is serving a sentence of imprison-
25 ment escapes from custody, the escape shall interrupt the sentence
26 and such interruption shall continue until the return of the person
27 to the institution in which the sentence was being served or, if the

1 sentence was being served in an institution under the jurisdiction
2 of the state department of correction, to an institution under the
3 jurisdiction of that department. Any time spent by such person
4 in custody from the date of escape to the date the sentence resumes
5 shall be credited against the term or maximum term of the inter-
6 rupted sentence, provided:

7 (a) That such custody was due to an arrest or surrender
8 based upon the escape; or

9 (b) That such custody arose from an arrest on another
10 charge which culminated in a dismissal or an acquittal, and the
11 person was denied admission to bail pending disposition of such
12 charge due to a warrant lodged against him because of the
13 escape.

14 § 70.35 Merger of certain definite and indeterminate sentences.

15 The service of an indeterminate sentence of imprisonment shall
16 satisfy any definite sentence of imprisonment imposed on a person
17 for an offense committed prior to the time the indeterminate sen-
18 tence was imposed. A person who is serving a definite sentence at
19 the time an indeterminate sentence is imposed shall be delivered to
20 the custody of the state department of correction to commence
21 service of the indeterminate sentence immediately.

22 § 70.40 Release on parole; conditional release.

23 1. Indeterminate sentence.

24 (a) A person who is serving one or more than one indeterminate
25 sentence of imprisonment may be paroled from the institution in
26 which he is confined at any time after the expiration of the minimum
27 period or periods of imprisonment that have been fixed. Release

1 on parole shall be in the discretion of the state board of parole, and
2 such person shall continue service of his sentence or sentences while
3 on parole, in accordance with and subject to the provisions of the
4 correction law.

5 (b) A person who is serving one or more than one indeterminate
6 sentence of imprisonment shall, if he so requests, be conditionally
7 released from the institution in which he is confined when the total
8 good behavior time allowed to him, pursuant to the provisions of
9 the correction law, is equal to the unserved portion of his maximum
10 or aggregate maximum term. The conditions of release shall be
11 such as may be imposed by the state board of parole in accordance
12 with the provisions of the correction law.

13 Conditional release shall interrupt service of the sentence or sen-
14 tences and the remaining portion of the maximum or aggregate
15 maximum term shall be held in abeyance. Every person so
16 released shall be under the supervision of the state board of parole
17 for a period equal to the unserved portion of the maximum or
18 aggregate maximum term, or for a period of one year, whichever
19 is longer. Compliance with the conditions of release during the
20 period of supervision shall satisfy the portion of the maximum or
21 aggregate maximum term that has been held in abeyance.

22 2. Definite sentence. A person who is serving one or more than
23 one definite sentence of imprisonment with a term or aggregate
24 term in excess of sixty days may, if he so requests, be conditionally
25 released from the institution in which he is confined at any time
26 after service of thirty days of that term, exclusive of credits allowed
27 under subdivisions three, four and six of section 70.30. Conditional

1 release from such institution shall be in the discretion of the county
2 or regional conditional release commission, and shall be upon such
3 conditions as may be imposed by that board, in accordance with the
4 provisions of the correction law.

5 Conditional release shall interrupt service of the sentence or
6 sentences and the remaining portion of the term or aggregate term
7 shall be held in abeyance. Every person so released shall be under
8 the supervision of the authorized conditional release commission
9 for a period which shall be as follows:

10 (a) One year, if at the time of release the unserved portion
11 of the term or aggregate term less all credits allowed under
12 section 70.30 is not in excess of one hundred and twenty days;
13 and

14 (b) Two years in any other case.

15 Compliance with the conditions of release during the period of
16 supervision shall satisfy the portion of the term or aggregate term
17 that has been held in abeyance.

18 3. Delinquency.

19 (a) When a person has violated the terms of his parole and
20 the state board of parole has declared such person to be delin-
21 quent, the declaration of delinquency shall interrupt the per-
22 son's sentence as of the date of the delinquency and such
23 interruption shall continue until the return of the person to
24 an institution under the jurisdiction of the state department
25 of correction.

26 (b) When a person has violated the terms of his conditional
27 release and has been declared delinquent by the board or com-

1 mission having supervision over him, the declaration of delin-
2 quency shall interrupt the period of supervision as of the date
3 of the delinquency and such interruption shall continue until
4 the return of the person to the institution from which he was
5 released or, if he was released from an institution under the
6 jurisdiction of the state department of correction, to an insti-
7 tution under the jurisdiction of that department. Upon such
8 return, the person shall resume service of his sentence.

9 (c) Any time spent by a person in custody from the time
10 of delinquency to the time service of the sentence resumes shall
11 be credited against the term or maximum term of the inter-
12 rupted sentence, provided:

13 (i) that such custody was due to an arrest or surrender
14 based upon the delinquency; or

15 (ii) that such custody arose from an arrest on another
16 charge, which culminated in a dismissal or an acquittal,
17 and the person was denied admission to bail pending dis-
18 position of such charge due to a warrant lodged against
19 him because of such delinquency.

20 ARTICLE 75

21 REFORMATORY SENTENCE OF IMPRISONMENT FOR YOUNG ADULTS

22 Section 75.00 Reformatory sentence of imprisonment for young
23 adults.

24 75.05 Place of imprisonment under reformatory sentence.

25 75.10 Calculation of reformatory sentence.

26 75.15 Parole under reformatory sentence.

1 When a reformatory sentence of imprisonment is imposed, the
2 court shall commit the young adult to the custody of the state
3 department of correction for a reformatory period and until
4 released in accordance with the law.

5 § 75.10 Calculation of reformatory sentence.

6 1. Commencement and termination. A reformatory period com-
7 mences when the young adult is received in an institution under
8 the jurisdiction of the state department of correction and terminates
9 upon the first to occur of (a) discharge of the person by the state
10 board of parole, or (b) service by the person of four years from the
11 date the period commenced less any amount of time credited against
12 the sentence pursuant to the provisions of subdivisions three, four
13 and five of this section.

14 2. Multiple sentences.

15 (a) When more than one reformatory sentence of impris-
16 onment is imposed on a young adult at the same time, or when
17 a young adult who is subject to a reformatory sentence imposed
18 at a previous time receives an additional reformatory sentence,
19 the periods of the sentences shall run concurrently, and all
20 of the sentences shall be treated as if they had commenced at
21 the time of the first to commence and terminate at the time
22 of the first to terminate.

23 (b) The service of a reformatory sentence of imprisonment
24 by a young adult shall satisfy any definite sentence of impris-
25 onment imposed on such person for an offense committed prior
26 to the time the reformatory sentence was imposed. A young
27 adult who is serving a definite sentence at the time a reforma-

1 tory sentence is imposed shall be delivered to the custody of
2 the state department of correction to commence service of the
3 reformatory sentence immediately.

4 (c) When a person who is subject to a reformatory sentence
5 of imprisonment imposed at a previous time is convicted of an
6 additional crime in a court of this state and is sentenced there-
7 for to a term of imprisonment in excess of one year, the reform-
8 atory sentence shall be affected in the following manner:

9 (i) if the reformatory sentence was imposed for a
10 misdemeanor, such sentence shall be satisfied by service of
11 the new sentence of imprisonment;

12 (ii) if the reformatory sentence was imposed for a
13 felony, the state board of parole shall fix a termination
14 date for the reformatory sentence, and the amount of
15 time that remains to be served to satisfy such termination
16 date shall be added to the maximum term of the new sen-
17 tence to arrive at an aggregate maximum term.

18 3. Jail time. The period of a reformatory sentence imposed on
19 a young adult shall be credited with and diminished by the amount
20 of time spent in custody prior to commencement of the sentence,
21 which shall be determined and calculated in accordance with the
22 provisions of subdivision three of section 70.30.

23 4. Time served under vacated sentence. When a sentence of
24 imprisonment that has been imposed on a young adult is vacated
25 and a reformatory sentence is imposed on that person for the same
26 offense, or for an offense that is based upon the same act, all time
27 credited against the vacated sentence shall be credited against the
28 period of such reformatory sentence.

1 5. Escape. When a young adult who is serving a reformatory
2 sentence of imprisonment escapes from custody, the period of such
3 sentence shall be affected in the same manner as the term of a
4 sentence of imprisonment, in accordance with the provisions of
5 subdivision six of section 70.30.

6 § 75.15 Parole under reformatory sentence.

7 1. Parole. A young adult who is serving a reformatory sentence
8 may be paroled from the institution in which he is confined at any
9 time. Release on parole shall be in the discretion of the state board
10 of parole, and such person shall continue service of the sentence
11 while on parole, in accordance with and subject to the provisions
12 of the correction law.

13 2. Delinquency. When a young adult who is serving a reforma-
14 tory sentence has violated the terms of his parole and the state
15 board of parole has declared such person to be delinquent, the
16 period of such sentence shall be affected in the same manner as the
17 term of a sentence of imprisonment, in accordance with the pro-
18 visions of subdivision three of section 70.40.

19 § 75.20 Alternative local reformatory sentence of imprisonment
20 for young adults.

21 1. Applicability. The sentence authorized by this section may
22 be imposed only by a court within a city or county that has:

23 (a) Established a reformatory which is certified by the
24 state commission of correction, in accordance with the pro-
25 visions of the correction law, as an institution with adequate
26 facilities for the rehabilitation of young adults; and

27 (b) Established a parole and conditional release commission
28 in accordance with the provisions of the correction law.

1 2. Local reformatory sentence. When a court sentences a male
2 young adult it may, in any case where a reformatory sentence of
3 imprisonment is authorized by section 75.00, impose a local reforma-
4 tory sentence of imprisonment. This shall be a sentence to impris-
5 onment for a period of unspecified duration which shall commence
6 and terminate as provided in subdivision four of this section and
7 the court shall not fix the minimum or maximum length of the
8 period.

9 In addition to the limitations provided in subdivision three of
10 section 75.00, the court shall not impose a local reformatory sentence
11 upon any young adult who has previously completed service of a
12 local reformatory sentence.

13 3. Place of imprisonment under local reformatory sentence.
14 When a local reformatory sentence of imprisonment is imposed, the
15 court shall commit the young adult to the reformatory established
16 by the city or county for a reformatory period and until released in
17 accordance with the law.

18 4. Commencement and termination. A reformatory period
19 imposed pursuant to subdivision two of this section commences when
20 the young adult is received in such reformatory and terminates
21 upon the first to occur of (a) discharge of the person by the parole
22 and conditional release commission, or (b) service by the person
23 of three years from the date the period commenced. In calculating
24 such three year period the provisions of subdivisions three, four
25 and five of section 75.10 shall apply.

26 5. Multiple local reformatory sentences. When more than one
27 local reformatory sentence of imprisonment is imposed on a young
28 adult at the same time, or when a young adult who is subject to a

1 local reformatory sentence imposed at a previous time receives an
2 additional local reformatory sentence, the periods of the sentences
3 shall run concurrently, and all of the sentences shall be treated as
4 if they had commenced at the time of the first to commence and
5 terminate at the time of the first to terminate.

6 6. Merger of certain definite and local reformatory sentences.
7 The service of a local reformatory sentence of imprisonment by
8 a young adult shall satisfy any definite sentence of imprisonment
9 imposed on such person, by a court within the same city or county
10 as the court that imposed the reformatory sentence, for an offense
11 committed prior to the time the reformatory sentence was imposed.
12 In any such case the local reformatory sentence shall commence
13 and terminate without regard to the existence of the definite
14 sentence.

15 7. Credit for time served under certain definite sentences. Where
16 a young adult is under a definite sentence of imprisonment imposed
17 by any court of this state and a local reformatory sentence is sub-
18 sequently imposed, all credits due against the term of the definite
19 sentence to the date of commencement of the local reformatory
20 sentence shall be applied in reduction of the period of the local
21 reformatory sentence.

22 8. Merger of local reformatory and state institution sentences.
23 Where a person is under both a local reformatory sentence and an
24 indeterminate sentence of imprisonment, or a reformatory sentence
25 of imprisonment authorized by section 75.00, imposed at the same
26 or at different times, the local reformatory sentence shall be satis-
27 fied by service of the other sentence of imprisonment. Any person
28 who is under a local reformatory sentence at the time an indeter-

1 minate sentence, or a reformatory sentence authorized by section
2 75.00, is imposed shall be delivered to the custody of the state
3 department of correction to commence service of the new sentence
4 immediately.

5 9. Parole under local reformatory sentence.

6 (a) Parole. A young adult who is serving a local reformatory
7 sentence may be paroled from the reformatory in which he is con-
8 fined at any time. Release on parole shall be in the discretion of
9 the parole and conditional release commission and such person shall
10 continue service of the sentence, while on parole, in accordance
11 with and subject to the provisions of the correction law.

12 (b) Delinquency. When a young adult who is serving a local
13 reformatory sentence has violated the terms of his parole, and the
14 parole and conditional release commission has declared such person
15 to be delinquent, the declaration of delinquency shall interrupt the
16 period of the sentence as of the date of the delinquency. Such
17 interruption shall continue until the return of the person to the
18 reformatory from which he was released, but the credit authorized
19 by subdivision three (c) of section 70.40 shall be applied in calcu-
20 lating the period of the sentence.

21 ARTICLE 80

22 FINES

23 Section 80.00 Fine for felony.

24 80.05 Fines for misdemeanors and violation.

25 80.10 Fines for corporations.

26 80.15 Multiple offenses.

27 § 80.00 Fine for felony.

1 1. Criterion for fine. The court may impose a fine for a felony
2 if the defendant has gained money or property through the com-
3 mission of the crime.

4 2. Amount of fine. A sentence to pay a fine for a felony shall be
5 a sentence to pay an amount, fixed by the court, not exceeding
6 double the amount of the defendant's gain from the commission
7 of the crime.

8 3. Determination of amount. As used in this section the term
9 "gain" means the amount of money or the value of property
10 derived from the commission of the crime, less the amount of money
11 or the value of property returned to the victim of the crime or
12 seized by or surrendered to lawful authority prior to the time sen-
13 tence is imposed.

14 When the court imposes a fine for a felony the court shall make
15 a finding as to the amount of the defendant's gain from the crime.
16 If the record does not contain sufficient evidence to support such
17 a finding the court may conduct a hearing upon the issue.

18 4. Exception. The provisions of this section shall not apply to
19 a corporation.

20 § 80.05 Fines for misdemeanors and violation.

21 1. Class A misdemeanor. A sentence to pay a fine for a class A
22 misdemeanor shall be a sentence to pay an amount, fixed by the
23 court, not exceeding one thousand dollars.

24 2. Class B misdemeanor. A sentence to pay a fine for a class B
25 misdemeanor shall be a sentence to pay an amount, fixed by the
26 court, not exceeding five hundred dollars.

27 3. Unclassified misdemeanor. A sentence to pay a fine for an
28 unclassified misdemeanor shall be a sentence to pay an amount,

1 fixed by the court, in accordance with the provisions of the law or
2 ordinance that defines the crime.

3 4. Violation. A sentence to pay a fine for a violation shall be a
4 sentence to pay an amount, fixed by the court, not exceeding two
5 hundred fifty dollars.

6 In the case of a violation defined outside this chapter, if the
7 amount of the fine is expressly specified in the law or ordinance
8 that defines the offense, the amount of the fine shall be fixed in
9 accordance with that law or ordinance.

10 5. Alternative sentence. If a person has gained money or prop-
11 erty through the commission of any misdemeanor or violation then
12 upon conviction thereof the court, in lieu of imposing the fine
13 authorized for the offense under one of the above subdivisions, may
14 sentence the defendant to pay an amount, fixed by the court, not
15 exceeding double the amount of the defendant's gain from the
16 commission of the offense. In such event the provisions of sub-
17 division three of section 80.00 shall be applicable to the sentence.

18 6. Exception. The provisions of this section shall not apply to
19 a corporation.

20 § 80.10 Fines for corporations.

21 1. In general. A sentence to pay a fine, when imposed on a cor-
22 poration for an offense defined in this chapter or for an offense
23 defined outside this chapter for which no special corporate fine is
24 specified, shall be a sentence to pay an amount, fixed by the court,
25 not exceeding:

26 (a) Ten thousand dollars, when the conviction is of a felony;

27 (b) Five thousand dollars, when the conviction is of a class

28 A misdemeanor or of an unclassified misdemeanor for which a

1 term of imprisonment in excess of three months is authorized;

2 (c) Two thousand dollars, when the conviction is of a class
3 B misdemeanor or of an unclassified misdemeanor for which
4 the authorized term of imprisonment is not in excess of three
5 months;

6 (d) Five hundred dollars, when the conviction is of a
7 violation;

8 (e) Any higher amount not exceeding double the amount of
9 the corporation's gain from the commission of the offense.

10 2. Exception. In the case of an offense defined outside this
11 chapter, if a special fine for a corporation is expressly specified in
12 the law or ordinance that defines the offense, the fine fixed by the
13 court shall be as follows:

14 (a) An amount within the limits specified in the law or
15 ordinance that defines the offense; or

16 (b) Any higher amount not exceeding double the amount
17 of the corporation's gain from the commission of the offense.

18 3. Determination of amount or value. When the court imposes
19 the fine authorized by paragraph (e) of subdivision one or para-
20 graph (b) of subdivision two for any offense the provisions of
21 subdivision three of section 80.00 shall be applicable to the sentence.

22 § 80.15 Multiple offenses.

23 Where a person is convicted of two or more offenses committed
24 through a single act or omission, or through an act or omission
25 which in itself constituted one of the offenses and also was a mate-
26 rial element of the other, and the court imposes a sentence of
27 imprisonment or a fine or both for one of the offenses, a fine shall
28 not be imposed for the other.

PART THREE**SPECIFIC OFFENSES****TITLE G****ANTICIPATORY OFFENSES****ARTICLE 100****CRIMINAL SOLICITATION**

7 Section 100.00 Criminal solicitation in the third degree.

8 100.05 Criminal solicitation in the second degree.

9 100.10 Criminal solicitation in the first degree.

10 100.15 Criminal solicitation; no defense.

11 100.20 Criminal solicitation; exemption.

12 § 100.00 Criminal solicitation in the third degree.

13 A person is guilty of criminal solicitation in the third degree
14 when, with intent that another person engage in conduct constitut-
15 ing a crime, he solicits, requests, commands, importunes or other-
16 wise attempts to cause such other person to engage in such conduct.

17 Criminal solicitation in the third degree is a violation.

18 § 100.05 Criminal solicitation in the second degree.

19 A person is guilty of criminal solicitation in the second degree
20 when, with intent that another person engage in conduct constitut-
21 ing a felony, he solicits, requests, commands, importunes or other-
22 wise attempts to cause such other person to engage in such conduct.

23 Criminal solicitation in the second degree is a class A misde-
24 meanor.

25 § 100.10 Criminal solicitation in the first degree.

26 A person is guilty of criminal solicitation in the first degree
27 when, with intent that another person engage in conduct constitut-

had engaged

had engaged in the conduct solicited he

ing murder or kidnapping in the first degree, he solicits, requests, commands, importunes or otherwise attempts to cause such other person to engage in such conduct.

Criminal solicitation in the first degree is a class D felony.

§ 100.15 Criminal solicitation; no defense.

It is no defense to a prosecution for criminal solicitation that the person solicited ^{if} could not be guilty of the crime solicited ^{in question} owing to

criminal irresponsibility or other legal incapacity or exemption, or to unawareness of the criminal nature of the conduct solicited or of the defendant's criminal purpose or to other factors precluding the

mental state required for the commission of the crime in question.

§ 100.20 Criminal solicitation; exemption.

A person is not guilty of criminal solicitation when his solicitation constitutes conduct of a kind that is necessarily incidental to the commission of the crime solicited. When under such circumstances the solicitation constitutes an offense other than criminal solicitation which is related to but separate from the crime solicited, the actor is guilty of such related and separate offense only and not of criminal solicitation.

ARTICLE 105

CONSPIRACY

- Section 105:00 Conspiracy in the fourth degree.
- 105.05 Conspiracy in the third degree.
- 105.10 Conspiracy in the second degree.
- 105.15 Conspiracy in the first degree.
- 105.20 Conspiracy; pleading and proof; necessity of overt act.

had committed such offense

Copy new 20.05

No defense (a) did not engage (b) did not engage (c) person solicited did not be

1 105.25 Conspiracy; jurisdiction and venue.

2 105.30 Conspiracy; no defense.

3 § 105.00 Conspiracy in the fourth degree.

4 A person is guilty of conspiracy in the fourth degree when, with
5 intent that conduct constituting a crime be performed, he agrees
6 with one or more persons to engage in or cause the performance of
7 such conduct.

8 Conspiracy in the fourth degree is a class B misdemeanor.

9 § 105.05 Conspiracy in the third degree.

10 A person is guilty of conspiracy in the third degree when, with
11 intent that conduct constituting a felony be performed, he agrees
12 with one or more persons to engage in or cause the performance of
13 such conduct.

14 Conspiracy in the third degree is a class A misdemeanor.

15 § 105.10 Conspiracy in the second degree.

16 A person is guilty of conspiracy in the second degree when, with
17 intent that conduct constituting a class B or class C felony be per-
18 formed, he agrees with one or more persons to engage in or cause
19 the performance of such conduct.

20 Conspiracy in the second degree is a class E felony.

21 § 105.15 Conspiracy in the first degree.

22 A person is guilty of conspiracy in the first degree when, with
23 intent that conduct constituting murder or kidnapping in the first
24 degree be performed, he agrees with one or more persons to engage
25 in or cause the performance of such conduct.

26 Conspiracy in the first degree is a class C felony.

27 § 105.20 Conspiracy; pleading and proof; necessity of overt act.

1 A person shall not be convicted of conspiracy unless an overt act
2 is alleged and proved to have been committed by one of the con-
3 spirators in furtherance of the conspiracy.

4 § 105.25 Conspiracy; jurisdiction and venue.

5 1. A person may be prosecuted for conspiracy in the county in
6 which he entered into such conspiracy or in any county in which
7 an overt act in furtherance thereof was committed.

8 2. An agreement made within this state to engage in or cause
9 the performance of conduct in another jurisdiction is punishable
10 herein as a conspiracy only when such conduct would constitute a
11 crime both under the laws of this state if performed herein and
12 under the laws of the other jurisdiction if performed therein.

13 3. An agreement made in another jurisdiction to engage in or
14 cause the performance of conduct within this state, which would
15 constitute a crime herein, is punishable herein only when an overt
16 act in furtherance of such conspiracy is committed within this state.
17 Under such circumstances, it is no defense to a prosecution for con-
18 spiracy that the conduct which is the objective of the conspiracy
19 would not constitute a crime under the laws of the other jurisdic-
20 tion if performed therein.

21 § 105.30 Conspiracy; no defense.

22 It is no defense to a prosecution for conspiracy that, owing to
23 criminal irresponsibility or other legal incapacity or exemption, or
24 to unawareness of the criminal nature of the agreement or the object
25 conduct or of the defendant's criminal purpose or to other factors
26 precluding the mental state required for the commission of con-
27 spiracy or the object crime, one or more of the defendant's co-con-
28 spirators could not be guilty of conspiracy or the object crime.

See
20.05(1)
Conformity
HOLDI

ARTICLE 110

ATTEMPT

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Section 110.00 Attempt to commit a crime.

110.05 Attempt to commit a crime; punishment.

110.10 Attempt to commit a crime; no defense.

§ 110.00 Attempt to commit a crime.

A person is guilty of an attempt to commit a crime when, with intent to commit a crime, he engages in conduct which tends to effect the commission of such crime.

§ 110.05 Attempt to commit a crime; punishment.

An attempt to commit a crime is a:

- 1. Class B felony when the crime attempted is murder or kidnapping in the first degree;
- 2. Class C felony when the crime attempted is a class B felony;
- 3. Class D felony when the crime attempted is a class C felony;
- 4. Class E felony when the crime attempted is a class D felony;
- 5. Class A misdemeanor when the crime attempted is a class E felony;
- 6. Class B misdemeanor when the crime attempted is a misdemeanor.

§ 110.10 Attempt to commit a crime; no defense.

[If the conduct in which a person engages otherwise constitutes an attempt to commit a crime pursuant to section 110.00, it is no defense to a prosecution for [such] attempt that the crime charged to have been attempted was, under the attendant circumstances, factually or legally impossible of commission, if [such crime could have been committed had the attendant circumstances been as such person believed them to be.

to commit a crime pursuant to section 110.00

ARTICLE 115

1

2

CRIMINAL FACILITATION

3

Section 115.00 Criminal facilitation in the second degree.

4

115.05 Criminal facilitation in the first degree.

5

115.10 Criminal facilitation; no defense.

6

115.15 Criminal facilitation; corroboration.

7

§ 115.00 Criminal facilitation in the second degree.

8

A person is guilty of criminal facilitation in the second degree when, believing it probable that he is rendering aid to a person who intends to commit a crime, he engages in conduct which provides such person with means or opportunity for the commission thereof and which in fact aids such person to commit a felony.

13

Criminal facilitation in the second degree is a class A misdemeanor.

15

§ 115.05 Criminal facilitation in the first degree.

16

A person is guilty of criminal facilitation in the first degree when, believing it probable that he is rendering aid to a person who intends to commit murder or kidnapping in the first degree, he engages in conduct which provides such person with means or opportunity for the commission thereof and which in fact aids such person to commit murder or kidnapping in the first degree.

22

Criminal facilitation in the first degree is a class C felony.

23

§ 115.10 Criminal facilitation; no defense.

24

It is no defense to a prosecution for criminal facilitation that:

25

1. The person facilitated ^{is} ~~was~~ not guilty of the underlying felony ^{copy} owing to criminal irresponsibility or other legal incapacity ^{constituting the felony} or exemption, or to unawareness of the criminal nature of the con-

26

27

1 duct in question or to other factors precluding the mental state
2 required for the commission of such felony; or

3 2. The person facilitated has not been prosecuted for or con-
4 victed of the underlying felony, or has previously been acquitted
5 thereof; or

6 3. The defendant himself is not guilty of the felony which he
7 facilitated because he did not act with the intent or other culpable
8 mental state required for the commission thereof.

punishable to \$20,000

9 § 115.15 Criminal facilitation; corroboration.

10 A person shall not be convicted of criminal facilitation upon the
11 testimony of a person who has committed the felony charged to
12 have been facilitated unless such testimony be corroborated by
13 such other evidence as tends to connect the defendant with such
14 facilitation.

15 TITLE H

16 OFFENSES AGAINST THE PERSON INVOLVING PHYSICAL INJURY,

17 SEXUAL CONDUCT, RESTRAINT AND INTIMIDATION

18 ARTICLE 120

19 ASSAULT AND RELATED OFFENSES

20 Section 120.00 Assault in the third degree.

21 120.05 Assault in the second degree.

22 120.10 Assault in the first degree.

23 120.15 Menacing.

24 120.20 Reckless endangerment in the second degree.

25 120.25 Reckless endangerment in the first degree.

26 120.30 Promoting a suicide attempt.

27 120.35 Promoting a suicide attempt; when punishable as
28 attempt to commit murder.

Asst 40

Class B missd

1 § 120.00 Assault in the third degree. [2 subdivisions]

2 A person is guilty of assault in the third degree when:

3 1. With intent to cause physical injury to another person, he
4 causes such injury to such person or to a third person; or

5 2. He recklessly causes physical injury to another person; or

6 3. With criminal negligence, he causes physical injury to another
7 person by means of a deadly weapon or a dangerous instrument.

8 Assault in the third degree is a class A misdemeanor.

9 § 120.05 Assault in the second degree.

10 A person is guilty of assault in the second degree when:

11 1. With intent to cause serious physical injury to another per-
12 son, he causes such injury to such person or to a third person; or

13 2. With intent to cause physical injury to another person, he
14 causes such injury to such person or to a third person by means of
15 a deadly weapon or a dangerous instrument; or

16 3. With intent to prevent a peace officer from performing a law-
17 ful duty, he causes physical injury to such peace officer; or

18 4. He recklessly causes serious physical injury to another person
19 by means of a deadly weapon or a dangerous instrument; or

20 5. [For a purpose other than lawful medical or therapeutic treat-
21 ment] he intentionally causes [stupor, unconsciousness or other] phys-
22 ical [impairment or] injury to another person by administering to
23 him, without his consent, a drug, substance or preparation capable
24 of producing the same.

25 Assault in the second degree is a class D felony.

26 § 120.10 Assault in the first degree.

27 A person is guilty of assault in the first degree when:

see re-defined p. 1 p. 8

6. Pick up sub 4 of Asst 10 except just p. i.

Note the relation between sub 1 & sub Asst 10; we should have same relation

1 1. With intent to cause serious physical injury to another person,
2 he causes such injury to such person or to a third person by means
3 of a deadly weapon or a dangerous instrument; or

4 2. With intent to disfigure another person seriously and perma-
5 nently, or to destroy, amputate or disable permanently a member
6 or organ of his body, he causes such injury to such person or to a
7 third person; or

8 3. Under circumstances evincing a depraved indifference to
9 human life, he recklessly engages in conduct which creates a grave
10 risk of death to another person, and thereby causes serious physical
11 injury to another person; or

12 4. In the course of and in furtherance of the commission or
13 attempted commission of a felony or of immediate flight therefrom,
14 he intentionally or recklessly causes serious physical injury to
15 another person *or another participant in the felony*
not a participant in the felony

follow
felony
murder
language
Perhaps use

16 Assault in the first degree is a class C felony.

17 § 120.15 Menacing.

18 A person is guilty of menacing when, by physical menace, he
19 intentionally places or attempts to place another person in fear of
20 imminent serious physical injury.

21 Menacing is a class B misdemeanor.

22 § 120.20 Reckless endangerment in the second degree.

23 A person is guilty of reckless endangerment in the second degree
24 when he recklessly engages in conduct which creates a substantial
25 risk of serious physical injury to another person.

26 Reckless endangerment in the second degree is a class A misde-
27 meanor.

1 § 120.25 Reckless endangerment in the first degree.

2 A person is guilty of reckless endangerment in the first degree
3 when, under circumstances evincing a depraved indifference to
4 human life, he recklessly engages in conduct which creates a grave
5 risk of death to another person.

6 Reckless endangerment in the first degree is a class D felony.

7 § 120.30 Promoting a suicide attempt.

8 A person is guilty of promoting a suicide attempt when he inten-
9 tionally causes or aids another person to attempt suicide.

10 Promoting a suicide attempt is a class E felony.

11 § 120.35 Promoting a suicide attempt; when punishable as
12 attempt to commit murder.

13 A person who engages in conduct constituting both the offense
14 of promoting a suicide attempt and the offense of attempt to commit
15 murder may not be convicted of attempt to commit murder unless
16 he causes or aids the suicide attempt by the use of duress or
17 deception.

18 ARTICLE 125

19 HOMICIDE, ABORTION AND RELATED OFFENSES

20 Section 125.00 Homicide defined.

21 125.05 Homicide, abortion and related offenses; defini-
22 tions of terms.

23 125.10 Criminally negligent homicide.

24 125.15 Manslaughter in the second degree.

25 125.20 Manslaughter in the first degree.

26 125.25 Murder.

27 125.30 Murder; punishment; plea of guilty.

1 125.35 Murder; proceeding to determine sentence; appeal.

2 125.40 Abortion in the second degree.

3 125.45 Abortion in the first degree.

4 125.50 Self-abortion in the second degree.

5 125.55 Self-abortion in the first degree.

6 125.60 Issuing abortifacient articles.

7 § 125.00 Homicide defined.

8 Homicide means conduct which causes the death of a person or
9 an unborn child with which a female has been pregnant for more
10 than twenty-four weeks under circumstances constituting murder,
11 manslaughter in the first degree, manslaughter in the second degree,
12 criminally negligent homicide, abortion in the first degree or self-
13 abortion in the first degree.

14 § 125.05 Homicide, abortion and related offenses; definitions of
15 terms.

16 The following definitions are applicable to this article:

17 1. "Person," when referring to the victim of a homicide, means
18 a human being who has been born and is alive.

19 2. "Abortifacient act" means an act committed upon or with
20 respect to a female, whether by another person or by the female
21 herself, whether she is pregnant or not, whether directly upon her
22 body or by the administering, taking or prescription of drugs or
23 in any other manner, with intent to cause a miscarriage of such
24 female.

25 3. "Justifiable abortifacient act." An abortifacient act is justifiable
26 when committed upon a female by a duly licensed physician acting
27 under a reasonable belief that such is necessary to preserve the

1 life of such female. A pregnant female's commission of an abor-
2 tional act upon herself is justifiable when she acts upon the advice
3 of a duly licensed physician that such is necessary to preserve her
4 life. The submission by a female to an abortional act is justifiable
5 when she believes that it is being committed by a duly licensed
6 physician, and when she acts upon the advice of a duly licensed
7 physician that such is necessary to preserve her life.

8 § 125.10 Criminally negligent homicide.

9 A person is guilty of criminally negligent homicide when, with
10 criminal negligence, he causes the death of another person.

11 Criminally negligent homicide is a class E felony.

12 § 125.15 Manslaughter in the second degree.

13 A person is guilty of manslaughter in the second degree when:

14 1. He recklessly causes the death of another person; or

15 2. He commits upon a female an abortional act which causes her
16 death, unless such abortional act is justifiable pursuant to sub-
17 division three of section 125.05; or

18 3. He intentionally causes or aids another person to commit
19 suicide.

20 Manslaughter in the second degree is a class C felony.

21 § 125.20 Manslaughter in the first degree.

22 A person is guilty of manslaughter in the first degree when:

23 1. With intent to cause serious physical injury to another person,
24 he causes the death of such person or of a third person; or

25 2. With intent to cause the death of another person, he causes
26 the death of such person or of a third person under circumstances
27 which do not constitute murder because he acts under the influence

1 of extreme emotional disturbance, as defined in paragraph (a) of
2 subdivision one of section 125.25. The fact that homicide was
3 committed under the influence of extreme emotional disturbance
4 constitutes a mitigating circumstance reducing murder to man-
5 slaughter in the first degree and need not be proved in any prose-
6 cution initiated under this subdivision; or

7 3. He commits upon a female pregnant for more than twenty-
8 four weeks an abortifacient act which causes her death, unless such
9 abortifacient act is justifiable pursuant to subdivision three of section
10 125.05.

11 Manslaughter in the first degree is a class B felony.

12 § 125.25 Murder.

13 A person is guilty of murder when:

14 1. With intent to cause the death of another person, he causes
15 the death of such person or of a third person; except that in any
16 prosecution under this subdivision, it is an affirmative defense that:

17 (a) The defendant acted under the influence of extreme
18 emotional disturbance for which there was a reasonable expla-
19 nation or excuse, the reasonableness of which is to be deter-
20 mined from the viewpoint of a person in the defendant's situa-
21 tion under the circumstances as the defendant believed them
22 to be. Nothing contained in this paragraph shall constitute
23 a defense to a prosecution for, or preclude a conviction of,
24 manslaughter in the first degree or any other crime; or

25 (b) The defendant's conduct consisted of causing or aiding,
26 without the use of duress or deception, another person to
27 commit suicide; or

1 2. Under circumstances evincing a depraved indifference to
2 human life, he recklessly engages in conduct which creates a grave
3 risk of death to another person, and thereby causes the death of
4 another person; or

5 3. Acting either alone or with one or more other persons, he
6 commits or attempts to commit robbery, burglary, kidnapping,
7 arson, rape in the first degree, sodomy in the first degree, sexual
8 abuse in the first degree, escape in the first degree, or escape in the
9 second degree, and, in the course of and in furtherance of such
10 crime or of immediate flight therefrom, he, or another participant,
11 if there be any, causes the death of a person other than one of the
12 participants; except that in any prosecution under this subdivision,
13 in which the defendant was not the only participant in the under-
14 lying crime, it is an affirmative defense that the defendant:

15 (a) Did not commit the homicidal act or in any way solicit,
16 request, command, importune, cause or aid the commission
17 thereof; and

18 (b) Was not armed with a deadly weapon, or any instru-
19 ment, article or substance readily capable of causing death or
20 serious physical injury and of a sort not ordinarily carried
21 in public places by law-abiding persons; and

22 (c) Had no reasonable ground to believe that any other
23 participant was armed with such a weapon, instrument, article
24 or substance; and

25 (d) Had no reasonable ground to believe that any other
26 participant intended to engage in conduct likely to result in
27 death or serious physical injury.

→ Murder is a Class A felony.

*The language here (if in
proceeding)
needs to be polished up!*

1 § 125.30 Murder; punishment; plea of guilty.

2 1. Murder is punishable as a class A felony, unless the death
3 sentence ^{MAY BE} imposed as provided by section 125.35. //

4 2. When the court and the district attorney consent, a person
5 indicted for murder may plead guilty thereto, in which case the
6 court shall sentence him as for a class A felony.

7 3. When a defendant has been found guilty after trial of murder,
8 the court shall discharge the jury and shall sentence the defendant
9 as for a class A felony if it is satisfied that he was less than
10 eighteen years old at the time of the commission of the crime, or
11 that the sentence of death is not warranted because of substantial
12 mitigating circumstances.

13 § 125.35 Murder; proceeding to determine sentence; appeal.

14 1. When a defendant has been found guilty after trial of
15 murder, and such verdict has been recorded upon the minutes, it
16 shall not thereafter be subject to jury reconsideration.

17 2. Unless the court sentences the defendant as for a class A
18 felony as provided in subdivision two or three of section 125.30, it
19 shall, as promptly as practicable, conduct a proceeding to deter-
20 mine whether defendant should be sentenced as for a class A felony
21 or to death. **I** Such proceeding shall be conducted before the court

22 sitting with the jury that found defendant guilty unless the court
23 for good cause discharges that jury and impanels a new jury for
24 that purpose. *The provisions of the court order that*

25 3. In such proceeding, evidence may be presented by either party and
26 on any matter relevant to sentence including, but not limited to, *of the*
27 the nature and circumstances of the crime, defendant's background *CCP,*

*in so far
as they are
appropriate,
shall govern
the selection
of such jury*
(see # 702 in

1 and history, and any aggravating or mitigating circumstances.
 2 Any relevant evidence, not legally privileged, shall be received
 3 regardless of its admissibility under the exclusionary rules of
 4 evidence.

5 4. The court shall charge the jury on any matters appropriate
 6 in the circumstances, including the law relating to the maximum
 7 and possible minimum terms of imprisonment and to the possible
 8 release on parole of a person sentenced as for a class A felony.

9 5. The jury shall then retire to consider the penalty to be
 10 imposed. If the jury report unanimous agreement on the imposi-
 11 tion of the penalty of death, the court shall discharge the jury and
 12 shall impose the sentence of death. If the jury report unanimous
 13 agreement on the imposition of the class A felony sentence, the
 14 court shall discharge the jury and shall impose such sentence. If,
 15 after the lapse of such time as the court deems reasonable, the jury
 16 report themselves unable to agree, the court shall discharge the
 17 jury and shall, in its discretion, either impanel a new jury to deter-
 18 mine the sentence or impose the sentence for a class A felony.

19 6. On an appeal by the defendant where the judgment is of
 20 death, the court of appeals, if it finds substantial error only in the
 21 sentencing proceeding, may set aside the sentence of death and
 22 remand the case to the trial court, in which event the trial court
 23 shall impose the sentence for a class A felony.

24 ~~§ 125.40. Abortion in the second degree.~~ *of the court orders that a new jury see 4-27*

25 A person is guilty of abortion in the second degree when he
 26 commits an abortifacient act upon a female, unless such abortifacient act
 27 is justifiable pursuant to subdivision three of section 125.05.

1 Abortion in the second degree is a class E felony.

2 § 125.45 Abortion in the first degree.

3 A person is guilty of abortion in the first degree when he commits
4 upon a female pregnant for more than twenty-four weeks an abor-
5 tional act which causes the miscarriage of such female, unless such
6 abortional act is justifiable pursuant to subdivision three of section
7 125.05.

8 Abortion in the first degree is a class D felony.

9 § 125.50 Self-abortion in the second degree.

10 A female is guilty of self-abortion in the second degree when,
11 being pregnant, she commits or submits to an abortional act upon
12 herself, unless such abortional act is justifiable pursuant to sub-
13 division three of section 125.05.

14 Self-abortion in the second degree is a class B misdemeanor.

15 § 125.55 Self-abortion in the first degree.

16 A female is guilty of self-abortion in the first degree when, being
17 pregnant for more than twenty-four weeks, she commits or submits
18 to an abortional act upon herself which causes her miscarriage,
19 unless such abortional act is justifiable pursuant to subdivision
20 three of section 125.05.

21 Self-abortion in the first degree is a class A misdemeanor.

22 § 125.60 Issuing abortional articles.

23 A person is guilty of issuing abortional articles when he manu-
24 factures, sells or delivers any instrument, article, medicine, drug
25 or substance with intent that the same be used in unlawfully pro-
26 curing the miscarriage of a female.

27 Issuing abortional articles is a class B misdemeanor.

ARTICLE 130

SEX OFFENSES

- 1 Section 130.00 Sex offenses; definitions of terms.
- 2
- 3 130.05 Sex offenses; lack of consent.
- 4
- 5 130.10 Sex offenses; defense.
- 6
- 7 130.15 Sex offenses; corroboration.
- 8
- 9 130.20 Sexual misconduct.
- 10
- 11 130.25 Rape in the third degree.
- 12
- 13 130.30 Rape in the second degree.
- 14
- 15 130.35 Rape in the first degree.
- 16
- 17 130.40 Sodomy in the third degree.
- 18
- 19 130.45 Sodomy in the second degree.
- 20
- 21 130.50 Sodomy in the first degree.
- 22
- 23 130.55 Sexual abuse in the third degree.
- 24
- 25 130.60 Sexual abuse in the second degree.
- 26
- 27 130.65 Sexual abuse in the first degree.

§ 130.00 Sex offenses; definitions of terms.

The following definitions are applicable to this article:

- 1. "Sexual intercourse" has its ordinary meaning and occurs upon any penetration, however slight.
- 2. "Deviate sexual intercourse" means sexual conduct between persons not married to each other consisting of contact between the penis and the anus, the mouth and penis, or the mouth and the vulva.
- 3. "Sexual contact" means any touching of the sexual or other intimate parts of a person not married to the actor for the purpose of gratifying sexual desire of either party.

1 4. "Female" means any female person who is not married to
2 the actor.

3 5. "Mentally defective" means that a person suffers from a
4 mental disease or defect which renders him incapable of appraising
5 the nature of his conduct.

6 6. "Mentally incapacitated" means that a person is rendered
7 temporarily incapable of appraising or controlling his conduct
8 owing to the influence of a narcotic or intoxicating substance
9 administered to him without his consent, or to any other act commit-
10 ted upon him without his consent.

11 7. "Physically helpless" means that a person is unconscious or
12 for any other reason is physically unable to communicate unwilling-
13 ness to an act.

14 8. "Forcible compulsion" means physical force that overcomes
15 earnest resistance; or a threat, express or implied, that places a
16 person in fear of immediate death or serious physical injury to
17 himself or another person, or in fear that he or another person will
18 immediately be kidnapped.

19 § 130.05 Sex offenses; lack of consent.

20 1. Whether or not specifically stated, it is an element of every
21 offense defined in this article that the sexual act was committed
22 without consent of the victim.

23 2. Lack of consent results from:

24 (a) Forcible compulsion; or

25 (b) Incapacity to consent; or

26 (c) Where the offense charged is sexual abuse, any circum-
27 stances, in addition to forcible compulsion or incapacity to

1 consent, in which the victim does not expressly or impliedly
2 acquiesce in the actor's conduct.

3 3. A person is deemed incapable of consent when he is:

4 (a) less than seventeen years old; or

5 (b) mentally defective; or

6 (c) mentally incapacitated; or

7 (d) physically helpless.

8 § 130.10 Sex offenses; defense.

9 In any prosecution under this article in which the victim's lack
10 of consent is based solely upon his incapacity to consent because he
11 was mentally defective, mentally incapacitated or physically help-
12 less, it is an affirmative defense that the defendant, at the time he
13 engaged in the conduct constituting the offense, did not know of
14 the facts or conditions responsible for such incapacity to consent.

15 § 130.15 Sex offenses; corroboration.

16 A person shall not be convicted of any offense defined in this
17 article, or of an attempt to commit the same, solely on the uncor-
18 roborated testimony of the alleged victim. This section shall not
19 apply to the offense of sexual abuse in the third degree.

20 § 130.20 Sexual misconduct.

21 A person is guilty of sexual misconduct when:

22 1. Being a male, he engages in sexual intercourse with a female
23 without her consent; or

24 2. He engages in deviate sexual intercourse with another person
25 without the latter's consent; or

26 3. He engages in sexual conduct with an animal or a dead human
27 body.

1 Sexual misconduct is a class A misdemeanor.

2 § 130.25 Rape in the third degree.

3 A male is guilty of rape in the third degree when :

4 1. He engages in sexual intercourse with a female who is inca-
5 pable of consent by reason of some factor other than being less than
6 seventeen years old ; or

7 2. Being twenty-one years old or more, he engages in sexual
8 intercourse with a female less than seventeen years old.

9 Rape in the third degree is a class E felony.

10 § 130.30 Rape in the second degree.

11 A male is guilty of rape in the second degree when, being
12 eighteen years old or more, he engages in sexual intercourse with
13 a female less than fourteen years old.

14 Rape in the second degree is a class D felony.

15 § 130.35 Rape in the first degree.

16 A male is guilty of rape in the first degree when he engages in
17 sexual intercourse with a female :

18 1. By forcible compulsion ; or

19 2. Who is incapable of consent by reason of being physically
20 helpless ; or

21 3. Who is less than eleven years old.

22 Rape in the first degree is a class B felony.

23 § 130.40 Sodomy in the third degree.

24 A person is guilty of sodomy in the third degree when :

25 1. He engages in deviate sexual intercourse with a person who is
26 incapable of consent by reason of some factor other than being less
27 than seventeen years old ; or

28 2. Being twenty-one years old or more, he engages in deviate

1 sexual intercourse with a person less than seventeen years old.

2 Sodomy in the third degree is a class E felony.

3 § 130.45 Sodomy in the second degree.

4 A person is guilty of sodomy in the second degree when, being
5 eighteen years old or more, he engages in deviate sexual intercourse
6 with another person less than fourteen years old.

7 Sodomy in the second degree is a class D felony.

8 § 130.50 Sodomy in the first degree.

9 A person is guilty of sodomy in the first degree when he engages
10 in deviate sexual intercourse with another person :

11 1. By forcible compulsion ; or

12 2. Who is incapable of consent by reason of being physically
13 helpless ; or

14 3. Who is less than eleven years old.

15 Sodomy in the first degree is a class B felony.

16 § 130.55 Sexual abuse in the third degree.

17 A person is guilty of sexual abuse in the third degree when he
18 subjects another person to sexual contact without the latter's con-
19 sent ; except that in any prosecution under this section, it is an
20 affirmative defense that (a) such other person's lack of consent was
21 due solely to incapacity to consent by reason of being less than
22 seventeen years old, and (b) such other person was more than four-
23 teen years old, and (c) the defendant was less than five years older
24 than such other person.

25 Sexual abuse in the third degree is a class B misdemeanor.

26 § 130.60 Sexual abuse in the second degree.

27 A person is guilty of sexual abuse in the second degree when he

1 subjects another person to sexual contact and when such other
2 person is:

3 1. Incapable of consent by reason of some factor other than being
4 less than seventeen years old; or

5 2. Less than fourteen years old.

6 Sexual abuse in the second degree is a class A misdemeanor.

7 § 130.65 Sexual abuse in the first degree.

8 A person is guilty of sexual abuse in the first degree when he
9 subjects another person to sexual contact:

10 1. By forcible compulsion; or

11 2. When the other person is incapable of consent by reason of
12 being physically helpless; or

13 3. When the other person is less than eleven years old.

14 Sexual abuse in the first degree is a class D felony.

15 ARTICLE 135

16 KIDNAPPING, COERCION AND RELATED OFFENSES

17 Section 135.00 Unlawful imprisonment, kidnapping and custodial
18 interference; definitions of terms.

19 135.05 Unlawful imprisonment in the second degree.

20 135.10 Unlawful imprisonment in the first degree.

21 135.15 Unlawful imprisonment; defense.

22 135.20 Kidnapping in the second degree.

23 135.25 Kidnapping in the first degree.

24 135.30 Kidnapping; defense.

25 135.35 Kidnapping in the first degree; punishment; plea
26 of guilty.

27 135.40 Kidnapping in the first degree; proceeding to deter-
28 mine sentence; appeal.

1 135.45 Custodial interference in the second degree.

2 135.50 Custodial interference in the first degree.

3 135.55 Substitution of children.

4 135.60 Coercion in the second degree.

5 135.65 Coercion in the first degree.

6 135.70 Coercion; no defense.

7 135.75 Coercion; defense.

8 § 135.00 Unlawful imprisonment, kidnapping and custodial inter-
9 ference; definitions of terms.

10 The following definitions are applicable to this article:

11 1. "Restrain" means to restrict a person's movements intention-

12 ally ~~and unlawfully~~ in such manner as to interfere substantially

13 with his liberty by moving him from one place to another, or by

14 confining him either in the place where the restriction commences

15 or in a place to which he has been moved, without consent and with

16 knowledge that the restriction is unlawful. A person is so moved

17 or confined "without consent" when such is accomplished by (a)

18 physical force, intimidation or deception, or (b) any means what-

19 ever, including acquiescence of the victim, if he is a child less than

20 sixteen years old or an incompetent person and the parent, guard-

21 ian or other person or institution having lawful control or cus-

22 tody of him has not acquiesced in the movement or confinement.

23 2. "Abduct" means to restrain a person with intent to prevent

24 his liberation by either (a) secreting or holding him in a place

25 where he is not likely to be found, or (b) using or threatening to

26 use deadly physical force.

27 3. "Relative" means a parent, ancestor, brother, sister, uncle

28 or aunt.

*and OK
knowing
that it is
unlawful"*
*OK
and with
knowledge
of the
unlawfulness
of such
restriction*

1 § 135.05 Unlawful imprisonment in the second degree.

2 A person is guilty of unlawful imprisonment in the second degree
3 when he restrains another person.

4 Unlawful imprisonment in the second degree is a class A mis-
5 demeanor.

6 § 135.10 Unlawful imprisonment in the first degree.

7 A person is guilty of unlawful imprisonment in the first degree
8 when he restrains another person under circumstances which expose
9 the latter to a risk of serious physical injury.

10 Unlawful imprisonment in the first degree is a class E felony.

11 § 135.15 Unlawful imprisonment; defense.

12 In any prosecution for unlawful imprisonment, it is an affirma-
13 tive defense that (a) the person restrained was a child less than
14 sixteen years old, and (b) the defendant was a relative of such
15 child, and (c) his sole purpose was to assume control of such child.

16 § 135.20 Kidnapping in the second degree.

17 A person is guilty of kidnapping in the second degree when he
18 abducts another person.

19 Kidnapping in the second degree is a class B felony.

20 § 135.25 Kidnapping in the first degree.

21 A person is guilty of kidnapping in the first degree when he
22 abducts another person and when:

23 1. His intent is to compel a third person to pay or deliver money
24 or property as ransom, or to engage in other particular conduct, or
25 to refrain from engaging in particular conduct; or

26 2. He restrains the person abducted for a period of more than
27 twelve hours with intent to:

1 (a) Inflict physical injury upon him or violate or abuse
2 him sexually; or

3 (b) Accomplish or advance the commission of a felony; or

4 (c) Terrorize him or a third person; or

5 (d) Interfere with the performance of a governmental or
6 political function; or

7 3. The person abducted dies during the abduction or before he is
8 able to return or to be returned to safety. Such death shall be pre-
9 sumed, in a case where such person was less than sixteen years old
10 or an incompetent person at the time of the abduction, from evi-
11 dence that his parents, guardians or other lawful custodians did
12 not see or hear from him following the termination of the abduc-
13 tion and prior to trial and received no reliable information during
14 such period persuasively indicating that he was alive. In all other
15 cases, such death shall be presumed from evidence that a person
16 whom the person abducted would have been extremely likely to visit
17 or communicate with during the specified period were he alive and
18 free to do so did not see or hear from him during such period and
19 received no reliable information during such period persuasively
20 indicating that he was alive.

21 § 135.30 Kidnapping; defense.

22 In any prosecution for kidnapping, it is an affirmative defense
23 that (a) the defendant was a relative of the person abducted, and
24 (b) his sole purpose was to assume control of such person.

25 § 135.35 Kidnapping in the first degree; punishment; plea of
26 guilty.

27 1. Kidnapping in the first degree is punishable as a class A

135.35

135.40 out

1 felony unless the death sentence is imposed as provided by section
2 135.40. #

3 2. When the court and the district attorney consent, a person
4 indicted for kidnapping in the first degree may plead guilty thereto,
5 in which case the court shall sentence him as for a class A felony.

6 3. When a defendant has been found guilty after trial of kid-
7 napping in the first degree, the court shall discharge the jury and
8 shall sentence the defendant as for a class A felony if it is satisfied
9 (a) that he was less than eighteen years old at the time of the com-
10 mission of the crime, or (b) that the person kidnapped has been
11 voluntarily returned alive or voluntarily released alive under
12 circumstances enabling him to return to safety without substantial
13 risk of death, or (c) that the sentence of death is not warranted
14 because of substantial mitigating circumstances.

15 § 135.40 Kidnapping in the first degree; proceeding to determine
16 sentence; appeal.

17 1. When a defendant has been found guilty after trial of kid-
18 napping in the first degree, and such verdict has been recorded
19 upon the minutes, it shall not thereafter be subject to jury
20 reconsideration.

21 2. Unless the court sentences the defendant as for a class A
22 felony as provided in subdivision two or three of section 135.35, it
23 shall, as promptly as practicable, conduct a proceeding to deter-
24 mine whether defendant should be sentenced as for a class A
25 felony or to death. Such proceeding shall be conducted in the
26 manner prescribed in section 125.35 for determination of the pen-
27 alty for murder, and all the provisions of said section 125.35 relat-

1 ing to procedure and to determination and imposition of sentence
2 appeal, remand and re-sentence are here applicable.

3 § 135.45 Custodial interference in the second degree.

4 A person is guilty of custodial interference in the second degree
5 when:

6 1. Being a relative of a child less than sixteen years old, intend
7 ing to hold such child permanently or for a protracted period, and
8 knowing that he has no legal right to do so, he takes or entices such
9 child from his lawful custodian; or

10 2. Knowing that he has no legal right to do so, he takes or entices
11 from lawful custody any incompetent person or other person
12 entrusted by authority of law to the custody of another person or
13 institution.

14 Custodial interference in the second degree is a class A mis
15 demeanor.

16 § 135.50 Custodial interference in the first degree.

17 A person is guilty of custodial interference in the first degree
18 when he commits the crime of custodial interference in the second
19 degree under circumstances which expose the person taken or
20 enticed from lawful custody to a risk that his safety will be endan
21 gered or his health materially impaired.

22 Custodial interference in the first degree is a class E felony.

23 § 135.55 Substitution of children.

24 A person is guilty of substitution of children when, having been
25 temporarily entrusted with a child less than one year old and
26 intending to deceive a parent, guardian or other lawful custodian
27 of such child, he substitutes, produces or returns to such parent
28 guardian or custodian a child other than the one entrusted.

1 Substitution of children is a class E felony.

2 § 135.60 Coercion in the second degree.

3 A person is guilty of coercion in the second degree when he
4 compels or induces a person to engage in conduct which the latter
5 has a legal right to abstain from engaging in, or to abstain from
6 engaging in conduct in which he has a legal right to engage, by
7 means of instilling in him a fear that, if the demand is not complied
8 with, the actor or another will:

9 1. Cause physical injury to a person; or

10 2. Cause damage to property; or

11 3. Engage in other conduct constituting a crime; or

12 4. Accuse some person of a crime or cause criminal charges to be
13 instituted against him; or

14 5. Expose a secret or publicize an asserted fact, whether true or
15 false, tending to subject some person to hatred, contempt or ridi-
16 cule; or

17 6. Cause a strike, boycott or other collective labor group action
18 injurious to some person's business; except that such a threat shall
19 not be deemed coercive when the act or omission compelled is for
20 the benefit of the group in whose interest the actor purports to
21 act; or

22 7. Testify or provide information or withhold testimony or
23 information with respect to another's legal claim or defense; or

24 8. Use or abuse his position as a public servant by performing
25 some act within or related to his official duties, or by failing or
26 refusing to perform an official duty, in such manner as to affect
27 some person adversely; or

1 9. Perform any other act which would not in itself materially
2 benefit the actor but which is calculated to harm another person
3 materially with respect to his health, safety, business, calling
4 career, financial condition, reputation or personal relationships

5 Coercion in the second degree is a class A misdemeanor.

6 § 135.65 Coercion in the first degree.

7 A person is guilty of coercion in the first degree when he com
8 mits the crime of coercion in the second degree, and when:

9 1. He commits such crime by instilling in the victim a fear tha
10 he will cause physical injury to a person or cause damage to
11 property; or

12 2. He thereby compels or induces the victim to:

13 (a) Commit or attempt to commit a felony; or

14 (b) Cause or attempt to cause physical injury to a person

15 or

16 (c) Violate his duty as a public servant.

17 Coercion in the first degree is a class D felony.

18 § 135.70 Coercion; no defense.

19 The crimes of (a) coercion and attempt to commit coercion, and
20 (b) bribe receiving by a labor official as defined in section 180.20
21 and bribe receiving as defined in section 200.05, are not mutually
22 exclusive, and it is no defense to a prosecution for coercion or an
23 attempt to commit coercion that, by reason of the same conduct, the
24 defendant also committed one of such specified crimes of brib
25 receiving.

26 § 135.75 Coercion; defense.

27 In any prosecution for coercion committed by instilling in the
28 victim a fear that he or another person would be charged with :

1 crime, it is an affirmative defense that the defendant reasonably
2 believed the threatened charge to be true and that his sole pur-
3 pose was to compel or induce the victim to take reasonable action
4 to make good the wrong which was the subject of such threatened
5 charge.

6 TITLE I

7 OFFENSES INVOLVING DAMAGE TO AND INTRUSION UPON PROPERTY

8 ARTICLE 140

9 BURGLARY AND RELATED OFFENSES

10 Section 140.00 Criminal trespass and burglary; definitions of
11 terms.

12 140.05 Criminal trespass in the third degree.

13 140.10 Criminal trespass in the second degree.

14 140.15 Criminal trespass in the first degree.

15 140.20 Burglary in the third degree.

16 140.25 Burglary in the second degree.

17 140.30 Burglary in the first degree.

18 140.35 Possession of burglar's tools.

19 § 140.00 Criminal trespass and burglary; definitions of terms.

20 The following definitions are applicable to this article:

21 1. "Premises" includes the term "building," as defined herein,
22 and any real property.

23 2. "Building," in addition to its ordinary meaning, includes
24 any structure, vehicle or watercraft used for overnight lodging of
25 persons, or used by persons for carrying on business therein.

26 Where a building consists of two or more units separately secured
27 or occupied, each unit shall be deemed a separate building.

1 3. "Dwelling" means a building which is usually occupied by
2 a person lodging therein at night.

3 4. "Night" means the period between thirty minutes after sun-
4 set and thirty minutes before sunrise.

5 5. "Enter or remain unlawfully." A person "enters or remains
6 unlawfully" in or upon premises when he is not licensed or
7 privileged to do so. A person who, regardless of his intent, enters
8 or remains in or upon premises which are at the time open to
9 the public does so with license and privilege unless he defies a
10 lawful order not to enter or remain, personally communicated to
11 him by the owner of such premises or other authorized person.
12 A license or privilege to enter or remain in a building which is
13 only partly open to the public is not a license or privilege to
14 enter or remain in that part of the building which is not open
15 to the public. A person who enters or remains upon unimproved
16 and apparently unused land, which is neither fenced nor otherwise
17 enclosed in a manner designed to exclude intruders, does so with
18 license and privilege unless notice against trespass is personally
19 communicated to him by the owner of such land or other authorized
20 person, or unless such notice is given by posting in a conspicuous
21 manner.

22 § 140.05 Criminal trespass in the third degree.

23 A person is guilty of criminal trespass in the third degree when
24 he knowingly enters or remains unlawfully in or upon premises.

25 Criminal trespass in the third degree is a violation.

26 § 140.10 Criminal trespass in the second degree.

27 A person is guilty of criminal trespass in the second degree

1 when he knowingly enters or remains unlawfully in a building
 2 or upon real property which is fenced or otherwise enclosed in a
 3 manner designed to exclude intruders.

4 Criminal trespass in the second degree is a class B misdemeanor.
 5 §140.15 Criminal trespass in the first degree.

6 A person is guilty of criminal trespass in the first degree when
 7 he knowingly enters or remains unlawfully in a dwelling.

8 Criminal trespass in the first degree is a Class A misdemeanor.
 9 § 140.20 Burglary in the third degree.

10 A person is guilty of burglary in the third degree when he
 11 knowingly enters or remains unlawfully in a building with intent
 12 to commit a crime therein.

13 Burglary in the third degree is a class D felony.

14 § 140.25 Burglary in the second degree.

15 A person is guilty of burglary in the second degree when he know-
 16 ingly enters or remains unlawfully in a building with intent to
 17 commit a crime therein, and when:

18 1. In effecting entry or while in the building or in immediate
 19 flight therefrom, he or another participant in the crime:

20 (a) Is armed with explosives or a deadly weapon; or

21 (b) Causes physical injury to any person who is not a
 22 participant in the crime; or

23 2. The building is a dwelling and the entering or remaining *(c) dangerous instant... or (See Robb 1^o & new Burglary 1^o)*
 24 occurs at night.

25 Burglary in the second degree is a class C felony.

26 § 140.30 Burglary in the first degree.

27 A person is guilty of burglary in the first degree when he know-

1 ingly enters or remains unlawfully in a dwelling at night with
 2 intent to commit a crime therein, and when, in effecting entry
 3 or while in the dwelling or in immediate flight therefrom, he or
 4 another participant in the crime:

- 5 1. Is armed with explosives or a deadly weapon; or
- 6 2. Causes physical injury to any person who is not a participant
 7 in the crime.

8 *3. Dangerous instrument (see Robb 1^o)*
 Burglary in the first degree is a class B felony.

9 § 140.35 Possession of burglar's tools.

10 A person is guilty of possession of burglar's tools when he
 11 possesses any tool, instrument or other article adapted, designed
 12 or commonly used for committing or facilitating offenses involving
 13 forcible entry into premises, or offenses involving larceny by a
 14 physical taking, or offenses involving theft of services as defined
 15 in subdivisions four, five and six of section 165.15, under cir-
 16 cumstances evincing an intent to use or knowledge that some person
 17 intends to use the same in the commission of an offense of such
 18 character.

19 Possession of burglar's tools is a class A misdemeanor.

20 ARTICLE 145

21 CRIMINAL MISCHIEF AND RELATED OFFENSES

22 Section 145.00 Criminal mischief in the third degree.

23 145.05 Criminal mischief in the second degree.

24 145.10 Criminal mischief in the first degree.

25 145.15 Criminal tampering in the second degree.

26 145.20 Criminal tampering in the first degree.

27 145.25 Reckless endangerment of property.

1 145.30 Unlawfully posting advertisements.

2 § 145.00 Criminal mischief in the third degree.

3 A person is guilty of criminal mischief in the third degree when,
4 having no right to do so nor any reasonable ground to believe
5 that he has such right, he ^(w) intentionally or recklessly damages
6 property of another person;

7 Criminal mischief in the third degree is a class A misdemeanor.

8 § 145.05 Criminal mischief in the second degree.

9 A person is guilty of criminal mischief in the second degree when,
10 with intent to damage property of another person, and having no
11 right to do so nor any reasonable ground to believe that he has
12 such right, he damages property of another person in an amount
13 exceeding two hundred fifty dollars.

14 Criminal mischief in the second degree is a class E felony.

15 § 145.10 Criminal mischief in the first degree.

16 A person is guilty of criminal mischief in the first degree when
17 with intent to damage property of another person, and having no
18 right to do so nor any reasonable ground to believe that he has such
19 right, he damages property of another person:

20 1. In an amount exceeding one thousand five hundred dollars;
21 or

22 2. By means of an explosive.

23 Criminal mischief in the first degree is a class D felony.

24 § 145.15 Criminal tampering in the second degree.

25 A person is guilty of criminal tampering in the second degree
26 when, having no right to do so nor any reasonable ground to believe
27 that he has such right, he:

Reckless

cf. Reckless endangerment (over 250.)
Not known 250.

1 1. Tamperers with property of another person with intent to cause
2 substantial inconvenience to such person or to a third person; or

3 2. Tamperers or makes connection with property of a gas, electric,
4 steam or water-works corporation, telephone or telegraph corpora-
5 tion, common carrier, or public utility operated by a municipality;
6 except that in any prosecution under this subdivision, it is an
7 affirmative defense that the defendant did not engage in such con-
8 duct for a larcenous or otherwise unlawful or wrongful purpose.

9 Criminal tampering in the second degree is a class B misde-
10 meanor.

11 § 145.20 Criminal tampering in the first degree.

12 A person is guilty of criminal tampering in the first degree when,
13 with intent to cause a substantial interruption or impairment of a
14 service rendered to the public, and having no right to do so nor any
15 reasonable ground to believe that he has such right, he damages or
16 tampers with property of a gas, electric, steam or water-works
17 corporation, telephone or telegraph corporation, common carrier,
18 or public utility operated by a municipality, and thereby causes
19 such substantial interruption or impairment of service.

20 Criminal tampering in the first degree is a class D felony.

21 § 145.25 Reckless endangerment of property.

22 A person is guilty of reckless endangerment of property when he
23 recklessly engages in conduct which creates a substantial risk of
24 damage to the property of another person in an amount exceeding
25 two hundred fifty dollars.

26 Reckless endangerment of property is a class B misdemeanor.

27 § 145.30 Unlawfully posting advertisements.

1 1. A person is guilty of unlawfully posting advertisements when,
2 having no right to do so nor any reasonable ground to believe that
3 he has such right, he posts, paints or otherwise affixes to the prop-
4 erty of another person any advertisement, poster, notice or other
5 matter designed to benefit a person other than the owner of the
6 property.

7 2. Where such matter consists of a commercial advertisement, it
8 shall be presumed that the vendor of the specified product, service
9 or entertainment is a person who placed such advertisement or
10 caused it to be placed upon the property.

11 Unlawfully posting advertisements is a violation.

12 ARTICLE 150

13 ARSON

14 Section 150.00 Arson; definition of term.

15 150.05 Arson in the third degree.

16 150.10 Arson in the second degree.

17 150.15 Arson in the first degree.

18 § 150.00 Arson; definition of term.

19 As used in this article, "building," in addition to its ordinary
20 meaning, includes any structure, vehicle or watercraft used for
21 overnight lodging of persons, or used by persons for carrying on
22 business therein. Where a building consists of two or more units
23 separately secured or occupied, each unit shall not be deemed a
24 separate building.

25 § 150.05 Arson in the third degree.

26 1. A person is guilty of arson in the third degree when he reck-

1 lessly damages a building by intentionally starting a fire or causing
2 an explosion.

3 2. In any prosecution under this section, it is an affirmative de-
4 fense that no person other than the defendant had a possessory or
5 proprietary interest in the building.

6 Arson in the third degree is a class E felony.

7 § 150.10 Arson in the second degree.

8 1. A person is guilty of arson in the second degree when he
9 intentionally damages a building by starting a fire or causing an
10 explosion.

11 2. In any prosecution under this section, it is an affirmative de-
12 fense that (a) no person other than the defendant had a possessory
13 or proprietary interest in the building, or if other persons had such
14 interests, all of them consented to the defendant's conduct, and (b)
15 the defendant's sole intent was to destroy or damage the building
16 for a lawful and proper purpose, and (c) the defendant had no
17 reasonable ground to believe that his conduct might endanger the
18 life or safety of another person or damage another building.

19 Arson in the second degree is a class C felony.

20 § 150.15 Arson in the first degree.

21 A person is guilty of arson in the first degree when he intention-
22 ally damages a building by starting a fire or causing an explosion,
23 and when (a) another person is present in such building at the
24 time, and (b) the defendant knows that fact or the circumstances
25 are such as to render the presence of a person therein a reasonable
26 possibility.

27 Arson in the first degree is a class B felony.

TITLE J

OFFENSES INVOLVING THEFT

ARTICLE 155

LARCENY

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Section 155.00. Larceny; definitions of terms.

155.05 Larceny; defined.

155.10 Larceny; no defense.

155.15 Larceny; defenses.

155.20 Larceny; value of stolen property.

155.25 Petit larceny.

155.30 Grand larceny in the third degree.

155.35 Grand larceny in the second degree.

155.40 Grand larceny in the first degree.

155.45 Larceny; pleading and proof.

§ 155.00 Larceny; definitions of terms.

The following definitions are applicable to this title:

1. "Property" means any money, personal property, real property, thing in action, evidence of debt or contract, or article of value of any kind. Commodities of a public utility nature such as gas, electricity, steam and water, constitute property, but the supplying of such a commodity to premises from an outside source by means of wires, pipes, conduits or other equipment shall be deemed a rendition of a service rather than a sale or delivery of property.]

2. "Obtain" includes, but is not limited to, the bringing about of a transfer or purported transfer of property or of a legal interest therein, whether to the obtainer or another.

3. "Deprive." To "deprive" another of property means (a) to

including but not limited to
take out

1 withhold it or cause it to be withheld from him permanently or for
2 so extended a period or under such circumstances that the major
3 portion of its economic value or benefit is lost to him, or (b) to
4 dispose of the property in such manner or under such circum-
5 stances as to render it unlikely that an owner will recover such
6 property.

7 4. "Appropriate." To "appropriate" property of another to
8 oneself or a third person means (a) to exercise control over it, or
9 to aid a third person to exercise control over it, permanently or
10 for so extended a period or under such circumstances as to acquire
11 the major portion of its economic value or benefit, or (b) to dispose
12 of the property for the benefit of oneself or a third person.

13 5. "Owner." When property is taken, obtained or withheld by
14 one person from another person, an "owner" thereof means any
15 person who has a right to possession thereof superior to that of
16 the taker, obtainer or withholder.

17 A person who has obtained possession of property by theft or
18 other illegal means shall be deemed to have a right of possession
19 superior to that of a person who takes, obtains or withholds it from
20 him by larcenous means.

21 A joint or common owner of property shall not be deemed to have
22 a right of possession thereto superior to that of any other joint or
23 common owner thereof.

24 In the absence of a specific agreement to the contrary, a person
25 in lawful possession of property shall be deemed to have a right of
26 possession superior to that of a person having only a security inter-
27 est therein, even if legal title lies with the holder of the security

1 interest pursuant to a conditional sale contract or other security
2 agreement.

3 § 155.05 Larceny; defined.

4 1. A person steals property and commits larceny when, with
5 intent to deprive another of property or to appropriate the same
6 to himself or to a third person, he wrongfully takes, obtains or
7 withholds such property from an owner thereof.

8 2. Larceny includes a wrongful taking, obtaining or withholding
9 of another's property, with the intent prescribed in subdivision one
10 of this section, committed in any of the following ways:

11 (a) By conduct heretofore defined or known as common
12 law larceny by trespassory taking, common law larceny by
13 trick, embezzlement, or obtaining property by false pretenses;

14 (b) By acquiring lost property.

15 A person acquires lost property when he exercises control
16 over property of another which he knows to have been lost or
17 mislaid, or to have been delivered under a mistake as to the
18 identity of the recipient or the nature or amount of the prop-
19 erty, without taking reasonable measures to return such prop-
20 erty to the owner;

21 (c) By committing the crime of issuing a bad check, as
22 defined in section 190.05;

23 (d) By false promise.

24 A person obtains property by false promise when, pursuant
25 to a scheme to defraud, he obtains property of another by
26 means of a representation, express or implied, that he or a third
27 person will in the future engage in particular conduct, and

1 when he does not intend to engage in such conduct or, as the
2 case may be, does not believe that the third person intends to
3 engage in such conduct.

4 In any prosecution for larceny based upon a false promise,
5 the defendant's intention or belief that the promise would not
6 be performed may not be established by or inferred from the
7 fact alone that such promise was not performed. Such a
8 finding may be based only upon evidence establishing that the
9 facts and circumstances of the case are wholly consistent with
10 guilty intent or belief and wholly inconsistent with innocent
11 intent or belief, and excluding to a moral certainty every
12 hypothesis except that of the defendant's intention or belief
13 that the promise would not be performed;

14 (e) By extortion.

15 A person obtains property by extortion when he compels
16 or induces another person to deliver such property to himself
17 or to a third person by means of instilling in him a fear that,
18 if the property is not so delivered, the actor or another will:

19 (i) Cause physical injury to some person in the future;

20 or

21 (ii) Cause damage to property; or

22 (iii) Engage in other conduct constituting a crime; or

23 (iv) Accuse some person of a crime or cause criminal
24 charges to be instituted against him; or

25 (v) Expose a secret or publicize an asserted fact,
26 whether true or false, tending to subject some person to
27 hatred, contempt or ridicule; or

1 (vi) Cause a strike, boycott or other collective labor
2 group action injurious to some person's business; except
3 that such a threat shall not be deemed extortion when the
4 property is demanded or received for the benefit of the
5 group in whose interest the actor purports to act; or

6 (vii) Testify or provide information or withhold testi-
7 mony or information with respect to another's legal claim
8 or defense; or

9 (viii) Use or abuse his position as a public servant by
10 performing some act within or related to his official duties,
11 or by failing or refusing to perform an official duty, in
12 such manner as to affect some person adversely; or

13 (ix) Perform any other act which would not in itself
14 materially benefit the actor but which is calculated to
15 harm another person materially with respect to his health,
16 safety, business, calling, career, financial condition, repu-
17 tation or personal relationships.

18 § 155.10 Larceny; no defense.

19 The crimes of (a) larceny committed by means of extortion and
20 an attempt to commit the same, and (b) bribe receiving by a labor
21 official as defined in section 180.20, and bribe receiving as defined
22 in section 200.05, are not mutually exclusive, and it is no defense
23 to a prosecution for larceny committed by means of extortion or for
24 an attempt to commit the same that, by reason of the same conduct,
25 the defendant also committed one of such specified crimes of bribe
26 receiving.

1 § 155.15 Larceny; defenses.

2 1. In any prosecution for larceny committed by trespassory
3 taking or embezzlement, it is an affirmative defense that the prop-
4 erty was appropriated under a claim of right made in good faith.

5 2. In any prosecution for larceny by extortion committed by
6 instilling in the victim a fear that he or another person would
7 be charged with a crime, it is an affirmative defense that the
8 defendant reasonably believed the threatened charge to be true
9 and that his sole purpose was to compel or induce the victim to
10 take reasonable action to make good the wrong which was the
11 subject of such threatened charge.

12 § 155.20 Larceny; value of stolen property.

13 For the purposes of this title, the value of property shall be
14 ascertained as follows:

15 1. Except as otherwise specified in this section, value means
16 the market value of the property at the time and place of the crime,
17 or if such cannot be satisfactorily ascertained, the cost of replace-
18 ment of the property within a reasonable time after the crime.

19 2. Whether or not they have been issued or delivered, certain
20 written instruments, not including those having a readily ascer-
21 tainable market value such as some public and corporate bonds and
22 securities, shall be evaluated as follows:

23 (a) The value of an instrument constituting an evidence of
24 debt, such as a check, draft or promissory note, shall be deemed
25 the amount due or collectable thereon or thereby, such figure
26 ordinarily being the face amount of the indebtedness less any
27 portion thereof which has been satisfied.

1 (b) The value of any other instrument which creates,
2 releases, discharges or otherwise affects any valuable legal right,
3 privilege or obligation shall be deemed the greatest amount of
4 economic loss which the owner of the instrument might
5 reasonably suffer by virtue of the loss of the instrument.

6 3. When the value of property cannot be satisfactorily ascer-
7 tained pursuant to the standards set forth in subdivisions one and
8 two of this section, its value shall be deemed to be an amount less
9 than two hundred fifty dollars.

10 § 155.25 Petit larceny.

11 A person is guilty of petit larceny when he steals property.

12 Petit larceny is a class A misdemeanor.

13 § 155.30 Grand larceny in the third degree.

14 A person is guilty of grand larceny in the third degree when he
15 steals property and when:

16 1. The value of the property exceeds two hundred fifty dollars; or

17 2. The property consists of a public record, writing or instru-
18 ment kept, filed or deposited according to law with or in the keeping
19 of any public office or public servant; or

20 3. The property consists of a sample, culture, microorganism,
21 specimen, record, recording, document, drawing or any other
22 article, material, device or substance which constitutes, represents,
23 evidences, reflects, or records a secret scientific or technical process,
24 invention or formula or any phase or part thereof. A process,
25 invention or formula is "secret" when it is not, and is not intended
26 to be, available to anyone other than the owner thereof or selected
27 persons having access thereto for limited purposes with his consent,

1 and when it accords or may accord the owner an advantage over
2 competitors or other persons who do not have knowledge or the
3 benefit thereof; or

4 4. The property, regardless of its nature and value, is taken
5 from the person of another; or

6 5. The property, regardless of its nature and value, is obtained
7 by extortion.

8 Grand larceny in the third degree is a class E felony.

9 § 155.35 Grand larceny in the second degree.

10 A person is guilty of grand larceny in the second degree when
11 he steals property and when the value of the property exceeds
12 one thousand five hundred dollars.

13 Grand larceny in the second degree is a class D felony.

14 § 155.40 Grand larceny in the first degree.

15 A person is guilty of grand larceny in the first degree when he
16 steals property and when the property, regardless of its nature
17 and value, is obtained by extortion committed by instilling in the
18 victim a fear that the actor or another person will (a) cause
19 physical injury to some person in the future, or (b) cause damage
20 to property, or (c) use or abuse his position as a public servant by
21 engaging in conduct within or related to his official duties, or by
22 failing or refusing to perform an official duty, in such manner
23 as to affect some person adversely.

24 Grand larceny in the first degree is a class C felony.

25 § 155.45 Larceny; pleading and proof.

26 1. Where it is an element of the crime charged that property
27 was taken from the person or obtained by extortion, an indictment

1 for larceny must so specify. In all other cases, an indictment,
2 information or complaint for larceny is sufficient if it alleges that
3 the defendant stole property of the nature or value required for
4 the commission of the crime charged without designating the
5 particular way or manner in which such property was stolen or
6 the particular theory of larceny involved.

7 2. Proof that the defendant engaged in any conduct constituting
8 larceny as defined in section 155.05 is sufficient to support any
9 indictment, information or complaint for larceny other than one
10 charging larceny by extortion. An indictment charging larceny
11 by extortion must be supported by proof establishing larceny by
12 extortion.

13 ARTICLE 160

14 ROBBERY

15 Section 160.00 Robbery; defined.

16 160.05 Robbery in the third degree.

17 160.10 Robbery in the second degree.

18 160.15 Robbery in the first degree.

19 § 160.00 Robbery; defined.

20 Robbery is forcible stealing. A person forcibly steals property
21 and commits robbery when, in the course of committing a larceny,
22 he uses or threatens the immediate use of physical force upon
23 another person for the purpose of:

24 1. Preventing or overcoming resistance to the taking of the
25 property or to the retention thereof immediately after the taking;

26 or

27 2. Compelling the owner of such property or another person

1 to deliver up the property or to engage in other conduct which
2 aids in the commission of the larceny.

3 § 160.05 Robbery in the third degree.

4 A person is guilty of robbery in the third degree when he for-
5 cibly steals property.

6 Robbery in the third degree is a class D felony.

7 § 160.10 Robbery in the second degree.

8 A person is guilty of robbery in the second degree when he for-
9 cibly steals property and when he is aided by another person
10 actually present.

11 Robbery in the second degree is a class C felony.

12 § 160.15 Robbery in the first degree.

13 A person is guilty of robbery in the first degree when he forcibly
14 steals property and when, in the course of the commission of the
15 crime or of immediate flight therefrom, he or another participant
16 in the crime:

17 1. Causes serious physical injury to any person who is not a
18 participant in the crime; or

19 2. Is armed with a deadly weapon; or

20 3. Is armed with and uses or threatens the immediate use of
21 a dangerous instrument.

22 Robbery in the first degree is a class B felony.

23

ARTICLE 165

24

OTHER OFFENSES RELATING TO THEFT

25 Section 165.00 Misapplication of property.

26 165.05 Unauthorized use of a vehicle.

27 165.10 Theft of services; definitions of terms.

- 1 165.15 Theft of services.
- 2 165.20 Fraudulently obtaining a signature.
- 3 165.25 Jostling.
- 4 165.30 Fraudulent accosting.
- 5 165.35 Fortune telling.
- 6 165.40 Criminal possession of stolen property in the third
7 degree.
- 8 165.45 Criminal possession of stolen property in the sec-
9 ond degree.
- 10 165.50 Criminal possession of stolen property in the first
11 degree.
- 12 165.55 Criminal possession of stolen property; presump-
13 tions.
- 14 165.60 Criminal possession of stolen property; no defense.
- 15 165.65 Criminal possession of stolen property; corrobora-
16 tion.
- 17 § 165.00 Misapplication of property.

18 1. A person is guilty of misapplication of property when, know-
19 ingly possessing personal property of another pursuant to an
20 agreement that the same will be returned to the owner at a future
21 time, he loans, leases, pledges, pawns or otherwise encumbers such
22 property without the consent of the owner thereof in such manner
23 as to create a risk that the owner will not be able to recover it
24 or will suffer pecuniary loss.

25 2. In any prosecution under this section, it is a defense that,
26 at the time the prosecution was commenced, (a) the defendant
27 had recovered possession of the property, unencumbered as a

1 result of the unlawful disposition, and (b) the owner had suffered
2 no material economic loss as a result of the unlawful disposition.

3 Misapplication of property is a class A misdemeanor.

4 § 165.05 Unauthorized use of a vehicle.

5 A person is guilty of unauthorized use of a vehicle when:

6 1. Knowing that he does not have the consent of the owner, he
7 takes, operates, exercises control over, rides in or otherwise uses
8 a vehicle. A person who engages in any such conduct without
9 the consent of the owner is presumed to know that he does not
10 have such consent; or

11 2. Having custody of a vehicle pursuant to an agreement
12 between himself or another and the owner thereof whereby he or
13 another is to perform for compensation a specific service for the
14 owner involving the maintenance, repair or use of such vehicle,
15 he intentionally uses or operates the same, without the consent
16 of the owner, for his own purposes in a manner constituting a
17 gross deviation from the agreed purpose; or

18 3. Having custody of a vehicle pursuant to an agreement with
19 the owner thereof whereby such vehicle is to be returned to the
20 owner at a specified time, he intentionally retains or withholds
21 possession thereof, without the consent of the owner, for so
22 lengthy a period beyond the specified time as to render such
23 retention or possession a gross deviation from the agreement.

24 Unauthorized use of a vehicle is a class A misdemeanor.

25 § 165.10 Theft of services; definitions of terms.

26 The following definitions are applicable to section 165.15:

27 1. "Service" includes, but is not limited to, labor, professional

1 or mechanical tampering, or by unjustifiable failure or refusal to
2 pay; or

3 4. ~~With intent to avoid~~ payment by himself or another person
4 of the lawful charge for any telecommunications service, he obtains
5 or attempts to obtain such service or avoids or attempts to avoid
6 payment therefor by himself or another person by means of (a)
7 tampering or making connection with the equipment of the sup-
8 plier, whether by mechanical, electrical, acoustical or other means,
9 or (b) any misrepresentation of fact which he knows to be false,
10 or (c) any other artifice, trick, deception, code or device; or

11 5. With intent to avoid payment by himself or another person
12 for a prospective or already rendered service the charge or com-
13 pensation for which is measured by a meter or other mechanical
14 device [provided by the supplier of the service,] he tampers with
15 such device or with other equipment related thereto, or in any
16 manner attempts to prevent the meter or device from performing
17 its measuring function, without the consent of the supplier of the
18 service. A person who tampers with such a device or equipment
19 without the consent of the supplier of the service is presumed to
20 do so with intent to avoid, or to enable another to avoid, payment
21 for the service involved; or

22 6. With intent to obtain, without the consent of the supplier
23 thereof, gas, electricity, water, steam or telephone service, he
24 tampers with any equipment [of the supplier thereof] designed to
25 supply or to prevent the supply of such service either to the com-
26 munity in general or to particular premises; or

27 7. Obtaining or having control over labor in the employ of

*Call
Control
ownership
of
equipment.*

1 another person, or of business, commercial or industrial equipment
 2 or facilities of another person, knowing that he is not entitled to
 3 the use thereof, and with intent to derive a commercial or other
 4 substantial benefit for himself or a third person, he uses or diverts
 5 to the use of himself or a third person such labor, equipment or
 6 facilities.

7 Theft of services is a class A misdemeanor.

8 § 165.20 Fraudulently obtaining a signature.

9 A person is guilty of fraudulently obtaining a signature when,
 10 with intent to defraud or injure another or to acquire a substantial
 11 benefit for himself or a third person, he obtains ^{the} signature of a
 12 person to a written instrument ^{by} means of any misrepresentation

13 of fact which he knows to be false, *the sign of a person as in*

14 *1st 20: ... which is - - - - -* Fraudulently obtaining a signature is a class A misdemeanor.

15 § 165.25 Jostling.

16 A person is guilty of jostling when, in a public place, he inten-
 17 tionally and unnecessarily:

18 1. Places his hand in the proximity of a person's pocket or hand-
 19 bag; or

20 2. Jostles or crowds another person at a time when a third
 21 person's hand is in the proximity of such person's pocket or hand-
 22 bag.

23 Jostling is a class A misdemeanor.

24 § 165.30 Fraudulent accosting.

25 A person is guilty of fraudulent accosting when he accosts a
 26 person in a public place and, either at that time and place or sub-
 27 sequently in any place, he makes statements to such person of a

*Class D
 felony*

1 sort commonly made or used in the perpetration of a known type
2 of confidence game.

3 Fraudulent accosting is a class A misdemeanor.

4 § 165.35 Fortune telling.

5 A person is guilty of fortune telling when, for a fee or compen-
6 sation which he directly or indirectly solicits or receives, he claims
7 or pretends to tell fortunes, or holds himself out as being able, by
8 claimed or pretended use of occult powers, to answer questions or
9 give advice on personal matters or to exorcise, influence or affect
10 evil spirits or curses; except that this section does not apply to a
11 person who engages in the aforescribed conduct as part of a show
12 or exhibition solely for the purpose of entertainment or amusement.

13 Fortune telling is a class B misdemeanor.

14 § 165.40 Criminal possession of stolen property in the third degree.

15 A person is guilty of criminal possession of stolen property in
16 the third degree when he knowingly possesses stolen property,
17 with intent to benefit himself or a person other than an owner
18 thereof or to impede the recovery by an owner thereof.

19 Criminal possession of stolen property in the third degree is a
20 class A misdemeanor.

21 § 165.45 Criminal possession of stolen property in the second
22 degree.

23 A person is guilty of criminal possession of stolen property in
24 the second degree when he knowingly possesses stolen property,
25 with intent to benefit himself or a person other than an owner
26 thereof or to impede the recovery by an owner thereof, and when:

27 1. The value of the property exceeds two hundred fifty dollars;

28 or

1 2. He is a pawnbroker or is in the business of buying, selling or
2 otherwise dealing in property.

3 Criminal possession of stolen property in the second degree is a
4 class E felony.

5 § 165.50 Criminal possession of stolen property in the first degree.

6 A person is guilty of criminal possession of stolen property in
7 the first degree when he knowingly possesses stolen property, with
8 intent to benefit himself or a person other than an owner thereof
9 or to impede the recovery by an owner thereof, and when the value
10 of the property exceeds one thousand five hundred dollars.

11 Criminal possession of stolen property in the first degree is a
12 class D felony.

13 § 165.55 Criminal possession of stolen property; presumptions.

14 1. A person who knowingly possesses stolen property is presumed
15 to possess it with intent to benefit himself or a person other than an
16 owner thereof or to impede the recovery by an owner thereof.

17 2. A pawnbroker or a person in the business of buying, selling
18 or otherwise dealing in property who possesses stolen property is
19 presumed to know that such property was stolen if he obtained it
20 without having ascertained by reasonable inquiry that the person
21 from whom he obtained it had a legal right to possess it.

22 § 165.60 Criminal possession of stolen property; no defense.

23 In any prosecution for criminal possession of stolen property,
24 it is no defense that:

25 1. The person who stole the property has not been convicted,
26 apprehended or identified; or

27 2. The defendant stole or participated in the larceny of the

1 property; provided that a person may not be convicted of both
 2 larceny and criminal possession of stolen property with respect to
 3 the same property; or

4 3. The larceny of the property did not occur in this state.

5 § 165.65 Criminal possession of stolen property; corroboration.

6 1. A person charged with criminal possession of stolen property
 7 who participated in the larceny thereof may not be convicted of
 8 criminal possession of such stolen property solely upon the testi-
 9 mony of an accomplice in the larceny without corroborating evidence
 10 of the kind prescribed in section three hundred ninety-nine of the
 11 code of criminal procedure.

12 2. Unless inconsistent with the provisions of subdivision one of
 13 this section, a person charged with criminal possession of stolen
 14 property may be convicted thereof solely upon the testimony of one
 15 from whom he obtained such property or solely upon the testimony
 16 of one to whom he disposed of such property.

17 TITLE K

18 OFFENSES INVOLVING FRAUD

19 ARTICLE 170

20 FORGERY AND RELATED OFFENSES

21 Section 170.00 Forgery; definitions of terms.

22 170.05 Forgery in the third degree.

23 170.10 Forgery in the second degree.

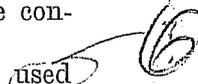
24 170.15 Forgery in the first degree.

25 170.20 Criminal possession of a forged instrument in the
 26 third degree.

27 170.25 Criminal possession of a forged instrument in the
 28 second degree.

- 1 170.30 Criminal possession of a forged instrument in the
2 first degree.
- 3 170.35 Forgery and criminal possession of a forged in-
4 strument; no defense.
- 5 170.40 Criminal possession of forgery devices.
- 6 170.45 Criminal simulation.
- 7 170.50 Unlawfully using slugs; definitions of terms.
- 8 170.55 Unlawfully using slugs in the second degree.
- 9 170.60 Unlawfully using slugs in the first degree.

10 § 170.00 Forgery; definitions of terms.

11 1. "Written instrument" means any instrument or article con-
12 taining written or printed matter or the equivalent thereof, used 
13 for the purpose of reciting, embodying, conveying or recording
14 information, or constituting a symbol or evidence of value, right,
15 privilege or identification, which is capable of being used to the
16 advantage or disadvantage of some person.

17 2. "Complete written instrument" means one which purports
18 to be a genuine written instrument fully drawn with respect to
19 every essential feature thereof. An endorsement, attestation,
20 acknowledgment or other similar signature or statement is deemed
21 both a complete written instrument in itself and a part of the main
22 instrument in which it is contained or to which it attaches.

23 3. "Incomplete written instrument" means one which contains
24 some matter by way of content or authentication but which requires
25 additional matter in order to render it a complete written instru-
26 ment.

27 4. "Falsely make." A person "falsely makes" a written instru-

1 ment when he makes or draws a complete written instrument in its
2 entirety, or an incomplete written instrument, which purports to
3 be an authentic creation of its ostensible maker or drawer, but
4 which is not such either because the ostensible maker or drawer is
5 fictitious or because, if real, he did not ^{make or} authorize the making or
6 drawing thereof.

7 5. "Falsely complete." A person "falsely completes" a written
8 instrument when, by adding, inserting or changing matter, he
9 transforms an incomplete written instrument into a complete one,
10 without the authority of anyone entitled to grant it, so that such
11 complete instrument appears or purports to be in all respects an
12 authentic creation of or fully authorized by its ostensible maker
13 or drawer.

14 6. "Falsely alter." A person "falsely alters" a written instru-
15 ment when, without the authority of anyone entitled to grant it,
16 he changes a written instrument, whether it be in complete or in-
17 complete form, by means of erasure, obliteration, deletion, inser-
18 tion of new matter, transposition of matter, or in any other manner,
19 so that such instrument in its thus altered form appears or pur-
20 ports to be in all respects an authentic creation of or fully author-
21 ized by its ostensible maker or drawer.

22 7. "Forged instrument" means a written instrument which has
23 been falsely made, completed or altered.

24 § 170.05 Forgery in the third degree.

25 A person is guilty of forgery in the third degree when, with
26 intent to defraud, deceive or injure another, he falsely makes, com-
27 pletes or alters a written instrument.

1 Forgery in the third degree is a class A misdemeanor.

2 § 170.10 Forgery in the second degree.

3 A person is guilty of forgery in the second degree when, with
4 intent to defraud, deceive or injure another, he falsely makes, com-
5 pletes or alters a written instrument which is or purports to be, or
6 which is calculated to become or to represent if completed:

7 1. A deed, will, codicil, contract, assignment, commercial instru-
8 ment, or other instrument which does or may evidence, create,
9 transfer, terminate or otherwise affect a legal right, interest, obliga-
10 tion or status; or

11 2. A public record, or an instrument filed or required or author-
12 ized by law to be filed in or with a public office or public servant;
13 or

14 3. A written instrument officially issued or created by a public
15 office, public servant or governmental instrumentality; or

16 4. Part of an issue of tokens, public transportation transfers,
17 certificates or other articles manufactured and designed for use as
18 symbols of value usable in place of money for the purchase of
19 property or services; or

20 5. A prescription of a duly licensed physician or other person
21 authorized to issue the same for any drug ^{or any} instrument or
22 device used in the taking or administering of drugs for which a
23 prescription is required by law.

for which a prescription is required by law

24 Forgery in the second degree is a class D felony.

25 § 170.15 Forgery in the first degree.

26 A person is guilty of forgery in the first degree when, with intent
27 to defraud, deceive or injure another, he falsely makes, completes

*Does this mean only hypo sye & needle?
so, just refer to it w/o speaking of
instruments for which a prescription is required?*

1 or alters a written instrument which is or purports to be, or which
2 is calculated to become or to represent if completed:

3 1. Part of an issue of money, stamps, securities or other valuable
4 instruments issued by a government or governmental instrumen-
5 tality ; or

6 2. Part of an issue of stock, bonds or other instruments repre-
7 senting interests in or claims against a corporate or other organi-
8 zation or its property.

9 Forgery in the first degree is a class C felony.

10 § 170.20 Criminal possession of a forged instrument in the third
11 degree.

12 A person is guilty of criminal possession of a forged instrument
13 in the third degree when, with knowledge that it is forged and with
14 intent to defraud, deceive or injure another, he utters or possesses
15 a forged instrument.

16 Criminal possession of a forged instrument in the third degree
17 is a class A misdemeanor.

18 § 170.25 Criminal possession of a forged instrument in the second
19 degree.

20 A person is guilty of criminal possession of a forged instru-
21 ment in the second degree when, with knowledge that it is forged
22 and with intent to defraud, deceive or injure another, he utters
23 or possesses any forged instrument of a kind specified in section
24 170.10.

25 Criminal possession of a forged instrument in the second
26 degree is a class D felony.

1 § 170.30 Criminal possession of a forged instrument in the first
2 degree.

3 A person is guilty of criminal possession of a forged instrument
4 in the first degree when, with knowledge that it is forged and
5 with intent to defraud, deceive or injure another, he utters or
6 possesses any forged instrument of a kind specified in section 170.15.

7 Criminal possession of a forged instrument in the first degree
8 is a class C felony.

9 § 170.35 Criminal possession of a forged instrument; no defense.

10 In any prosecution for criminal possession of a forged instru-
11 ment, it is no defense that the defendant forged or participated
12 in the forgery of the instrument in issue; provided that a person
13 may not be convicted of both criminal possession of a forged
14 instrument and forgery with respect to the same instrument.

15 § 170.40 Criminal possession of forgery devices.

16 A person is guilty of criminal possession of forgery devices
17 when:

18 1. He makes or possesses with knowledge of its character any
19 plate, die or other device, apparatus, equipment, or article speci-
20 fically designed for use in counterfeiting or otherwise forging
21 written instruments; or

22 2. With intent to use, or to aid or permit another to use, the
23 same for purposes of forgery, he makes or possesses any device,
24 apparatus, equipment or article capable of or adaptable to such
25 use.

26 Criminal possession of forgery devices is a class D felony.

1 § 170.45 Criminal simulation.

2 A person is guilty of criminal simulation when :

3 1. With intent to defraud, he makes or alters any object in such
4 manner that it appears to have an antiquity, rarity, source or
5 authorship which it does not in fact possess; or

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

8 Criminal simulation is a class A misdemeanor.

9 § 170.50 Unlawfully using slugs; definitions of terms.

10 The following definitions are applicable to sections 170.55 and
11 170.60:

12 1. "Coin machine" means a coin box, turnstile, vending machine
13 or other mechanical or electronic device or receptacle designed (a)
14 to receive a coin or bill or a token made for the purpose, and (b)
15 in return for the insertion or deposit thereof, automatically to offer,
16 to provide, to assist in providing or to permit the acquisition of
17 some property or some service.

18 2. "Slug" means an object or article which, by virtue of its
19 size, shape or any other quality, is capable of being inserted or
20 deposited in a coin machine as an improper substitute for a
21 genuine coin, bill or token.

22 3. "Value" of a slug means the value of the coin, bill or token
23 for which it is capable of being substituted.

24 § 170.55 Unlawfully using slugs in the second degree.

25 A person is guilty of unlawfully using slugs in the second degree
26 when :

27 1. With intent to defraud the owner of a coin machine, he
28 inserts or deposits a slug in such machine; or

1 2. He makes, possesses or disposes of a slug with intent to enable
2 a person to insert or deposit it in a coin machine.

3 Unlawfully using slugs in the second degree is a class B mis-
4 demeanor.

5 § 170.60 Unlawfully using slugs in the first degree.

6 A person is guilty of unlawfully using slugs in the first degree
7 when he makes, possesses or disposes of slugs with intent to enable
8 a person to insert or deposit them in a coin machine, and the value
9 of such slugs exceeds one hundred dollars.

10 Unlawfully using slugs in the first degree is a class E felony.

11 ARTICLE 175

12 OFFENSES INVOLVING FALSE WRITTEN STATEMENTS

13 Section 175.00 Falsifying business records; definitions of terms.

14 175.05 Falsifying business records in the second degree.

15 175.10 Falsifying business records in the first degree.

16 175.15 Falsifying business records; defense.

17 175.20 Tampering with public records in the second
18 degree.

19 175.25 Tampering with public records in the first degree.

20 175.30 Offering a false instrument for filing in the second
21 degree.

22 175.35 Offering a false instrument for filing in the first
23 degree.

24 175.40 Issuing a false certificate.

25 175.45 Issuing a false financial statement.

26 175.50 Presenting a false insurance claim.

175.40 Issuing a false prescription

1 § 175.00 Falsifying business records; definitions of terms.

2 The following definitions are applicable to sections 175.05 and
3 175.10:

4 1. "Enterprise" means any entity of one or more persons, cor-
5 porate or otherwise, public or private, engaged in business, com-
6 mercial, professional, industrial, eleemosynary, social, political
7 or governmental activity.

8 2. "Business record" means any writing or article kept or main-
9 tained by an enterprise for the purpose of evidencing or reflecting
10 its condition or activity.

11 § 175.05 Falsifying business records in the second degree.

12 A person is guilty of falsifying business records in the second
13 degree when, with intent to defraud, he:

14 1. Makes or causes a false entry in the business records of an
15 enterprise; or

16 2. Alters, erases, obliterates, deletes, removes or destroys a true
17 entry in the business records of an enterprise; or

18 3. Omits to make a true entry in the business records of an
19 enterprise in violation of a duty to do so which he knows to be
20 imposed upon him by law or by the nature of his position; or

21 4. Prevents the making of a true entry or causes the omission
22 thereof in the business records of an enterprise.

23 Falsifying business records in the second degree is a class A
24 misdemeanor.

25 § 175.10 Falsifying business records in the first degree.

26 A person is guilty of falsifying business records in the first
27 degree when he commits the crime of falsifying business records in

1 the second degree, and when his intent to defraud includes an
2 intent to commit another crime or to aid or conceal the commission
3 thereof.

4 Falsifying business records in the first degree is a class E felony.

5 § 175.15 Falsifying business records; defense.

6 In any prosecution for falsifying business records, it is an
7 affirmative defense that the defendant was a clerk, bookkeeper or
8 other employee who, without personal benefit, merely executed the
9 orders of his employer or of a superior officer or employee gen-
10 erally authorized to direct his activities.

11 § 175.20 Tampering with public records in the second degree.

12 A person is guilty of tampering with public records in the sec-
13 ond degree when, knowing that he does not have the authority of
14 anyone entitled to grant it, he knowingly removes, mutilates,
15 destroys, conceals, makes a false entry in or falsely alters any
16 record or other written instrument filed with, deposited in, or other-
17 wise constituting a record of a public office or public servant.

18 Tampering with public records in the second degree is a Class A
19 misdemeanor.

20 § 175.25 Tampering with public records in the first degree.

21 A person is guilty of tampering with public records in the first
22 degree when, knowing that he does not have the authority of any-
23 one entitled to grant it, and with intent to defraud, he knowingly
24 removes, mutilates, destroys, conceals, makes a false entry in or
25 falsely alters any record or other written instrument filed with,
26 deposited in, or otherwise constituting a record of a public office
27 or public servant.

1 Tampering with public records in the first degree is a class D
2 felony.

3 § 175.30 Offering a false instrument for filing in the second
4 degree.

5 A person is guilty of offering a false instrument for filing in
6 the second degree when, knowing that a written instrument con-
7 tains a false statement or false information, he offers or presents
8 it to a public office or public servant with the knowledge or belief
9 that it will be filed with, registered or recorded in or otherwise
10 become a part of the records of such public office or public servant.

11 Offering a false instrument for filing in the second degree is
12 a class A misdemeanor.

13 § 175.35 Offering a false instrument for filing in the first degree.

14 A person is guilty of offering a false instrument for filing in
15 the first degree when, knowing that a written instrument contains
16 a false statement or false information, and with intent to defraud
17 the state or any political subdivision thereof, he offers or presents
18 it to a public office or public servant with the knowledge or belief
19 that it will be filed with, registered or recorded in or otherwise
20 become a part of the records of such public office or public servant.

21 Offering a false instrument for filing in the first degree is a class
22 E felony.

23 § 175.40 Issuing a false certificate.

24 A person is guilty of issuing a false certificate when, being a
25 public servant authorized by law to make or issue official certifi-
26 cates or other official written instruments, and with intent to
27 defraud, deceive or injure another person, he issues such an instru-

1 ment, or makes the same with intent that it be issued, knowing that
2 it contains a false statement or false information.

3 Issuing a false certificate is a class E felony.

4 § 175.45 Issuing a false financial statement.

5 A person is guilty of issuing a false financial statement when,
6 with intent to defraud:

7 1. He knowingly makes or utters a written instrument which
8 purports to describe the financial condition or ability to pay of
9 some person and which is inaccurate in some material respect; or

10 2. He represents in writing that a written instrument purport-
11 ing to describe a person's financial condition or ability to pay as
12 of a prior date is accurate with respect to such person's current
13 financial condition or ability to pay, whereas he knows it is mate-
14 rially inaccurate in that respect.

15 Issuing a false financial statement is a class A misdemeanor.

16 § 175.50 Presenting a false insurance claim.

17 A person is guilty of presenting a false insurance claim when,
18 with intent to defraud an insurer with respect to an alleged claim
19 of loss upon a contract of insurance, he knowingly presents to the
20 insurer or to an agent thereof a written instrument containing a
21 false material statement relating to such claim.

22 Presenting a false insurance claim is a class A misdemeanor.

23 ARTICLE 180

24 BRIBERY NOT INVOLVING PUBLIC SERVANTS, AND RELATED OFFENSES

25 Section 180.00 Commercial bribing.

26 180.05 Commercial bribe receiving.

27 180.10 Bribery of labor official; definition of term.

- 1 180.15 Bribing a labor official.
2 180.20 Bribing a labor official; defense.
3 180.25 Bribe receiving by a labor official.
4 180.30 Bribe receiving by a labor official; no defense.
5 180.35 Sports bribery; definitions of terms.
6 180.40 Sports bribing.
7 180.45 Sports bribe receiving.
8 180.50 Tampering with a sports contest.
9 180.55 Rent gouging.

10 § 180.00 Commercial bribing.

11 A person is guilty of commercial bribing when he confers, or
12 offers or agrees to confer, any benefit upon any employee, agent or
13 fiduciary without the consent of the latter's employer or principal,
14 with intent to influence his conduct in relation to his employer's or
15 principal's affairs.

16 Commercial bribing is a class B misdemeanor.

17 § 180.05 Commercial bribe receiving.

18 An employee, agent or fiduciary is guilty of commercial bribe
19 receiving when, without the consent of his employer or principal,
20 he solicits, accepts or agrees to accept any benefit from another
21 person upon an agreement or understanding that such benefit will
22 influence his conduct in relation to his employer's or principal's
23 affairs.

24 Commercial bribe receiving is a class B misdemeanor.

25 § 180.10 Bribery of labor official; definition of term.

26 As used in this article, "labor official" means any duly appointed
27 representative of a labor organization or any duly appointed trustee
28 or representative of an employee welfare trust fund.

1 § 180.15 Bribing a labor official.

2 A person is guilty of bribing a labor official when, with intent
3 to influence a labor official in respect to any of his acts, decisions
4 or duties as such labor official, he confers, or offers or agrees to
5 confer, any benefit upon him.

6 Bribing a labor official is a class D felony.

7 § 180.20 Bribing a labor official; defense.

8 In any prosecution for bribing a labor official, it is a defense
9 that the defendant conferred or agreed to confer the benefit
10 involved upon the labor official as a result of conduct of the latter
11 constituting larceny committed by means of extortion, or an
12 attempt to commit the same, or coercion, or an attempt to commit
13 coercion.

14 § 180.25 Bribe receiving by a labor official.

15 A labor official is guilty of bribe receiving by a labor official
16 when he solicits, accepts or agrees to accept any benefit from
17 another person upon an agreement or understanding that such
18 benefit will influence him in respect to any of his acts, decisions,
19 or duties as such labor official.

20 Bribe receiving by a labor official is a class D felony.

21 § 180.30 Bribe receiving by a labor official; no defense.

22 The crimes of (a) bribe receiving by a labor official, and (b)
23 larceny committed by means of extortion, attempt to commit the
24 same, coercion or attempt to commit coercion, are not mutually
25 exclusive, and it is no defense to a prosecution for bribe receiving
26 by a labor official that, by reason of the same conduct, the defend-
27 ant also committed one of such other specified crimes.

1 § 180.35 Sports bribery; definitions of terms.

2 As used in this article:

3 1. "Sports contest" means any professional or amateur sport
4 or athletic game or contest viewed by the public.

5 2. "Sports participant" means any person who participates or
6 expects to participate in a sports contest as a player, contestant
7 or member of a team, or as a coach, manager, trainer or other
8 person directly associated with a player, contestant or team.

9 3. "Sports official" means any person who acts or expects to
10 act in a sports contest as an umpire, referee, judge or otherwise
11 to officiate at a sports contest.

12 § 180.40 Sports bribing.

13 A person is guilty of sports bribing when he:

14 1. Confers, or offers or agrees to confer, any benefit upon a
15 sports participant with intent to influence him not to give his
16 best efforts in a sports contest; or

17 2. Confers, or offers or agrees to confer, any benefit upon a
18 sports official with intent to influence him to perform his duties
19 improperly.

20 Sports bribing is a class D felony.

21 §180.45 Sports bribe receiving.

22 A person is guilty of sports bribe receiving when:

23 1. Being a sports participant, he solicits, accepts or agrees to
24 accept any benefit from another person upon an agreement or
25 understanding that he will thereby be influenced not to give his
26 best efforts in a sports contest; or

27 2. Being a sports official, he solicits, accepts or agrees to accept

1 any benefit from another person upon an agreement or under-
2 standing that he will perform his duties improperly.

3 Sports bribe receiving is a class E felony.

4 § 180.50 Tampering with a sports contest.

5 A person is guilty of tampering with a sports contest when,
6 with intent to influence the outcome of a sports contest, he
7 tampers with any sports participant, sports official or with any
8 animal or equipment or other thing involved in the conduct or
9 operation of a sports contest in a manner contrary to the rules
10 and usages purporting to govern such a contest.

11 Tampering with a sports contest is a class A misdemeanor.

12 § 180.55 Rent gouging.

13 A person is guilty of rent gouging when, in connection with
14 the leasing, rental or use of real property, he solicits, accepts or
15 agrees to accept from a person some consideration of value, in
16 addition to lawful rental and other lawful charges, upon an
17 agreement or understanding that the furnishing of such con-
18 sideration will increase the possibility that some person may obtain
19 the lease, rental or use of such property, or that a failure to fur-
20 nish it will decrease the possibility that some person may obtain
21 the same.

22 Rent gouging is a class B misdemeanor.

23 ARTICLE 185

24 FRAUDS ON CREDITORS

25 Section 185.00 Fraud in insolvency.

26 185.05 Fraud involving a security interest.

27 185.10 Fraudulent disposition of mortgaged property.

1 185.15 Fraudulent disposition of property subject to a
2 conditional sale contract.

3 § 185.00 Fraud in insolvency.

4 1. As used in this section, "administrator" means an assignee
5 or trustee for the benefit of creditors, a liquidator, a receiver or
6 any other person entitled to administer property for the benefit
7 of creditors.

8 2. A person is guilty of fraud in insolvency when, with intent
9 to defraud any creditor and knowing that proceedings have been
10 or are about to be instituted for the appointment of an admin-
11 istrator, or knowing that a composition agreement or other arrange-
12 ment for the benefit of creditors has been or is about to be made, he

13 (a) conveys, transfers, removes, conceals, destroys, encum-
14 bers or otherwise disposes of any part of or any interest in
15 the debtor's estate; or

16 (b) obtains any substantial part of or interest in the
17 debtor's estate; or

18 (c) presents to any creditor or to the administrator any
19 writing or record relating to the debtor's estate knowing the
20 same to contain a false material statement; or

21 (d) misrepresents or fails or refuses to disclose to the
22 administrator the existence, amount or location of any part
23 of or any interest in the debtor's estate, or any other infor-
24 mation which he is legally required to furnish to such admin-
25 istrator.

26 Fraud in insolvency is a class A misdemeanor.

1 § 185.05 Fraud involving a security interest.

2 A person is guilty of fraud involving a security interest when,
3 having executed a security agreement creating a security interest in
4 personal property securing a monetary obligation owed to a secured
5 party, and:

6 1. Having under the security agreement both the right of sale
7 or other disposition of the property and the duty to account to the
8 secured party for the proceeds of disposition, he sells or otherwise
9 disposes of the property and wrongfully fails to account to the
10 secured party for the proceeds of disposition; or

11 2. Having under the security agreement no right of sale or other
12 disposition of the property, he knowingly secretes, withholds or
13 disposes of such property in violation of the security agreement.

14 Fraud involving a security interest is a class A misdemeanor.

15 § 185.10 Fraudulent disposition of mortgaged property.

16 A person is guilty of fraudulent disposition of mortgaged prop-
17 erty when, having theretofore executed a mortgage of real or per-
18 sonal property or any instrument intended to operate as such, he
19 sells, assigns, exchanges, secretes, injures, destroys or otherwise dis-
20 poses of any part of the property, upon which the mortgage or other
21 instrument is at the time a lien, with intent thereby to defraud the
22 mortgagee or a purchaser thereof.

23 Fraudulent disposition of mortgaged property is a class A mis-
24 demeanor.

25 § 185.15 Fraudulent disposition of property subject to a condi-
26 tional sale contract.

27 A person is guilty of fraudulent disposition of property subject

1 to a conditional sale contract when, prior to the performance of
2 the condition of a conditional sale contract and being the buyer or
3 any legal successor in interest of the buyer, he sells, assigns, mort-
4 gages, exchanges, secretes, injures, destroys or otherwise disposes
5 of the goods subject to the conditional sale contract under claim of
6 full ownership, with intent thereby to defraud another.

7 Fraudulent disposition of property subject to a conditional sale
8 contract is a class A misdemeanor.

9 ARTICLE 190

10 OTHER FRAUDS

11 Section 190.00 Issuing a bad check; definitions of terms.

12 190.05 Issuing a bad check.

13 190.10 Issuing a bad check; presumptions.

14 190.15 Issuing a bad check; defenses.

15 190.20 False advertising.

16 190.25 Criminal impersonation.

17 190.30 Unlawfully concealing a will.

18 190.35 Misconduct by corporate director.

19 § 190.00 Issuing a bad check; definitions of terms.

20 The following definitions are applicable to this article:

21 1. "Check" means any check, draft or similar sight order for the
22 payment of money which is not post-dated with respect to the time of
23 utterance.

24 2. "Drawer" of a check means a person whose name appears
25 thereon as the primary obligor, whether the actual signature be
26 that of himself or of a person purportedly authorized to draw the
27 check in his behalf.

1 3. "Representative drawer" means a person who signs a check as
2 drawer in a representative capacity or as agent of the person whose
3 name appears thereon as the principal drawer or obligor.

4 4. "Utter." A person "utters" a check when, as a drawer or
5 representative drawer thereof, he delivers it or causes it to be deliv-
6 ered to a person who thereby acquires a right against the drawer
7 with respect to such check. One who draws a check with intent that
8 it be so delivered is deemed to have uttered it if the delivery occurs.

9 5. "Pass." A person "passes" a check when, being a payee,
10 holder or bearer of a check which previously has been or purports
11 to have been drawn and uttered by another, he delivers it, for a
12 purpose other than collection, to a third person who thereby acquires
13 a right with respect thereto.

14 6. "Funds" means money or credit.

15 7. "Insufficient funds." A drawer has "insufficient funds" with
16 a drawee to cover a check when he has no funds or account what-
17 ever, or funds in an amount less than that of the check; and a check
18 dishonored for "no account" shall also be deemed to have been dis-
19 honored for "insufficient funds."

20 §190.05 Issuing a bad check.

21 A person is guilty of issuing a bad check when :

22 1. (a) As a drawer or representative drawer, he utters a check
23 knowing that he or his principal, as the case may be, does not then
24 have sufficient funds with the drawee to cover it, and (b) he intends
25 or believes at the time of utterance that payment will be refused by
26 the drawee upon presentation, and (c) payment is refused by the
27 drawee upon presentation; or

28 2. (a) He passes a check knowing that the drawer thereof does

1 not then have sufficient funds with the drawee to cover it, and (b)
2 he intends or believes at the time the check is passed that payment
3 will be refused by the drawee upon presentation, and (c) payment
4 is refused by the drawee upon presentation.

5 Issuing a bad check is a class B misdemeanor.

6 §190.10 Issuing a bad check; presumptions.

7 1. When the drawer of a check has insufficient funds with the
8 drawee to cover it at the time of utterance, the subscribing drawer
9 or representative drawer, as the case may be, is presumed to know
10 of such insufficiency.

11 2. A subscribing drawer or representative drawer, as the case
12 may be, of an ultimately dishonored check is presumed to have
13 intended or believed that the check would be dishonored upon pre-
14 sentation when:

15 (a) The drawer had no account with the drawee at the time
16 of utterance; or

17 (b) (i) The drawer had insufficient funds with the drawee
18 at the time of utterance, and (ii) the check was presented to
19 the drawee for payment not more than thirty days after the
20 date of utterance, and (iii) the drawer had insufficient funds
21 with the drawee at the time of presentation.

22 3. Dishonor of a check by the drawee and insufficiency of the
23 drawer's funds at the time of presentation may properly be proved
24 by introduction in evidence of a notice of protest of the check, or of
25 a certificate under oath of an authorized representative of the
26 drawee declaring the dishonor and insufficiency, and such proof

1 shall constitute presumptive evidence of such dishonor and insuffi-
2 ciency.

3 § 190.15 Issuing a bad check; defenses.

4 In any prosecution for issuing a bad check, it is an affirmative
5 defense that:

6 1. The defendant or a person acting in his behalf made full
7 satisfaction of the amount of the check within ten days after
8 dishonor by the drawee; or

9 2. The defendant, in acting as a representative drawer, did so
10 as an employee who, without personal benefit, merely executed the
11 orders of his employer or of a superior officer or employee generally
12 authorized to direct his activities.

13 § 190.20 False advertising.

14 A person is guilty of false advertising when, with intent to
15 promote the sale or to increase the consumption of property or
16 services, he makes or causes to be made a false or misleading state-
17 ment in any advertisement addressed to the public or to a sub-
18 stantial number of persons; except that, in any prosecution under
19 this section, it is an affirmative defense that the allegedly false or
20 misleading statement was not knowingly or recklessly made or
21 caused to be made.

22 False advertising is a class A misdemeanor.

23 § 190.25 Criminal impersonation.

24 A person is guilty of criminal impersonation when he:

25 1. Impersonates another and does an act in such assumed
26 character with intent to obtain a benefit or to injure or defraud
27 another; or

28 2. Pretends to be a representative of some person or organization

1 and does an act in such pretended capacity with intent to obtain
2 a benefit or to injure or defraud another; or

3 3. Pretends to be a public servant, or wears or displays without
4 authority any uniform or badge by which such public servant is
5 lawfully distinguished, with intent to induce another to submit to
6 such pretended official authority or otherwise to act in reliance
7 upon that pretense.

8 Criminal impersonation is a class A misdemeanor.

9 § 190.30 Unlawfully concealing a will.

10 A person is guilty of unlawfully concealing a will when, with
11 intent to defraud, he conceals, secretes, suppresses, mutilates or
12 destroys a will, codicil or other testamentary instrument.

13 Unlawfully concealing a will is a class E felony.

14 § 190.35 Misconduct by corporate director.

15 A director of a stock corporation is guilty of misconduct by
16 corporate director when he knowingly concurs in any vote or act of
17 the directors of such corporation, or any of them, by which it is
18 intended:

19 1. To make a dividend except in the manner provided by law; or

20 2. To divide, withdraw or in any manner pay to any stockholder
21 any part of the capital stock of the corporation except in the manner
22 provided by law; or

23 3. To discount or receive any note or other evidence of debt in
24 payment of an installment of capital stock actually called in and
25 required to be paid, or with intent to provide the means of making
26 such payment; or

27 4. To receive or discount any note or other evidence of debt

1 with intent to enable any stockholder to withdraw any part of the
2 money paid in by him on his stock; or

3 5. To apply any portion of the funds of such corporation, directly
4 or indirectly, to the purchase of shares of its own stock, except in
5 the manner provided by law; or

6 6. To issue any increase of its capital stock beyond the amount
7 of the capital stock thereof duly authorized by law.

8 Misconduct by corporate director is a class B misdemeanor.

9 NEW

190-40
194-45 TITLE L

← USURY
USURY RECORDS

10 OFFENSES AGAINST PUBLIC ADMINISTRATION

11 ARTICLE 195

12 OFFICIAL MISCONDUCT AND OBSTRUCTION OF PUBLIC SERVANTS

13 GENERALLY

14 Section 195.00 Official misconduct.

15 195.05 Obstructing governmental administration.

16 195.10 Refusing to aid a peace officer.

17 195.15 Obstructing firefighting operations.

18 § 195.00 Official misconduct.

19 A public servant is guilty of official misconduct when, with
20 intent to obtain a benefit or to injure or deprive another person
21 of a benefit:

22 1. He commits an act relating to his office but constituting an
23 unauthorized exercise of his official functions, knowing that such
24 act is unauthorized; or

25 2. He knowingly refrains from performing a duty which is
26 imposed upon him by law or is clearly inherent in the nature of
27 his office.

28 Official misconduct is a class A misdemeanor.

1 § 195.05 Obstructing governmental administration.

2 A person is guilty of obstructing governmental administration
3 when he intentionally obstructs, impairs or perverts the adminis-
4 tration of law or other governmental function or prevents or
5 attempts to prevent a public servant from performing an official
6 function, by means of intimidation, physical force or interference,
7 or by means of any independently unlawful act.

8 Obstructing governmental administration is a class A mis-
9 demeanor.

10 § 195.10 Refusing to aid a peace officer.

11 A person is guilty of refusing to aid a peace officer when, upon
12 command by a peace officer identifiable or identified to him as such,
13 he unreasonably fails or refuses to aid such peace officer in effecting
14 an arrest, or in preventing the commission by another person of
15 any offense.

16 Refusing to aid a peace officer is a class B misdemeanor.

17 § 195.15 Obstructing firefighting operations.

18 A person is guilty of obstructing firefighting operations when he
19 intentionally and unreasonably obstructs the efforts of any fireman
20 in extinguishing a fire, or prevents or dissuades another from
21 extinguishing or helping to extinguish a fire.

22 Obstructing firefighting operations is a class B misdemeanor.

23 **ARTICLE 200**

24 **BRIBERY INVOLVING PUBLIC SERVANTS AND RELATED OFFENSES**

25 Section 200.00 Bribery.

26 200.05 Bribery; defense.

27 200.10 Bribe receiving.

28 200.15 Bribe receiving; no defense.

- 1 200.20 Rewarding official misconduct.
2 200.25 Receiving reward for official misconduct.
3 200.30 Giving unlawful gratuities.
4 200.35 Receiving unlawful gratuities.
5 200.40 Bribe giving and bribe receiving for public office;
6 definition of term.
7 200.45 Bribe giving for public office.
8 200.50 Bribe receiving for public office.
9 § 200.00 Bribery.

10 A person is guilty of bribery when he confers, or offers or agrees
11 to confer, any benefit upon a public servant upon an agreement or
12 understanding that such public servant's vote, opinion, judgment,
13 action, decision or exercise of discretion as a public servant will
14 thereby be influenced.

15 Bribery is a class D felony.

16 § 200.05 Bribery; defense.

17 In any prosecution for bribery, it is a defense that the defendant
18 conferred or agreed to confer the benefit involved upon the public
19 servant involved as a result of conduct of the latter constituting
20 larceny committed by means of extortion, or an attempt to commit
21 the same, or coercion, or an attempt to commit coercion.

22 § 200.10 Bribe receiving.

23 A public servant is guilty of bribe receiving when he solicits,
24 accepts or agrees to accept any benefit from another person upon
25 an agreement or understanding that his vote, opinion, judgment,
26 action, decision or exercise of discretion as a public servant will
27 thereby be influenced.

1 Bribe receiving is a class D felony.

2 § 200.15 Bribe receiving; no defense.

3 The crimes of (a) bribe receiving, and (b) larceny committed by
4 means of extortion, attempt to commit the same, coercion and
5 attempt to commit coercion, are not mutually exclusive, and it is
6 no defense to a prosecution for bribe receiving that, by reason of
7 the same conduct, the defendant also committed one of such other
8 specified crimes.

9 § 200.20 Rewarding official misconduct.

10 A person is guilty of rewarding official misconduct when he
11 knowingly confers, or offers or agrees to confer, any benefit upon a
12 public servant for having violated his duty as a public servant.

13 Rewarding official misconduct is a class E felony.

14 § 200.25 Receiving reward for official misconduct.

15 A public servant is guilty of receiving reward for official mis-
16 conduct when he solicits, accepts or agrees to accept any benefit
17 from another person for having violated his duty as a public
18 servant.

19 Receiving reward for official misconduct is a class E felony.

20 § 200.30 Giving unlawful gratuities.

21 A person is guilty of giving unlawful gratuities when he know-
22 ingly confers, or offers or agrees to confer, any benefit upon a public
23 servant for having engaged in official conduct which he was required
24 or authorized to perform, and for which he was not entitled to any
25 special or additional compensation.

26 Giving unlawful gratuities is a class A misdemeanor.

27 § 200.35 Receiving unlawful gratuities.

1 A public servant is guilty of receiving unlawful gratuities when
2 he solicits, accepts or agrees to accept any benefit for having
3 engaged in official conduct which he was required or authorized
4 to perform, and for which he was not entitled to any special or
5 additional compensation.

6 Receiving unlawful gratuities is a class A misdemeanor.

7 § 200.40 Bribe giving and bribe receiving for public office; defi-
8 nition of term.

9 As used in sections 200.45 and 200.50, "party officer" means a
10 person who holds any position or office in a political party, whether
11 by election, appointment or otherwise.

12 § 200.45 Bribe giving for public office.

13 A person is guilty of bribe giving for public office when he con-
14 fers, or offers or agrees to confer, any money or other property
15 upon a public servant or a party officer upon an agreement or
16 understanding that some person will or may be appointed to a
17 public office or designated or nominated as a candidate for public
18 office.

19 Bribe giving for public office is a class D felony.

20 § 200.50 Bribe receiving for public office.

21 A public servant or a party officer is guilty of bribe receiving for
22 public office when he solicits, accepts or agrees to accept any money
23 or other property from another person upon an agreement or
24 understanding that some person will or may be appointed to a
25 public office or designated or nominated as a candidate for public
26 office.

27 Bribe receiving for public office is a class D felony.

ARTICLE 205

1

2

ESCAPE AND OTHER OFFENSES RELATING TO CUSTODY

3

Section 205.00 Escape and other offenses relating to custody;

4

definitions of terms.

5

205.05 Escape in the third degree.

6

205.10 Escape in the second degree.

7

205.15 Escape in the first degree.

8

205.20 Promoting prison contraband in the second degree.

9

205.25 Promoting prison contraband in the first degree.

10

205.30 Resisting arrest.

11

205.35 Bail jumping in the second degree.

12

205.40 Bail jumping in the first degree.

13

205.45 Bail jumping; defense.

14

205.50 Hindering prosecution; definition of term.

15

205.55 Hindering prosecution in the third degree.

16

205.60 Hindering prosecution in the second degree.

17

205.65 Hindering prosecution in the first degree.

18

§ 205.00 Escape and other offenses relating to custody; defini-

19

tions of terms.

20

The following definitions are applicable to this article:

21

1. "Detention facility" means any place used for the confine-

22

ment, pursuant to an order of a court, of a person (a) charged

23

with or convicted of an offense, or (b) charged with being or

24

adjudicated a youthful offender, wayward minor or juvenile delin-

25

quent, or (c) held for extradition or as a material witness, or (d)

26

otherwise confined pursuant to an order of a court.

1 2. "Custody" means restraint by a public servant pursuant to
2 an authorized arrest or an order of a court.

3 3. "Contraband" means any article or thing which a person con-
4 fined in a detention facility is prohibited from obtaining or pos-
5 sessed by statute, rule, regulation or order.

6 4. "Dangerous contraband" means contraband which is capable
7 of such use as may endanger the safety or security of a detention
8 facility or any person therein.

9 § 205.05 Escape in the third degree.

10 A person is guilty of escape in the third degree when he escapes
11 from custody.

12 Escape in the third degree is a class A misdemeanor.

13 § 205.10 Escape in the second degree.

14 A person is guilty of escape in the second degree when:

15 1. He escapes from a detention facility; or

16 2. Having been arrested for, charged with or convicted of a
17 felony, he escapes from custody.

18 Escape in the second degree is a class E felony.

19 § 205.15 Escape in the first degree.

20 A person is guilty of escape in the first degree when, having been
21 charged with or convicted of a felony, he escapes from a detention
22 facility.

23 Escape in the first degree is a class D felony.

24 § 205.20 Promoting prison contraband in the second degree.

25 A person is guilty of promoting prison contraband in the second
26 degree when:

1 1. He knowingly and unlawfully introduces any contraband into
2 a detention facility; or

3 2. Being a person confined in a detention facility, he knowingly
4 and unlawfully makes, obtains or possesses any contraband.

5 Promoting prison contraband in the second degree is a class A
6 misdemeanor.

7 § 205.25 Promoting prison contraband in the first degree.

8 A person is guilty of promoting prison contraband in the first
9 degree when:

10 1. He knowingly and unlawfully introduces any dangerous con-
11 traband into a detention facility; or

12 2. Being a person confined in a detention facility, he knowingly
13 and unlawfully makes, obtains or possesses any dangerous contra-
14 band.

15 Promoting prison contraband in the first degree is a class D
16 felony.

17 § 205.30 Resisting arrest.

18 A person is guilty of resisting arrest when he intentionally pre-
19 vents or attempts to prevent a peace officer from effecting an author-
20 ized arrest of himself or another person.

21 Resisting arrest is a class A misdemeanor.

22 § 205.35 Bail jumping in the second degree.

23 A person is guilty of bail jumping in the second degree when,
24 having been released from custody, with or without bail, by court
25 order or by other lawful authority, upon condition that he will
26 subsequently appear personally in connection with a criminal action

1 or proceeding, he fails to appear personally on the required date or
2 within thirty days thereafter.

3 Bail jumping in the second degree is a class A misdemeanor.

4 § 205.40 Bail jumping in the first degree.

5 A person is guilty of bail jumping in the first degree when,
6 having been released from custody, with or without bail, by court
7 order or by other lawful authority, upon condition that he will
8 subsequently appear personally in connection with a charge against
9 him of committing a felony, he fails to appear personally on the
10 required date or within thirty days thereafter.

11 Bail jumping in the first degree is a class E felony.

12 § 205.45 Bail jumping; defense.

13 In any prosecution for bail jumping, it is an affirmative defense
14 that the defendant's failure to appear was unavoidable and due to
15 circumstances beyond his control.

16 § 205.50 Hindering prosecution; definition of term.

17 As used in sections 205.55, 205.60 and 205.65, a person "renders
18 criminal assistance" when, with intent to prevent, hinder or delay
19 the discovery or apprehension of, or the lodging of a criminal charge
20 against, a person who he knows or believes has committed a crime
21 or is being sought by law enforcement officials for the commission
22 of a crime, or with intent to assist a person in profiting or benefiting
23 from the commission of a crime, he :

24 1. Harbors or conceals such person; or

25 2. Warns such person of impending discovery or apprehension;

26 or

27 3. Provides such person with money, transportation, weapon,

1 disguise or other means of avoiding discovery or apprehension; or
2 4. Prevents or obstructs, by means of force, intimidation or
3 deception, anyone from performing an act which might aid in the
4 discovery or apprehension of such person or in the lodging of a
5 criminal charge against him; or

6 5. Suppresses, by any act of concealment, alteration or destruc-
7 tion, any physical evidence which might aid in the discovery or ap-
8 prehension of such person or in the lodging of a criminal charge
9 against him; or

10 6. Aids such person to protect or expeditiously profit from an
11 advantage derived from such crime.

12 § 205.55 Hindering prosecution in the third degree.

13 A person is guilty of hindering prosecution in the third degree
14 when he renders criminal assistance to a person who has committed
15 a felony.

16 Hindering prosecution in the third degree is a class A mis-
17 demeanor.

18 § 205.60 Hindering prosecution in the second degree.

19 A person is guilty of hindering prosecution in the second degree
20 when he renders criminal assistance to a person who has committed
21 a class B or class C felony.

22 Hindering prosecution in the second degree is a class E felony.

23 § 205.65 Hindering prosecution in the first degree.

24 A person is guilty of hindering prosecution in the first degree
25 when he renders criminal assistance to a person who has committed
26 murder or kidnapping in the first degree, knowing or believing that

1 such person has engaged in the conduct constituting such murder
2 or kidnapping in the first degree.

3 Hindering prosecution in the first degree is a class D felony.

4 ARTICLE 210

5 PERJURY AND RELATED OFFENSES

6 Section 210.00 Perjury and related offenses; definitions of terms.

7 210.05 Perjury in the third degree.

8 210.10 Perjury in the second degree.

9 210.15 Perjury in the first degree.

10 210.20 Perjury; pleading and proof where inconsistent
11 statements involved.

12 210.25 Perjury; defense.

13 210.30 Perjury; no defense.

14 210.35 Making an apparently sworn false statement in
15 the second degree.

16 210.40 Making an apparently sworn false statement in
17 the first degree.

18 210.45 Making a punishable false written statement.

19 210.50 Perjury and related offenses; requirement of
20 corroboration.

21 § 210.00 Perjury and related offenses; definitions of terms.

22 The following definitions are applicable to this article:

23 1. "Oath" includes an affirmation and every other mode author-
24 ized by law of attesting to the truth of that which is stated.

25 2. "Swear" means to state under oath.

26 3. "Testimony" means an oral statement made under oath in a
27 proceeding before any court, body, agency, public servant or other

1 person authorized by law to conduct such proceeding and to admin-
2 ister the oath or cause it to be administered.

3 4. "Oath required by law." An affidavit, deposition or other
4 subscribed written instrument is one for which an "oath is required
5 by law" when, absent an oath or swearing thereto, it does not
6 or would not, according to statute or appropriate regulatory
7 provisions, have legal efficacy in a court of law or before any
8 public or governmental body, agency or public servant to whom it
9 is or might be submitted.

10 5. "Swear falsely." A person "swears falsely" when he inten-
11 tionally makes a false statement which he does not believe to be
12 true (a) while giving testimony, or (b) under oath in a subscribed
13 written instrument. A false swearing in a subscribed written
14 instrument shall not be deemed complete until the instrument is
15 delivered by its subscriber, or by someone acting in his behalf, to
16 another person with intent that it be uttered or published as true.

17 6. "Attesting officer" means any notary public or other person
18 authorized by law to administer oaths in connection with affidavits,
19 depositions and other subscribed written instruments, and to certify
20 that the subscriber of such an instrument has appeared before
21 him and has sworn to the truth of the contents thereof.

22 7. "Jurat" means a clause wherein an attesting officer certifies,
23 among other matters, that the subscriber has appeared before him
24 and sworn to the truth of the contents thereof.

25 § 210.05 Perjury in the third degree.

26 A person is guilty of perjury in the third degree when he swears
27 falsely.

1 Perjury in the third degree is a class A misdemeanor.

2 § 210.10 Perjury in the second degree.

3 A person is guilty of perjury in the second degree when he swears
4 falsely and when his false statement is (a) made in a subscribed
5 written instrument for which an oath is required by law, and (b)
6 made with intent to mislead a public servant in the performance
7 of his official functions, and (c) material to the action, proceeding
8 or matter involved.

9 Perjury in the second degree is a class E felony.

10 § 210.15 Perjury in the first degree.

11 A person is guilty of perjury in the first degree when he swears
12 falsely and when his false statement (a) consists of testimony, and
13 (b) is material to the action, proceeding or matter in which it is
14 made.

15 Perjury in the first degree is a class D felony.

16 § 210.20 Perjury; pleading and proof where inconsistent state-
17 ments involved.

18 Where a person has made two statements under oath which are
19 inconsistent to the degree that one of them is necessarily false,
20 where the circumstances are such that each statement, if false, is
21 perjuriously so, and where each statement was made within the
22 jurisdiction of this state and within the period of the statute of
23 limitations for the crime charged, the inability of the people to
24 establish specifically which of the two statements is the false one
25 does not preclude a prosecution for perjury, and such prosecution
26 may be conducted as follows:

27 1. The indictment or information may set forth the two state-

1 ments and, without designating either, charge that one of them is
2 false and perjurally made.

3 2. The falsity of one or the other of the two statements may be
4 established by proof or a showing of their irreconcilable incon-
5 sistency.

6 3. The highest degree of perjury of which the defendant may be
7 convicted is determined by hypothetically assuming each state-
8 ment to be false and perjurious. If under such circumstances
9 perjury of the same degree would be established by the making of
10 each statement, the defendant may be convicted of that degree at
11 most. If perjury of different degrees would be established by the
12 making of the two statements, the defendant may be convicted of
13 the lesser degree at most.

14 § 210.25 Perjury; defense.

15 In any prosecution for perjury, it is an affirmative defense that
16 the defendant retracted his false statement in the course of the
17 proceeding in which it was made before such false statement sub-
18 stantially affected the proceeding and before it became manifest
19 that its falsity was or would be exposed.

20 § 210.30 Perjury; no defense.

21 It is no defense to a prosecution for perjury that:

22 1. The defendant was not competent to make the false state-
23 ment alleged; or

24 2. The defendant mistakenly believed the false statement to be
25 immaterial; or

26 3. The oath was administered or taken in an irregular manner
27 or that the authority or jurisdiction of the attesting officer who

1 administered the oath was defective, if such defect was excusable
2 under any statute or rule of law.

3 § 210.35 Making an apparently sworn false statement in the
4 second degree.

5 A person is guilty of making an apparently sworn false state-
6 ment in the second degree when (a) he subscribes a written instru-
7 ment knowing that it contains a statement which is in fact false
8 and which he does not believe to be true, and (b) he intends or
9 believes that such instrument will be uttered or delivered with a
10 jurat affixed thereto, and (c) such instrument is uttered or
11 delivered with a jurat affixed thereto.

12 Making an apparently sworn false statement in the second degree
13 is a class A misdemeanor.

14 § 210.40 Making an apparently sworn false statement in the first
15 degree.

16 A person is guilty of making an apparently sworn false state-
17 ment in the first degree when he commits the crime of making an
18 apparently sworn false statement in the second degree, and when
19 (a) the written instrument involved is one for which an oath is
20 required by law, and (b) the false statement contained therein is
21 made with intent to mislead a public servant in the performance
22 of his official functions, and (c) such false statement is material
23 to the action, proceeding or matter involved.

24 Making an apparently sworn false statement in the first degree
25 is a class E felony.

26 § 210.45 Making a punishable false written statement.

27 A person is guilty of making a punishable false written state-

1 ment when he knowingly makes a false statement, which he does
 2 not believe to be true, in a written instrument bearing a legally
 3 authorized form notice to the effect that false statements made
 4 therein are punishable.

5 Making a punishable false written statement is a class A mis-
 6 demeanor.

7 § 210.50 Perjury and related offenses; requirement of corrobora-
 8 tion.

9 In any prosecution for perjury, except a prosecution based upon
 10 inconsistent statements pursuant to section 210.20, or in any pros-
 11 ecution for making an apparently sworn false statement, or making
 12 a punishable false written statement, falsity of a statement may
 13 not be established by the uncorroborated testimony of a single
 14 witness.

15 ARTICLE 215

16 OTHER OFFENSES RELATING TO JUDICIAL AND OTHER PROCEEDINGS

17 Section 215.00 Bribing a witness.

18 215.05 Bribe receiving by a witness.

19 215.10 Tampering with a witness.

20 215.15 Bribing a juror.

21 215.20 Bribe receiving by a juror.

22 215.25 Tampering with a juror.

23 215.30 Misconduct by a juror.

24 215.35 Tampering with physical evidence; definitions of
 25 terms.

26 215.40 Tampering with physical evidence.

27 215.45 Compounding a crime.

1 that a person is or is about to be called as a witness in an action
2 or proceeding, (a) he wrongfully induces or attempts to induce
3 such person to absent himself from, or otherwise to avoid or seek
4 to avoid appearing or testifying at, such action or proceeding, or
5 (b) he knowingly makes any false statement or practices any
6 fraud or deceit with intent to affect the testimony of such person.

7 Tampering with a witness is a class A misdemeanor.

8 § 215.15 Bribing a juror.

9 A person is guilty of bribing a juror when he confers, or offers
10 or agrees to confer, any benefit upon a juror upon an agreement
11 or understanding that such juror's vote, opinion, judgment, deci-
12 sion or other action as a juror will thereby be influenced.

13 Bribing a juror is a class D felony.

14 § 215.20 Bribe receiving by a juror.

15 A juror is guilty of bribe receiving by a juror when he solicits,
16 accepts or agrees to accept any benefit from another person upon
17 an agreement or understanding that his vote, opinion, judgment,
18 decision or other action as a juror will thereby be influenced.

19 Bribe receiving by a juror is a class D felony.

20 § 215.25 Tampering with a juror.

21 A person is guilty of tampering with a juror when, with intent
22 to influence the outcome of an action or proceeding, he communi-
23 cates with a juror in such action or proceeding, except as author-
24 ized by law.

25 Tampering with a juror is a class A misdemeanor.

26 § 215.30 Misconduct by a juror.

27 A juror is guilty of misconduct by a juror when, in relation to

1 an action or proceeding pending or about to be brought before him,
2 he agrees to give a vote, opinion, judgment, decision or report for
3 or against any party to such action or proceeding.

4 Misconduct by a juror is a class A misdemeanor.

5 § 215.35 Tampering with physical evidence; definitions of terms.

6 The following definitions are applicable to section 215.40:

7 1. "Physical evidence" means any article, object, document,
8 record or other thing of physical substance which is or is about to
9 be produced or used as evidence in an official proceeding.

10 2. "Official proceeding" means any action or proceeding con-
11 ducted by or before a legally constituted judicial, legislative, ad-
12 ministrative or other governmental agency or official, in which
13 evidence may properly be received.

14 § 215.40 Tampering with physical evidence.

15 A person is guilty of tampering with physical evidence when:

16 1. With intent that it be used or introduced in an official pro-
17 ceeding or a prospective official proceeding, he (a) knowingly
18 makes, devises or prepares false physical evidence, or (b) produces
19 or offers such evidence at such a proceeding knowing it to be false;
20 or

21 2. Believing that certain physical evidence is about to be pro-
22 duced or used in an official proceeding or a prospective official
23 proceeding, and intending to prevent such production or use, he
24 suppresses it by any act of concealment, alteration or destruction,
25 or by employing force, intimidation or deception against any per-
26 son.

27 Tampering with physical evidence is a class E felony.

1 § 215.45 Compounding a crime.

2 1. A person is guilty of compounding a crime when :

3 (a) He solicits, accepts or agrees to accept any benefit
4 upon an agreement or understanding that he will refrain from
5 initiating a prosecution for a crime; or

6 (b) He confers, or offers or agrees to confer, any benefit
7 upon another person upon an agreement or understanding
8 that such other person will refrain from initiating a prosecu-
9 tion for a crime.

10 2. In any prosecution under this section, it is an affirmative
11 defense that the benefit did not exceed an amount which the de-
12 fendant reasonably believed to be due as restitution or indemnifica-
13 tion for harm caused by the crime.

14 Compounding a crime is a class A misdemeanor.

15 § 215.50 Criminal contempt.

16 A person is guilty of criminal contempt when he engages in any
17 of the following conduct :

18 1. Disorderly, contemptuous, or insolent behavior, committed
19 during the sitting of a court, in its immediate view and presence
20 and directly tending to interrupt its proceedings or to impair the
21 respect due to its authority; or

22 2. Breach of the peace, noise, or other disturbance, directly
23 tending to interrupt a court's proceedings; or

24 3. Intentional disobedience or resistance to the lawful process
25 or other mandate of a court except in cases involving or growing
26 out of labor disputes as defined by subdivision two of section seven
27 hundred fifty-three-a of the judiciary law; or

1 4. Contumacious and unlawful refusal to be sworn as a witness
 2 in any court proceeding or, after being sworn, to answer any legal
 3 and proper interrogatory; or

4 5. Knowingly publishing a false or grossly inaccurate report of
 5 a court's proceedings; or

6 6. Intentional failure to obey any mandate, process or notice,
 7 issued pursuant to articles sixteen, seventeen, eighteen, ^{or} eighteen-a
 8 or eighteen-b of the judiciary law, or to rules adopted pursuant to
 9 any such statute or to any special statute establishing commissioners
 10 of jurors and prescribing their duties or who refuses to be sworn as
 11 provided therein; or

12 7. On or along a public street or sidewalk within a radius of
 13 two hundred feet of any building established as a courthouse, he
 14 calls aloud, shouts, holds or displays placards or signs containing
 15 written or printed matter, concerning the conduct of a trial being
 16 held in such courthouse or the character of the court or jury en-
 17 gaged in such trial or calling for or demanding any specified
 18 action or determination by such court or jury in connection with
 19 such trial.

20 Criminal contempt is a class A misdemeanor.

21 § 215.55 Criminal contempt; prosecution and punishment.

22 Adjudication for criminal contempt under subdivision A of
 23 section seven hundred fifty of the judiciary law shall not bar a
 24 prosecution for the crime of criminal contempt under section
 25 215.50 based upon the same conduct but, upon conviction there-
 26 under, the court, in sentencing the defendant shall take the pre-
 27 vious punishment into consideration.

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1 § 215.60 Criminal contempt of the legislature.

2 A person is guilty of criminal contempt of the legislature when,
3 having been duly subpoenaed to attend as a witness before either
4 house of the legislature or before any committee thereof, he:

5 1. Fails or refuses to attend without lawful excuse; or

6 2. Refuses to be sworn; or

7 3. Refuses to answer any material and proper question; or

8 4. Refuses, after reasonable notice, to produce books, papers,
9 or documents in his possession or under his control which con-
10 stitute material and proper evidence.

11 Criminal contempt of the legislature is a class A misdemeanor.

12 § 215.65 Criminal contempt of a temporary state commission.

13 A person is guilty of criminal contempt of a temporary state
14 commission when, having been duly subpoenaed to attend as a wit-
15 ness at an investigation or hearing before a temporary state com-
16 mission, he fails or refuses to attend without lawful excuse.

17 Criminal contempt of a temporary state commission is a class B
18 misdemeanor.

19 § 215.70 Unlawful grand jury disclosure.

20 A person is guilty of unlawful grand jury disclosure when, being
21 a grand juror, a public prosecutor, a grand jury stenographer, a
22 grand jury interpreter, a peace officer guarding a witness in a
23 grand jury proceeding, or a clerk, attendant, warden or other
24 public servant having official duties in or about a grand jury
25 room or proceeding, he intentionally discloses to another the nature
26 or substance of any grand jury testimony, or any decision, result
27 or other matter attending a grand jury proceeding which is re-

1 quired by law to be kept secret, except in the proper discharge
 2 of his official duties or upon written order of the court.

3 Unlawful grand jury disclosure is a class B misdemeanor.

4 § 215.75 Unlawful disclosure of an indictment.

5 A public servant is guilty of unlawful disclosure of an indict-
 6 ment when, except in the proper discharge of his official duties,
 7 he intentionally discloses the fact that an indictment has been
 8 found or filed before the accused person is in custody.

9 Unlawful disclosure of an indictment is a class B misdemeanor.

10 TITLE M

11 OFFENSES AGAINST PUBLIC HEALTH

12 AND MORALS

13 ARTICLE 220

14 DANGEROUS DRUG OFFENSES

15 Section 220.00 Dangerous drug offenses; definitions of terms.

16 220.05 Criminal possession of a dangerous drug in the
 17 fourth degree.

18 220.10 Criminal possession of a dangerous drug in the
 19 third degree.

20 220.15 Criminal possession of a dangerous drug in the
 21 second degree.

22 220.20 Criminal possession of a dangerous drug in the
 23 first degree.

24 220.25 Criminal possession of a dangerous drug; pre-
 25 sumption.

26 220.30 Criminally selling a dangerous drug in the third
 27 degree.

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1 220.35 Criminally selling a dangerous drug in the second
2 degree.

3 220.40 Criminally selling a dangerous drug in the first
4 degree.

5 220.45 Criminally possessing a hypodermic instrument.

6 § 220.00 Dangerous drug offenses; definitions of terms.

7 The following definitions are applicable to this article:

8 1. "Narcotic drug" means any drug, article or substance de-
9 clared to be "narcotic drugs" in section three thousand three
10 hundred one of the public health law.

11 2. "Barbiturate" means a "barbiturate drug," as referred to in
12 section three thousand three hundred seventy of the public health
13 law, and includes barbituric acid, also known as malonyl urea, and
14 any derivatives or compounds of any preparations or mixtures
15 thereof.

16 3. "Amphetamine" means "amphetamine," as referred to in
17 section three thousand three hundred seventy-one of the public
18 health law, and includes any of its derivatives.

19 4. "Dangerous drug" means any narcotic, drug, barbiturate or
20 amphetamine. *Amphetamine or Barbiturate Only*

21 5. "Sell" means to sell, exchange, give or dispose of to another,
22 or to offer or agree to do the same.

23 6. "Unlawfully" means in violation of article thirty-three or
24 article thirty-three-A of the public health law.

25 7. "Ounce" means an avoirdupois ounce as applied to solids and
26 semi-solids, and a fluid ounce as applied to liquids.

27 § 220.05 Criminal possession of a dangerous drug in the fourth
28 degree.

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reference*

1 A person is guilty of criminal possession of a dangerous drug in
2 the fourth degree when he knowingly and unlawfully possesses a
3 dangerous drug.

4 Criminal possession of a dangerous drug in the fourth degree is
5 a class A misdemeanor.

6 § 220.10 Criminal possession of a dangerous drug in the third
7 degree.

8 A person is guilty of criminal possession of a dangerous drug in
9 the third degree when he knowingly and unlawfully possesses a
10 dangerous drug with intent to sell the same.

11 Criminal possession of a dangerous drug in the third degree is
12 a class E felony.

13 § 220.15 Criminal possession of a dangerous drug in the second
14 degree.

15 A person is guilty of criminal possession of a dangerous drug
16 in the second degree when he knowingly and unlawfully possesses a
17 narcotic drug:

18 1. With intent to sell the same; or

19 2. Consisting of (a) twenty-five or more cigarettes containing
20 cannabis; or (b) one or more preparations, compounds, mixtures or
21 substances of an aggregate weight of (i) one-eighth ounce or more,
22 containing any of the respective alkaloids or salts of heroin, mor-
23 phine or cocaine, or (ii) one-quarter ounce or more, containing
24 any cannabis, or (iii) one-half ounce or more, containing raw or
25 prepared opium, or (iv) one-half ounce or more, containing one
26 or more than one of any of the other narcotic drugs.

27 Criminal possession of a dangerous drug in the second degree is
28 a class D felony.

1 § 220.20 Criminal possession of a dangerous drug in the first
2 degree.

3 A person is guilty of criminal possession of a dangerous drug in
4 the first degree when he knowingly and unlawfully possesses a nar-
5 cotic drug consisting of (a) one hundred or more cigarettes con-
6 taining cannabis; or (b) one or more preparations, compounds,
7 mixtures or substances of an aggregate weight of (i) one or more
8 ounces, containing any of the respective alkaloids or salts of heroin,
9 morphine or cocaine, or (ii) one or more ounces, containing any
10 cannabis, or (iii) two or more ounces, containing raw or prepared
11 opium, or (iv) two or more ounces, containing one or more than
12 one of any of the other narcotic drugs.

13 Criminal possession of a dangerous drug in the first degree is a
14 class C felony.

15 § 220.25 Criminal possession of a dangerous drug; presumption.

16 The presence of a dangerous drug in an automobile, other than a
17 public omnibus, is presumptive evidence of knowing possession
18 thereof by each and every person in the automobile at the time
19 such drug was found; except that such presumption does not apply
20 (a) to a duly licensed operator of an automobile who is at the
21 time operating it for hire in the lawful and proper pursuit of his
22 trade, or (b) to any person in the automobile if one of them, hav-
23 ing obtained the drug and not being under duress, is authorized
24 to possess it and such drug is in the same container as when he
25 received possession thereof, or (c) when the drug is concealed upon
26 the person of one of the occupants.

27 § 220.30 Criminally selling a dangerous drug in the third degree.

28 A person is guilty of criminally selling a dangerous drug in the

1 third degree when he knowingly and unlawfully sells a dangerous
2 drug.

3 Criminally selling a dangerous drug in the third degree is a
4 class D felony.

5 § 220.35 Criminally selling a dangerous drug in the second degree.

6 A person is guilty of criminally selling a dangerous drug in the
7 second degree when he knowingly and unlawfully sells a narcotic
8 drug.

9 Criminally selling a dangerous drug in the second degree is a
10 class C felony.

11 § 220.40 Criminally selling a dangerous drug in the first degree.

12 A person is guilty of criminally selling a dangerous drug in the
13 first degree when he knowingly and unlawfully sells a narcotic
14 drug to a person less than twenty-one years old.

15 Criminally selling a dangerous drug in the first degree is a
16 class B felony.

17 § 220.45 Criminally possessing a hypodermic instrument.

18 A person is guilty of criminally possessing a hypodermic instru-
19 ment when he knowingly and unlawfully possesses or sells a hypo-
20 dermic syringe or hypodermic needle.

21 Criminally possessing a hypodermic instrument is a class A
22 misdemeanor.

23 ARTICLE 225

24 GAMBLING OFFENSES

25 Section 225.00 Gambling offenses; definitions of terms.

26 225.05 Promoting gambling in the second degree.

27 225.10 Promoting gambling in the first degree.

1 225.15 Possession of gambling records in the second
2 degree.

3 225.20 Possession of gambling records in the first degree.

4 225.25 Possession of gambling records; defense.

5 225.30 Possession of a gambling device.

6 225.35 Gambling offenses; presumptions.

7 225.40 Lottery offenses; no defense.

8 § 225.00 Gambling offenses; definitions of terms.

9 The following definitions are applicable to this article:

10 1. "Contest of chance" means any contest, game, gaming scheme
11 or gaming device in which the outcome depends in a material degree
12 upon an element of chance, notwithstanding that skill of the con-
13 testants may also be a factor therein.

14 2. "Gambling." A person engages in gambling when he stakes
15 or risks something of value upon the outcome of a contest of chance
16 or a future contingent event not under his control or influence,
17 upon an agreement or understanding that he will receive something
18 of value in the event of a certain outcome.

19 3. "Player" means a person who engages in any form of gam-
20 bling solely as a contestant or bettor, without receiving or becom-
21 ing entitled to receive any profit therefrom other than personal
22 gambling winnings, and without otherwise rendering any material
23 assistance to the establishment, conduct or operation of the par-
24 ticular gambling activity. A person who gambles at a social game
25 of chance on equal terms with the other participants therein does
26 not otherwise render material assistance to the establishment, con-
27 duct or operation thereof by performing, without fee or remunera-
28 tion, acts directed toward the arrangement or facilitation of the

1 game, such as inviting persons to play, permitting the use of prem-
2 ises therefor and supplying cards or other equipment used therein.
3 A person who engages in "bookmaking", as defined in this section
4 is not a "player."

5 4. "Advance gambling activity." A person "advances gam-
6 bling activity" when, acting other than as a player, he engages
7 in conduct which materially aids any form of gambling activity.
8 Such conduct includes but is not limited to conduct directed
9 toward the creation or establishment of the particular game,
10 contest, scheme, device or activity involved, toward the
11 acquisition or maintenance of premises, paraphernalia, equip-
12 ment or apparatus therefor, toward the solicitation or induce-
13 ment of persons to participate therein, toward the actual conduct
14 of the playing phases thereof, toward the arrangement of any of
15 its financial or recording phases, or toward any other phase of
16 its operation. One advances gambling activity when, having sub-
17 stantial proprietary or other authoritative control over premises
18 being used with his knowledge for purposes of gambling activity,
19 he permits such to occur or continue or makes no effort to prevent
20 its occurrence or continuation.

21 5. "Profit from gambling activity." A person "profits from
22 gambling activity" when, other than as a player, he accepts or
23 receives money or other property pursuant to an agreement or
24 understanding with any person whereby he participates or is to
25 participate in the proceeds of gambling activity.

26 6. "Something of value" means any money or property, any
27 token, object or article exchangeable for money or property, or
28 any form of credit or promise directly or indirectly contemplating

1 transfer of money or property or of any interest therein, or
2 involving extension of a service, entertainment or a privilege of
3 playing at a game or scheme without charge.

4 7. "Gambling device" means any device, machine, parapher-
5 nalia or equipment which is used or usable in the playing phases
6 of any gambling activity, whether such activity consists of gam-
7 bling between persons or gambling by a person involving the
8 playing of a machine. Notwithstanding the foregoing, lottery
9 tickets, policy slips and other items used in the playing phases
10 of lottery and policy schemes are not gambling devices.

11 8. "Slot machine" means a gambling device which, as a result
12 of the insertion of a coin or other object, operates, either com-
13 pletely automatically or with the aid of some physical act by the
14 player, in such manner that, depending upon elements of chance,
15 it may eject something of value. A device so constructed, or
16 readily adaptable or convertible to such use, is no less a slot
17 machine because it is not in working order or because some
18 mechanical act of manipulation or repair is required to accom-
19 plish its adaptation, conversion or workability. Nor is it any
20 less a slot machine because, apart from its use or adaptability
21 as such, it may also sell or deliver something of value on a basis
22 other than chance.

23 9. "Bookmaking" means advancing gambling activity by unlaw-
24 fully accepting bets from members of the public as a business,
25 rather than in a casual or personal fashion, upon the outcomes
26 of future contingent events.

27 10. "Lottery" means an unlawful gambling scheme in which

1 (a) the players pay or agree to pay something of value for
2 chances, represented and differentiated by numbers or by combina-
3 tions of numbers or by some other media, one or more of which
4 chances are to be designated the winning ones; and (b) the
5 winning chances are to be determined by a drawing or by some
6 other method based upon the element of chance; and (c) the
7 holders of the winning chances are to receive something of value.

8 11. "Policy" or "the numbers game" means a form of lottery
9 in which the winning chances or plays are not determined upon
10 the basis of a drawing or other act on the part of persons con-
11 ducting or connected with the scheme, but upon the basis of the
12 outcome or outcomes of a future contingent event or events other-
13 wise unrelated to the particular scheme.

14 12. "Unlawful" means not specifically authorized by law.

15 § 225.05 Promoting gambling in the second degree.

16 A person is guilty of promoting gambling in the second degree
17 when he knowingly advances or profits from unlawful gambling
18 activity.

19 Promoting gambling in the second degree is a class A misde-
20 meanor.

21 § 225.10 Promoting gambling in the first degree.

22 A person is guilty of promoting gambling in the first degree
23 when he knowingly advances or profits from unlawful gambling
24 activity by:

25 1. Engaging in bookmaking to the extent that he receives or
26 accepts in any one day more than five bets totaling more than
27 five thousand dollars; or

1 2. Receiving, in connection with a lottery or policy scheme or
2 enterprise, (a) money or written records from a person other than
3 a player whose chances or plays are represented by such money
4 or records, or (b) more than five hundred dollars in any one day
5 of money played in such scheme or enterprise.

6 Promoting gambling in the first degree is a class E felony.

7 § 225.15 Possession of gambling records in the second degree.

8 A person is guilty of possession of gambling records in the sec-
9 ond degree when, with knowledge of the contents thereof, he
10 possesses any writing, paper, instrument or article:

11 1. Of a kind commonly used in the operation or promotion of
12 a bookmaking scheme or enterprise; or

13 2. Of a kind commonly used in the operation, promotion or
14 playing of a lottery or policy scheme or enterprise; except that in
15 any prosecution under this subdivision, it is a defense that the
16 writing, paper, instrument or article possessed by the defendant
17 constituted, reflected or represented plays, bets or chances of the
18 defendant himself in a number not exceeding ten.

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

21 § 225.20 Possession of gambling records in the first degree.

22 A person is guilty of possession of gambling records in the first
23 degree when, with knowledge of the contents thereof, he possesses
24 any writing, paper, instrument or article:

25 1. Of a kind commonly used in the operation or promotion of a
26 bookmaking scheme or enterprise, and constituting, reflecting or
27 representing more than five bets totaling more than five thousand
28 dollars; or

1 2. Of a kind commonly used in the operation, promotion or
2 playing of a lottery or policy scheme or enterprise, and consti-
3 tuting, reflecting or representing more than five hundred plays or
4 chances therein.

5 Possession of gambling records in the first degree is a class E
6 felony.

7 § 225.25 Possession of gambling records; defense.

8 In any prosecution for possession of gambling records, it is a
9 defense that the writing, paper, instrument or article possessed by
10 the defendant was neither used nor intended to be used in the
11 operation or promotion of a bookmaking scheme or enterprise, or
12 in the operation, promotion or playing of a lottery or policy scheme
13 or enterprise.

14 § 225.30 Possession of a gambling device.

15 A person is guilty of possession of a gambling device when, with
16 knowledge of the character thereof, he manufactures, sells, trans-
17 ports, places or possesses, or conducts or negotiates any transaction
18 affecting or designed to affect ownership, custody or use of:

19 1. A slot machine; or

20 2. Any other gambling device, believing that the same is to be
21 used in the advancement of unlawful gambling activity.

22 Possession of a gambling device is a class A misdemeanor.

23 § 225.35 Gambling offenses; presumptions.

24 1. Proof of possession of any gambling device or of any gambling
25 record specified in sections 225.15 and 225.20, is presumptive
26 evidence of possession thereof with knowledge of its character or
27 contents.

1 2. In any prosecution under this article in which it is necessary
 2 to prove the occurrence of a sporting event, a published report of
 3 its occurrence in any daily newspaper, magazine or other periodi-
 4 cally printed publication of general circulation shall be admissible
 5 in evidence and shall constitute presumptive proof of the occurrence
 6 of such event.

7 § 225.40 Lottery offenses; no defense.

8 Any offense defined in this article which consists of the commis-
 9 sion of acts relating to a lottery is no less criminal because the
 10 lottery itself is drawn or conducted without the state and is not
 11 violative of the laws of the jurisdiction in which it was so drawn or
 12 conducted.

13 ARTICLE 230

14 PROSTITUTION OFFENSES

- 15 Section 230.00 Prostitution.
- 16 230.05 Patronizing a prostitute.
- 17 230.10 Prostitution and patronizing a prostitute; no de-
 18 fense.
- 19 230.15 Promoting prostitution; definitions of terms.
- 20 230.20 Promoting prostitution in the third degree.
- 21 230.25 Promoting prostitution in the second degree.
- 22 230.30 Promoting prostitution in the first degree.
- 23 230.35 Promoting prostitution; corroboration.
- 24 230.40 Permitting prostitution.

25 § 230.00 Prostitution.

26 A person is guilty of prostitution when such person engages or
 27 agrees or offers to engage in sexual conduct with another person in
 28 return for a fee.

1 Prostitution is a violation.

2 § 230.05 Patronizing a prostitute.

3 A person is guilty of patronizing a prostitute when:

4 1. Pursuant to a prior understanding, he pays a fee to another
5 person as compensation for such person or a third person having
6 engaged in sexual conduct with him; or

7 2. He pays or agrees to pay a fee to another person pursuant to
8 an understanding that in return therefor such person or a third
9 person will engage in sexual conduct with him; or

10 3. He solicits or requests another person to engage in sexual
11 conduct with him in return for a fee.

12 Patronizing a prostitute is a violation.

13 § 230.10 Prostitution and patronizing a prostitute; no defense.

14 In any prosecution for prostitution or patronizing a prostitute,
15 the sex of the two parties or prospective parties to the sexual con-
16 duct engaged in, contemplated or solicited is immaterial, and it is
17 no defense that:

18 1. Such persons were of the same sex; or

19 2. The person who received, agreed to receive or solicited a fee
20 was a male and the person who paid or agreed or offered to pay
21 such fee was a female.

22 § 230.15 Promoting prostitution; definitions of terms.

23 The following definitions are applicable to this article:

24 1. "Advance prostitution." A person "advances prostitution"
25 when, acting other than as a prostitute or as a patron thereof, he
26 knowingly causes or aids a person to commit or engage in prostitu-
27 tion, procures or solicits patrons for prostitution, provides persons

1 or premises for prostitution purposes, operates or assists in the
2 operation of a house of prostitution or a prostitution enterprise, or
3 engages in any other conduct designed to institute, aid or facilitate
4 an act or enterprise of prostitution.

5 2. "Profit from prostitution." A person "profits from prostitu-
6 tion" when, acting other than as a prostitute receiving compensation
7 for personally rendered prostitution services, he accepts or receives
8 money or other property pursuant to an agreement or understand-
9 ing with any person whereby he participates or is to participate in
10 the proceeds of prostitution activity.

11 § 230.20 Promoting prostitution in the third degree.

12 A person is guilty of promoting prostitution in the third degree
13 when he knowingly advances or profits from prostitution.

14 Promoting prostitution in the third degree is a class A mis-
15 demeanor.

16 § 230.25 Promoting prostitution in the second degree.

17 A person is guilty of promoting prostitution in the second degree
18 when he knowingly:

19 1. Advances or profits from prostitution by managing, supervis-
20 ing, controlling or owning, either alone or in association with others,
21 a house of prostitution or a prostitution business or enterprise
22 involving prostitution activity by two or more prostitutes; or

23 2. Advances or profits from prostitution of a person less than
24 nineteen years old.

25 Promoting prostitution in the second degree is a class D felony.

26 § 230.30 Promoting prostitution in the first degree.

27 A person is guilty of promoting prostitution in the first degree
28 when he knowingly:

1 1. Advances prostitution by compelling a person by force or
2 intimidation to engage in prostitution, or profits from such coercive
3 conduct by another; or

4 2. Advances or profits from prostitution of a person less than
5 sixteen years old.

6 Promoting prostitution in the first degree is a class C felony.

7 § 230.35 Promoting prostitution; corroboration.

8 A person shall not be convicted of promoting prostitution or of
9 an attempt to commit the same solely on the uncorroborated testi-
10 mony of a person whose prostitution activity he is alleged to have
11 advanced or attempted to advance, or from whose prostitution
12 activity he is alleged to have profited or attempted to profit.

13 § 230.40 Permitting prostitution.

14 A person is guilty of permitting prostitution when, having
15 possession or control of premises which he knows are being used for
16 prostitution purposes, he fails to make reasonable effort to halt or
17 abate such use.

18 Permitting prostitution is a class B misdemeanor.

19 ARTICLE 235

20 OBSCENITY AND RELATED OFFENSES

21 Section 235.00 Obscenity; definitions of terms.

22 235.05 Obscenity.

23 235.10 Obscenity; presumptions.

24 235.15 Obscenity; defense.

25 235.20 Disseminating indecent material to minors.

26 235.25 Disseminating indecent comic books.

27 235.30 - Failing to identify a comic book publication.

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1 § 235.00 Obscenity; definitions of terms.

2 The following definitions are applicable to sections 235.05, 235.10
3 and 235.15:

4 1. "Obscene." Any material or performance is "obscene" if (a)
5 considered as a whole, its predominant appeal is to prurient, shame-
6 ful or morbid interest in nudity, sex, excretion, sadism or maso-
7 chism, and (b) it goes substantially beyond customary limits of
8 candor in describing or representing such matters. Predominant
9 appeal shall be judged with reference to ordinary adults unless it
10 appears from the character of the material or the circumstances of
11 its dissemination to be designed for children or other specially
12 susceptible audience.

13 2. "Material" means anything tangible which is capable of being
14 used or adapted to arouse interest, whether through the medium of
15 reading, observation, sound or in any other manner.

16 3. "Performance" means any play, motion picture, dance or
17 other exhibition performed before an audience.

18 4. "Promote" means to manufacture, issue, sell, give, provide,
19 lend, mail, deliver, transfer, transmute, publish, distribute, circu-
20 late, disseminate, present, exhibit or advertise, or to offer or agree to
21 do the same.

22 § 235.05 Obscenity.

23 A person is guilty of obscenity when, knowing its content and
24 character, he:

25 1. Promotes, or possesses with intent to promote, any obscene
26 material; or

27 2. Produces, presents or directs an obscene performance or

1 participates in a portion thereof which is obscene or which con-
2 tributes to its obscenity.

3 Obscenity is a class A misdemeanor.

4 § 235.10 Obscenity; presumptions.

5 1. A person who promotes obscene material, or possesses the
6 same with intent to promote it, in the course of his business is pre-
7 sumed to do so with knowledge of its content and character.

8 2. A person who possesses six or more identical or similar obscene
9 articles is presumed to possess them with intent to promote the same.

10 § 235.15 Obscenity; defense.

11 In any prosecution for obscenity, it is an affirmative defense that
12 the persons to whom allegedly obscene material was disseminated,
13 or the audience to an allegedly obscene performance, consisted of
14 persons or institutions having scientific, educational, governmental
15 or other similar justification for possessing or viewing the same.

16 § 235.20 Disseminating indecent material to minors.

17 A person is guilty of disseminating indecent material to minors
18 when he knowingly sells, lends, gives away, shows, advertises for
19 sale or distributes commercially to any person under the age of
20 eighteen years or has in his possession with intent to give, lend,
21 show, sell, distribute commercially, or otherwise offer for sale or
22 commercial distribution to any individual under the age of eighteen
23 years any pornographic motion picture; or any still picture or
24 photograph, or any book, "pocket book", pamphlet or magazine
25 the cover or content of which exploits, is devoted to, or is principally
26 made up of descriptions of illicit sex or sexual immorality or which
27 is obscene, lewd, lascivious, filthy, indecent or disgusting, or which

1 contains pictures of nude or partially de-nuded figures, posed or
2 presented in a manner to provoke or arouse lust or passion or to
3 exploit sex, lust or perversion for commercial gain or any article
4 or instrument of indecent or immoral use. For the purposes of
5 this section, "knowingly" shall mean having knowledge of the
6 character and content of the publication or failure to exercise
7 reasonable inspection which would disclose the character and
8 content of same.

9 Disseminating indecent material to minors is a class A misde-
10 meanor.

11 § 235.25 Disseminating indecent comic books.

12 A person is guilty of disseminating indecent comic books when
13 he publishes or distributes for resale any book, pamphlet or
14 magazine consisting of narrative material in pictorial form, colored
15 or uncolored, and commonly known as comic books, the title or titles
16 of which contain the words crime, sex, horror or terror or the
17 content of which is devoted to or principally made up of pictures
18 or accounts of methods of crime, of illicit sex, horror, terror,
19 physical torture, brutality or physical violence.

20 Disseminating indecent comic books is a class A misdemeanor.

21 § 235.30 Failing to identify a comic book publication.

22 1. Any person who publishes or prints any book, pamphlet or
23 magazine consisting of narrative material in pictorial form, colored
24 or uncolored, and commonly known as comic books, shall have the
25 name and address of such publisher or printer imprinted on such
26 book, pamphlet or magazine.

27 2. A person is guilty of failing to identify a comic book publica-

1 tion when he violates any duty prescribed in subdivision one of
2 this section.

3 Failing to identify a comic book publication is a class B mis-
4 demeanor.

5 TITLE N

6 OFFENSES AGAINST PUBLIC ORDER, PUBLIC SENSIBILITIES

7 AND THE RIGHT TO PRIVACY

8 ARTICLE 240

9 OFFENSES AGAINST PUBLIC ORDER

10 Section 240.00 Offenses against public order; definitions of terms.

11 240.05 Riot.

12 240.10 Unlawful assembly.

13 240.15 Criminal anarchy.

14 240.20 Disorderly conduct.

15 240.25 Harassment.

16 240.30 Aggravated harassment.

17 240.35 Loitering.

18 240.40 Public intoxication.

19 240.45 Criminal nuisance.

20 240.50 Falsely reporting an incident.

21 §240.00 Offenses against public order; definitions of terms.

22 The following definitions are applicable to this article:

23 1. "Public place" means a place to which the public or a sub-
24 stantial group of persons has access, and includes, but is not limited
25 to, highways, transportation facilities, schools, places of amusement,
26 parks, playgrounds, and hallways, lobbies and other portions of
27 apartment houses and hotels not constituting rooms or apartments
28 designed for actual residence.

1 2. "Transportation facility" means any conveyance, premises or
2 place used for or in connection with public passenger transportation,
3 whether by air, railroad, motor vehicle or any other method. It
4 includes aircraft, watercraft, railroad cars, buses, and air, boat,
5 railroad and bus terminals and stations and all appurtenances
6 thereto.

7 § 240.05 Riot.

8 A person is guilty of riot when, with four or more other persons,
9 he wrongfully engages in tumultuous and violent conduct and
10 thereby intentionally or recklessly causes or creates a grave risk of
11 causing public alarm.

12 Riot is a class E felony.

13 § 240.10 Unlawful assembly.

14 A person is guilty of unlawful assembly when he assembles with
15 four or more other persons for the purpose of engaging in conduct
16 constituting the crime of riot, or when, being present at an assembly
17 which either has or develops such a purpose, he remains there with
18 intent to advance that purpose.

19 Unlawful assembly is a class A misdemeanor.

20 § 240.15 Criminal anarchy.

21 A person is guilty of criminal anarchy when (a) he advocates the
22 overthrow of the existing form of government of this state by vio-
23 lence, or (b) with knowledge of its contents, he publishes, sells or
24 distributes any document which advocates such violent overthrow,
25 or (c) with knowledge of its purpose, he becomes a member of any
26 organization which advocates such violent overthrow.

27 Criminal anarchy is a class E felony.

1 § 240.20 Disorderly conduct.

2 A person is guilty of disorderly conduct when, with intent to
3 cause public inconvenience, annoyance or alarm, or recklessly creat-
4 ing a risk thereof:

5 1. He engages in fighting or in violent, tumultuous or threaten-
6 ing behavior; or

7 2. He makes unreasonable noise; or

8 3. In a public place, he uses abusive or obscene language, or
9 makes an obscene gesture; or

10 4. Without lawful authority, he disturbs any lawful assembly
11 or meeting of persons; or

12 5. He obstructs vehicular or pedestrian traffic; or

13 6. He congregates with other persons in a public place and refuses
14 to comply with a lawful order of the police to disperse; or

15 7. He creates a hazardous or physically offensive condition by
16 any act which serves no legitimate purpose.

17 Disorderly conduct is a violation.

18 §240.25 Harassment.

19 A person is guilty of harassment when, with intent to harass,
20 annoy or alarm another person:

21 1. He strikes, shoves, kicks or otherwise touches a person or sub-
22 jects him to physical contact; or

23 2. In a public place, he uses abusive or obscene language, or makes
24 an obscene gesture; or

25 3. He follows a person in or about a public place or places; or

26 4. As a student ^{at} in school, college or other institution of learning,
27 he engages in conduct commonly called hazing; or

1 5. He engages in a course of conduct or repeatedly commits acts
2 which alarm or seriously annoy such other person and which serve
3 no legitimate purpose.

4 Harassment is a violation.

5 § 240.30 Aggravated harassment.

6 A person is guilty of aggravated harassment when, with intent to
7 harass, annoy or alarm another person, he :

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8 1. Communicates with a person, anonymously or otherwise, by
9 telephone, or by telegraph, mail or any other form of written
10 communication, in a manner likely to cause annoyance or alarm ;
11 or

12 2. Makes a telephone call, whether or not a conversation ensues,
13 with no purpose of legitimate communication.

14 Aggravated harassment is a class A misdemeanor.

15 § 240.35 Loitering.

16 A person is guilty of loitering when he :

17 1. Loiters, remains or wanders about in a public place for the
18 purpose of begging ; or

19 2. Loiters or remains in a public place for the purpose of
20 gambling with cards, dice or other gambling paraphernalia ; or

21 3. Loiters or remains in a public place for the purpose of
22 engaging, or soliciting another person to engage, in deviate sexual
23 intercourse or other sexual behavior of a deviate nature ; or

24 4. Being masked or in any manner disguised by unusual or
25 unnatural attire or facial alteration, loiters, remains or congregates
26 in a public place with other persons so masked or disguised,
27 or knowingly permits or aids persons so masked or disguised

1 to congregate in a public place; except that such conduct is not
2 unlawful when it occurs in connection with a masquerade party or
3 like entertainment if, when such entertainment is held in a city
4 which has promulgated regulations in connection with such affairs,
5 permission is first obtained from the police or other appropriate
6 authorities; or

7 5. Loiters or remains in or about a school building or grounds,
8 not having any reason or relationship involving custody of or
9 responsibility for a pupil or any other specific, legitimate reason
10 for being there, and not having written permission from the
11 principal; or

12 6. Loiters, remains or wanders in or about a place without
13 apparent reason and under circumstances which justify suspicion
14 that he may be engaged or about to engage in crime, and, upon
15 inquiry by a peace officer, refuses to identify himself or fails to give
16 a reasonably credible account of his conduct and purposes; or

17 7. Loiters or remains in any transportation facility, unless
18 specifically authorized to do so, for the purpose of soliciting or
19 engaging in any business, trade or commercial transactions involv-
20 ing the sale of merchandise or services, or for the purpose of
21 entertaining persons by singing, dancing or playing any musical
22 instrument; or

23 8. Loiters or remains in any transportation facility, or is found
24 sleeping therein, and is unable to give a satisfactory explanation
25 of his presence; or

26 9. Loiters or remains in any place with one or more persons
27 for the purpose of unlawfully using or possessing a dangerous
28 drug, as defined in section 220.00.

1 Loitering is a violation.

2 § 240.40 Public intoxication.

3 A person is guilty of public intoxication when he appears in a
4 public place under the influence of alcohol, narcotics or other
5 drug to the degree that he may endanger himself or other persons
6 or property, or annoy persons in his vicinity.

7 Public intoxication is a violation.

8 § 240.45 Criminal nuisance.

9 A person is guilty of criminal nuisance when :

10 1. By conduct either unlawful in itself or unreasonable under
11 all the circumstances, he knowingly or recklessly creates or main-
12 tains a condition which endangers the safety or health of a con-
13 siderable number of persons; or

14 2. He knowingly conducts or maintains any premises, place or
15 resort where persons gather for purposes of engaging in unlawful
16 conduct.

17 Criminal nuisance is a class B misdemeanor.

18 § 240.50 Falsely reporting an incident.

19 A person is guilty of falsely reporting an incident when, know-
20 ing the information reported, conveyed or circulated to be false
21 or baseless, he :

22 1. Initiates or circulates a false report or warning of an alleged
23 occurrence or impending occurrence of a fire, explosion, crime,
24 catastrophe or emergency under circumstances in which it is not
25 unlikely that public alarm or inconvenience will result; or

26 2. Reports, by word or action, to any official or quasi-official
27 agency or organization having the function of dealing with emer-

1 agencies involving danger to life or property, an alleged occur-
 2 rence or impending occurrence of a fire, explosion or other catastro-
 3 phe or emergency which did not in fact occur or does not in fact
 4 exist; or

5 3. Gratuitously reports to a law enforcement officer or agency
 6 (a) the alleged occurrence of an offense or incident which did not
 7 in fact occur; or (b) an allegedly impending occurrence of an
 8 offense or incident which in fact is not about to occur; or (c)
 9 false information relating to an actual offense or incident or to the
 10 alleged implication of some person therein.

11 Falsely reporting an incident is a class B misdemeanor.

12 ARTICLE 245

13 OFFENSES AGAINST PUBLIC SENSIBILITIES

14 Section 245.00 Public lewdness.

15 245.05 Offensive exhibition.

16 245.10 Cruelty to animals; definitions of terms.

17 245.15 Cruelty to animals.

18 245.20 Cruelty to animals; exception.

19 § 245.00 Public lewdness.

20 A person is guilty of public lewdness when, in a public place,
 21 he intentionally exposes the private or intimate parts of his body
 22 in a lewd manner or commits any other lewd act.

23 Public lewdness is a class B misdemeanor.

24 § 245.05 Offensive exhibition.

25 A person is guilty of offensive exhibition when he knowingly
 26 produces, operates, manages or furnishes premises for, or in any
 27 way promotes or participates in, an exhibition in the nature of
 28 public entertainment or amusement in which:

1 1. A person competes continuously without respite for a period
2 of more than eight consecutive hours in a dance contest, bicycle
3 race or other contest involving physical endurance; or

4 2. A person is held up to ridicule or contempt by voluntarily
5 submitting to indignities such as the throwing of balls or other
6 articles at his head or body; or

7 3. A firearm is discharged or a knife, arrow or other sharp
8 or dangerous instrument is thrown or propelled at or toward a
9 person; or

10 4. A person is projected or thrown for a considerable distance
11 by a cannon or comparable device.

12 Offensive exhibition is a violation.

13 § 245.10 Cruelty to animals; definitions of terms.

14 The following definitions are applicable to this article:

15 1. "Animal" means every living creature except a human being.

16 2. "Mistreat an animal" means unjustifiably to cause or create
17 a substantial risk of causing an animal to suffer or die. The kinds
18 of conduct which, if unjustifiable, constitute mistreatment of an
19 animal include, but are not limited to (a) physical acts committed
20 upon an animal's body which cause it extreme pain, material
21 impairment of health or of some bodily function, or the loss,
22 destruction or mutilation of some organ or other part of the body;
23 or (b) the administering of a poisonous or noxious substance to
24 an animal, or the exposing of any such substance under circum-
25 stances which render it not unlikely that material physical injury
26 to an animal will result; or (c) causing an animal to engage in
27 labor or other physical activity of a character or duration that

1 materially impairs or endangers its health; or (d) holding, pro-
2 moting, witnessing or in any way being party to or encouraging
3 the operation or presentation of an exhibition or other entertain-
4 ment in which an animal engages in combat, either with another
5 animal or with a person; or (e) abandonment of an animal by
6 a person responsible for its care by virtue of ownership, custody,
7 possession, control or any other factor; or (f) failure by such a
8 person to supply an animal with sufficient food, water, shelter or
9 other items or conditions essential to its sustenance or welfare.

10 § 245.15 Cruelty to animals.

11 A person is guilty of cruelty to animals when he intentionally
12 or recklessly mistreats an animal.

13 Cruelty to animals is a class A misdemeanor.

14 § 245.20 Cruelty to animals; exception.

15 Nothing contained in sections 245.10 and 245.15 shall be con-
16 strued to prohibit or interfere with any properly conducted scien-
17 tific tests, experiments or investigations, involving the use of liv-
18 ing animals, performed or conducted in laboratories or institutions,
19 which are approved for these purposes by the state commissioner
20 of health. The state commissioner of health shall prescribe the
21 rules under which such approvals shall be granted, including
22 therein standards regarding the care and treatment of any such
23 animals. Such rules shall be published and copies thereof con-
24 spicuously posted in each such laboratory or institution. The
25 state commissioner of health or his duly authorized representative
26 shall have the power to inspect such laboratories or institutions to
27 insure compliance with such rules and standards. Each such

1 approval may be revoked at any time for failure to comply with
2 such rules and in any case the approval shall be limited to a period
3 not exceeding one year.

4 ARTICLE 250

5 OFFENSES AGAINST THE RIGHT TO PRIVACY

6 Section 250.00 Eavesdropping; definitions of terms.

7 250.05 Eavesdropping.

8 250.10 Possession of eavesdropping devices.

9 250.15 Failure to report wiretapping.

10 250.20 Divulging an eavesdropping order.

11 250.25 Tampering with private communications.

12 250.30 Unlawfully obtaining communications information.

13 250.35 Failing to report criminal communications.

14 § 250.00 Eavesdropping; definitions of terms.

15 The following definitions are applicable to this article:

16 1. "Wiretapping" means the intentional overhearing or record-
17 ing of a telephonic or telegraphic communication by a person other
18 than a sender or receiver thereof, without the consent of either the
19 sender or receiver, by means of any instrument, device or equip-
20 ment. The normal operation of a telephone or telegraph corpora-
21 tion and the normal use of the services and facilities furnished by
22 such corporation pursuant to its tariffs shall not be deemed "wire-
23 tapping."

24 2. "Mechanical overhearing of a conversation" means the inten-
25 tional overhearing or recording of a conversation or discussion,
26 without the consent of at least one party thereto, by a person not
27 present thereat, by means of any instrument, device or equipment.

1 3. "Unlawfully" means not specifically authorized pursuant to
2 section [eight hundred thirteen-a or section eight hundred thirteen-b]
3 of the code of criminal procedure.

4 § 250.05 Eavesdropping.

5 A person is guilty of eavesdropping when he unlawfully engages
6 in wiretapping or mechanical overhearing of a conversation.

7 Eavesdropping is a class E felony.

8 § 250.10 Possession of eavesdropping devices.

9 A person is guilty of possession of eavesdropping devices when,
10 under circumstances evincing an intent to use or to permit the same
11 to be used in violation of section 250.05, he possesses any instru-
12 ment, device or equipment designed for, adapted to or commonly
13 used in wiretapping or mechanical overhearing of a conversation.

14 Possession of eavesdropping devices is a class A misdemeanor.

15 § 250.15 Failure to report wiretapping.

16 A telephone or telegraph corporation is guilty of failure to
17 report wiretapping when, having knowledge of the occurrence of
18 unlawful wiretapping, it does not report such matter to an appro-
19 priate law enforcement officer or agency.

20 Failure to report wiretapping is a class B misdemeanor.

21 § 250.20 Divulging an eavesdropping order.

22 A person is guilty of divulging an eavesdropping order when,
23 possessing information concerning the existence or content of a
24 court order issued pursuant to section eight hundred thirteen-a of
25 the code of criminal procedure, or concerning any circumstance
26 attending an application for such an order, he discloses such infor-
27 mation to another person; except that such disclosure is not crimi-

*change
reference*

1 nal or unlawful when made in a legal proceeding, or to a law
2 enforcement officer or agency connected with the application for
3 such order, or to a legislative committee or temporary state com-
4 mission, or to the telephone or telegraph corporation whose facili-
5 ties are involved.

6 Divulging an eavesdropping order is a class A misdemeanor.

7 § 250.25 Tampering with private communications.

8 A person is guilty of tampering with private communications
9 when:

10 1. Knowing that he does not have the consent of the sender or
11 receiver, he opens or reads a sealed letter or other sealed private
12 communication; or

13 2. Knowing that a sealed letter or other sealed private communi-
14 cation has been opened or read in violation of subdivision one of
15 this section, he divulges without the consent of the sender or re-
16 ceiver, the contents of such letter or communication, in whole or
17 in part, or a resume of any portion of the contents thereof; or

18 3. Knowing that he does not have the consent of the sender or
19 receiver, he obtains or attempts to obtain from an employee, officer
20 or representative of a telephone or telegraph corporation, by con-
21 vivance, deception, intimidation or in any other manner, informa-
22 tion with respect to the contents or nature thereof of a telephonic or
23 telegraphic communication; except that the provisions of this sub-
24 division do not apply to a law enforcement officer who obtains
25 information from a telephone or telegraph corporation pursuant
26 to section 250.35; or

27 4. Knowing that he does not have the consent of the sender or

1 receiver, and being an employee, officer or representative of a tele-
2 phone or telegraph corporation, he knowingly divulges to another
3 person the contents or nature thereof of a telephonic or telegraphic
4 communication; except that the provisions of this subdivision do not
5 apply to such person when he acts pursuant to section 250.35.

6 Tampering with private communications is a class B misde-
7 meanor.

8 § 250.30 Unlawfully obtaining communications information.

9 A person is guilty of unlawfully obtaining communications in-
10 formation when, knowing that he does not have the authorization
11 of a telephone or telegraph corporation, he obtains or attempts
12 to obtain, by deception, stealth or in any other manner, from such
13 corporation or from any employee, officer or representative thereof:

14 1. Information concerning identification or location of any wires,
15 cables; lines, terminals or other apparatus used in furnishing tele-
16 phone or telegraph service; or

17 2. Information concerning a record of any communication pass-
18 ing over telephone or telegraph lines of any such corporation.

19 Unlawfully obtaining communications information is a class B
20 misdemeanor.

21 § 250.35 Failing to report criminal communications.

22 1. It shall be the duty of a telephone or telegraph corporation
23 and of any employee, officer or representative thereof having knowl-
24 edge that the facilities of such corporation are being used to
25 conduct any criminal business, traffic or transaction, to furnish
26 or attempt to furnish to an appropriate law enforcement officer
27 or agency all pertinent information within his possession relating

1 to such matter, and to cooperate fully with any law enforcement
2 officer or agency investigating such matter.

3 2. A person is guilty of failing to report criminal communica-
4 tions when he knowingly violates any duty prescribed in subdivision
5 one of this section.

6 Failing to report criminal communications is a class B misde-
7 meanor.

8 TITLE O

9 OFFENSES AGAINST MARRIAGE, THE FAMILY, AND THE

10 WELFARE OF CHILDREN AND INCOMPETENTS

11 ARTICLE 255

12 OFFENSES AFFECTING THE MARITAL RELATIONSHIP

13 Section 255.00 Unlawfully solemnizing a marriage.

14 255.05 Unlawfully issuing a dissolution decree.

15 255.10 Unlawfully procuring a marriage license.

16 255.15 Bigamy.

17 255.20 Unlawfully procuring a marriage license, bigamy;
18 defense.

19 255.25 Incest.

20 255.30 Incest; corroboration.

21 § 255.00 Unlawfully solemnizing a marriage.

22 A person is guilty of unlawfully solemnizing a marriage when:

23 1. Knowing that he is not authorized by the laws of this state
24 to do so, he performs a marriage ceremony or presumes to solemnize
25 a marriage; or

26 2. Being authorized by the laws of this state to perform marriage
27 ceremonies and to solemnize marriages, he performs a marriage

1 ceremony or solemnizes a marriage knowing that a legal impedi-
2 ment to such marriage exists.

3 Unlawfully solemnizing a marriage is a class A misdemeanor.

4 § 255.05 Unlawfully issuing a dissolution decree.

5 A person is guilty of unlawfully issuing a dissolution decree
6 when, not being a judicial officer authorized to issue decrees of
7 divorce or annulment, he issues a written instrument reciting or
8 certifying that he or some other purportedly but not actually au-
9 thorized person has issued a valid decree of civil divorce, annul-
10 ment or other dissolution of a marriage.

11 Unlawfully issuing a dissolution decree is a class A misdemeanor.

12 § 255.10 Unlawfully procuring a marriage license.

13 A person is guilty of unlawfully procuring a marriage license
14 when he procures a license to marry another person at a time when
15 he has a living spouse, or the other person has a living spouse.

16 Unlawfully procuring a marriage license is a class A misde-
17 meanor.

18 § 255.15 Bigamy.

19 A person is guilty of bigamy when he contracts or purports to
20 contract a marriage with another person at a time when he has
21 a living spouse, or the other person has a living spouse.

22 Bigamy is a class E felony.

23 § 255.20 Unlawfully procuring a marriage license, bigamy;

24 defense.

25 In any prosecution for unlawfully procuring a marriage license
26 or bigamy, it is an affirmative defense that the defendant acted

27 under a reasonable belief that both he and the other [person] to the

28 marriage or prospective marriage were unmarried.

** party*

1 § 255.25 Incest.

2 A person is guilty of incest when he marries or engages in sexual
3 intercourse with a person whom he knows to be related to him,
4 either legitimately or illegitimately, as an ancestor, descendant,
5 brother or sister of either the whole or the half blood, uncle, aunt,
6 nephew or niece.

7 Incest is a class E felony.

8 § 255.30 Incest; corroboration.

9 A person shall not be convicted of incest or of an attempt to
10 commit incest upon the uncorroborated testimony of the person
11 with whom the offense is alleged to have been committed.

12 ARTICLE 260

13 OFFENSES RELATING TO CHILDREN AND INCOMPETENTS

14 Section 260.00 Abandonment of a child.

15 260.05 Non-support of a child.

16 260.10 Endangering the welfare of a child.

17 260.15 Endangering the welfare of a child; defense.

18 260.20 Unlawfully dealing with a child.

19 260.25 Endangering the welfare of an incompetent person.

20 § 260.00 Abandonment of a child.

21 A person is guilty of abandonment of a child when, being a
22 parent, guardian or other person legally charged with the care or
23 custody of a child less than fourteen years old, he deserts such
24 child in any place with intent to wholly abandon it.

25 Abandonment of a child is a class E felony.

26 § 260.05 Non-support of a child.

27 A person is guilty of non-support of a child when, being a par-

1 ent, guardian or other person legally charged with the care or
2 custody of a child less than sixteen years old, he fails or refuses
3 without lawful excuse to provide support for such child when he
4 is able to do so.

5 Non-support of a child is a class A misdemeanor.

6 § 260.10 Endangering the welfare of a child.

7 A person is guilty of endangering the welfare of a child when:

8 1. He knowingly acts in a manner likely to be injurious to the
9 physical, mental or moral welfare of a child less than sixteen years
10 old; or

11 2. Being a parent, guardian or other person legally charged
12 with the care or custody of a male child less than sixteen years old
13 or of a female child less than eighteen years old, he fails or refuses
14 to exercise reasonable diligence in the control of such child to pre-
15 vent him from becoming a "neglected child," a "juvenile delin-
16 quent" or a "person in need of supervision," as those terms are
17 defined in articles three and seven of the family court act.

18 Endangering the welfare of a child is a class A misdemeanor.

19 § 260.15 Endangering the welfare of a child; defense.

20 In any prosecution for endangering the welfare of a child, pur-
21 suant to section 260.10, based upon an alleged failure or refusal
22 to provide proper medical care or treatment to an ill child, it is
23 an affirmative defense that the defendant (a) is a parent, guardian
24 or other person legally charged with the care or custody of such
25 child; and (b) is a member or adherent of an organized church or
26 religious group the tenets of which prescribe prayer as the princi-
27 pal treatment for illness; and (c) treated or caused such ill child

1 to be treated in accordance with such tenets; provided that the
2 defendant may not avail himself of this defense when he has vio-
3 lated the laws, rules or regulations relating to communicable or
4 reportable diseases and to sanitary matters.

5 § 260.20 Unlawfully dealing with a child.

6 A person is guilty of unlawfully dealing with a child when:

7 1. Being an owner, lessee, manager or employee of a public dance
8 hall, public pool or billiard room, public bowling alley, theatre,
9 motion picture theatre, skating rink, or of a place where alcoholic
10 beverages are sold or given away, he permits a child less than six-
11 teen years old to enter or remain in such place unless:

12 (a) The child is accompanied by his parent, guardian or an
13 adult authorized by a parent or guardian; or

14 (b) The entertainment or activity is being conducted for
15 the benefit or under the auspices of a non-profit school, church
16 or other educational or religious institution; or

17 (c) Otherwise permitted by law to do so; or

18 2. He knowingly permits a child less than eighteen years old
19 to enter or remain in a place where illicit sexual activity or illegal
20 narcotics activity is maintained or conducted; or

21 3. He marks the body of a child less than eighteen years old
22 with indelible ink or pigments by means of tattooing; or

23 4. He gives or sells or causes to be given or sold any alcoholic
24 beverage, as defined by section three of the alcoholic beverage con-
25 trol law, to a child less than eighteen years old; except that this
26 subdivision does not apply to the parent or guardian of such a
27 child; or

1 5. He sells or causes to be sold tobacco in any form to a child
2 less than eighteen years old.

3 It is no defense to a prosecution pursuant to subdivision four
4 or five of this section that the child acted as the agent or repre-
5 sentative of another person or that the defendant dealt with the
6 child as such.

7 Unlawfully dealing with a child is a class B misdemeanor.

8 § 260.25 Endangering the welfare of an incompetent person.

9 A person is guilty of endangering the welfare of an incompetent
10 person when he knowingly acts in a manner likely to be injurious
11 to the physical, mental or moral welfare of a person who is unable
12 to care for himself because of mental disease or defect.

13 Endangering the welfare of an incompetent person is a class
14 A misdemeanor.

15

TITLE P

16

OFFENSES AGAINST PUBLIC SAFETY

17

ARTICLE 265

18

FIREARMS AND OTHER DANGEROUS WEAPONS

19 Section 265.00 Definitions.

20 265.05 Possession of weapons and dangerous instruments
21 and appliances.

22 265.10 Manufacture, transport, disposition and deface-
23 ment of weapons and dangerous instruments and
24 appliances.

25 265.15 Presumptions of possession, unlawful intent and
26 defacement.

27 265.20 Exemptions.

1 265.25 Certain wounds to be reported.

2 265.30 Certain convictions to be reported.

3 265.35 Prohibited use of weapons.

4 § 265.00 Definitions.

5 As used in this article and in article four hundred, the follow-
6 ing terms shall mean and include:

7 1. "Machine-gun" means a weapon of any description, irre-
8 spective of size, by whatever name known, loaded or unloaded,
9 from which a number of shots or bullets may be rapidly or auto-
10 matically discharged from a magazine with one continuous pull
11 of the trigger and includes a sub-machine gun.

12 2. "Firearm silencer" means any instrument, attachment,
13 weapon or appliance for causing the firing of any gun, revolver,
14 pistol or other firearms to be silent, or intended to lessen or muffle
15 the noise of the firing of any gun, revolver, pistol or other fire-
16 arms.

17 3. "Firearm" means any pistol, revolver, sawed-off shotgun or
18 other firearm of a size which may be concealed upon the person.

19 4. "Switchblade knife" means any knife which has a blade
20 which opens automatically by hand pressure applied to a button,
21 spring or other device in the handle of the knife.

22 5. "Gravity knife" means any knife which has a blade which
23 is released from the handle or sheath thereof by the force of
24 gravity or the application of centrifugal force which, when re-
25 leased, is locked in place by means of a button, spring, lever or
26 other device.

27 6. "Dispose of" means to dispose of, give, give away, lease,

1 loan, keep for sale, offer, offer for sale, sell, transfer and otherwise
2 dispose of.

3 7. "Deface" means to remove, deface, cover, alter or destroy
4 the manufacturer's serial number or any other distinguishing num-
5 ber or identification mark.

6 8. "Gunsmith" means any person, firm, partnership, corpora-
7 tion or company who engages in the business of repairing, altering,
8 assembling, cleaning, polishing, engraving or trueing, or who per-
9 forms any mechanical operation on, any pistol or revolver. Gun-
10 smith shall not include a wholesale dealer.

11 9. "Dealer in firearms" means any person, firm, partnership,
12 corporation or company who engages in the business of purchasing,
13 selling, keeping for sale, loaning, leasing, or in any manner dis-
14 posing of, any pistol or revolver. Dealer in firearms shall not in-
15 clude a wholesale dealer.

16 10. "Licensing officer" means in the city of New York the police
17 commissioner of that city; in the county of Nassau the commis-
18 sioner of police of that county; and elsewhere in the state a judge
19 or justice of a court of record having his office in the county of
20 issuance.

21 11. "Rifle" means a weapon designed or redesigned, made or
22 remade, and intended to be fired from the shoulder and designed
23 or redesigned and made or remade to use the energy of the explo-
24 sive in a fixed metallic cartridge to fire only a single projectile
25 through a rifled bore for each single pull of the trigger.

26 12. "Shotgun" means a weapon designed or redesigned, made
27 or remade, and intended to be fired from the shoulder and de-

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1 signed or redesigned and made or remade to use the energy of the
2 explosive in a fixed shotgun shell to fire through a smooth bore
3 either a number of ball shot or a single projectile for each single
4 pull of the trigger.

5 § 265.05 Possession of weapons and dangerous instruments and
6 appliances.

7 1. Any person who has in his possession any bomb, bombshell,
8 firearm silencer, machine-gun or any other firearm or weapon
9 simulating a machine-gun and which is adaptable for such use is
10 guilty of a class D felony.

11 2. Any person who has in his possession any firearm which is
12 loaded with ammunition, or who has in his possession any firearm
13 and, at the same time, has in his possession a quantity of am-
14 munition which may be used to discharge such firearm is guilty
15 of a class D felony. Such possession shall not, except as provided
16 in subdivision three of this section, constitute a felony if such
17 possession takes place in such person's home or place of business.

18 3. Any person who has in his possession any firearm, gravity
19 knife, switchblade knife, billy, blackjack, bludgeon, metal knuckles,
20 sandbag, sandclub or slungshot is guilty of a class A misdemeanor,
21 and he is guilty of a class D felony if he has previously been con-
22 victed of any crime.

23 4. Any person under the age of sixteen years who has in his
24 possession any of the weapons, instruments, appliances or sub-
25 stances specified in the first three subdivisions of this section, or
26 any air-gun, spring-gun or other instrument or weapon in which
27 the propelling force is a spring or air, or any gun, or any instru-

1 ment or weapon in or upon which any loaded or blank cartridges
2 may be used, or any loaded or blank cartridges or ammunition
3 therefor, or any dangerous knife, shall be adjudged a juvenile de-
4 linquent.

5 5. Any person not a citizen of the United States who has in his
6 possession any dangerous or deadly weapon other than those pro-
7 hibited to him in the first two subdivisions of this section is guilty
8 of a class A misdemeanor, and he is guilty of a class D felony if
9 he has previously been convicted of any crime.

10 6. Any person who has in his possession a rifle or shotgun and
11 who has been convicted anywhere of a felony or any one of the
12 misdemeanors or offenses mentioned in section five hundred fifty-
13 two of the code of criminal procedure is guilty of a class A mis-
14 demeanor.

15 7. Any person who has in his possession any explosive substance
16 with intent to use the same unlawfully against the person or prop-
17 erty of another is guilty of a class D felony.

18 8. Any person who knowingly has in his possession a machine-
19 gun or firearm which has been defaced for the purpose of conceal-
20 ment or prevention of the detection of a crime or misrepresenting
21 the identity of such machine-gun or firearm is guilty of a class D
22 felony.

23 9. Any person who has in his possession any dagger, dangerous
24 knife, dirk, razor, stiletto, imitation pistol or any other dangerous
25 or deadly instrument or weapon with intent to use the same un-
26 lawfully against another is guilty of a class A misdemeanor, and
27 he is guilty of a class D felony if he has previously been convicted
28 of any crime.

1 10. Whenever the director or physician in charge of any hos-
2 pital or institution for mental illness, public or private, shall certify
3 to the superintendent of state police or to any organized police
4 department of a county, city, town or village of this state, that a
5 person who has been judicially adjudicated incompetent, or who
6 has been confined to such institution for mental illness pursuant to
7 judicial authority, upon the release of such person from such
8 institution, is not suitable to possess a rifle or shotgun, a member
9 of such police department or of the state police shall forthwith
10 seize any rifle or shotgun possessed by such person. Any such
11 person who refuses to yield possession of such rifle or shotgun to
12 such police officer is guilty of a class A misdemeanor. A rifle or
13 shotgun seized as herein provided shall not be destroyed, but shall
14 be delivered to the headquarters of such police department, or
15 state police, and there retained until the aforesaid certificate has
16 been rescinded by the director or physician in charge, or other
17 disposition of such rifle or shotgun has been ordered or authorized
18 by a court of competent jurisdiction.

19 § 265.10 Manufacture, transport, disposition and defacement of
20 weapons and dangerous instruments and appliances.

21 1. Any person who manufactures or causes to be manufactured
22 any machine-gun is guilty of a class D felony. Any person who
23 manufactures or causes to be manufactured any switchblade knife,
24 gravity knife, billy, blackjack, bludgeon, metal knuckles, sandbag,
25 sandclub or slungshot is guilty of a class A misdemeanor.

26 2. Any person who transports or ships any machine-gun or fire-
27 arm silencer is guilty of a class D felony. Any person who trans-

1 ports or ships as merchandise any firearm, switchblade knife,
2 gravity knife, billy, blackjack, bludgeon, metal knuckles, sandbag
3 or slungshot is guilty of a class A misdemeanor.

4 3. Any person who disposes of any machine-gun or firearm
5 silencer is guilty of a class D felony. Any person who knowingly
6 buys, receives, disposes of, or conceals a machine-gun or firearm
7 which has been defaced for the purpose of concealment or preven-
8 tion of the detection of a crime or misrepresenting the identity of
9 such machine-gun or firearm is guilty of a class D felony.

10 4. Any person who disposes of any of the weapons, instruments
11 or appliances specified in subdivision three of section 265.05 is
12 guilty of a class A misdemeanor, and he is guilty of a class D felony
13 if he has previously been convicted of any crime.

14 5. Any person who disposes of any of the weapons, instruments,
15 appliances or substances specified in subdivision four of section
16 265.05 to any other person under the age of sixteen years is guilty
17 of a class A misdemeanor.

18 6. Any person who wilfully defaces any machine-gun or firearm
19 is guilty of a class D felony.

20 7. Any person, other than a wholesale dealer, or gunsmith or
21 dealer in firearms duly licensed pursuant to section 400.00, law-
22 fully in possession of a firearm, who disposes of the same without
23 first notifying in writing the licensing officer in the city of New
24 York and county of Nassau and elsewhere in the state the execu-
25 tive department, division of state police, Albany, is guilty of a class
26 A misdemeanor.

27 § 265.15 Presumptions of possession, unlawful intent and deface-
28 ment.

1 1. The presence in any room, dwelling, structure or vehicle of
2 any machine-gun is presumptive evidence of its unlawful possession
3 by all persons occupying the place where such machine-gun is
4 found.

5 2. The presence in any stolen vehicle of any weapon, instrument,
6 appliance or substance specified in section 265.05 is presumptive
7 evidence of its possession by all persons occupying such vehicle
8 at the time such weapon, instrument, appliance or substance is
9 found.

10 3. The presence in an automobile, other than a stolen one or a
11 public omnibus, of any firearm, defaced firearm, firearm silencer,
12 bomb, bombshell, gravity knife, switchblade knife, dagger, dirk,
13 stiletto, billy, blackjack, metal knuckles, sandbag, sandclub or
14 slungshot is presumptive evidence of its possession by all persons
15 occupying such automobile at the time such weapon, instrument
16 or appliance is found, except under the following circumstances:
17 (a) if such weapon, instrument or appliance is found upon the
18 person of one of the occupants therein; (b) if such weapon, instru-
19 ment or appliance is found in an automobile which is being operated
20 for hire by a duly licensed driver in the due, lawful and proper
21 pursuit of his trade, then such presumption shall not apply to the
22 driver; or (c) if the weapon so found is a pistol or revolver and
23 one of the occupants, not present under duress, has in his posses-
24 sion a valid license to have and carry concealed the same.

25 4. The possession by any person of the substance as specified in
26 subdivision seven of section 265.05 is presumptive evidence of pos-
27 ssession such substance with intent to use the same unlawfully

1 against the person or property of another. The possession by any
2 person of any dagger, dirk, stiletto, dangerous knife or any other
3 weapon, instrument, appliance or substance designed, made or
4 adapted for use primarily as a weapon, is presumptive evidence of
5 intent to use the same unlawfully against another.

6 5. The possession by any person of a defaced machine-gun or
7 firearm is presumptive evidence that such person defaced the same.

8 § 265.20 Exemptions.

9 a. Sections 265.05, 265.10 and 265.15 shall not apply to:

10 1. Possession of any of the weapons, instruments, appliances or
11 substances specified in section 265.05 by the following:

12 (a) Persons in the military service of the state of New York
13 when duly authorized by regulations issued by the chief of
14 staff to the governor to possess the same, and peace officers
15 as defined in section one hundred fifty-four of the code of
16 criminal procedure.

17 (b) Persons in the military or other service of the United
18 States, in pursuit of official duty or when duly authorized by
19 federal law, regulation or order to possess the same.

20 (c) Persons employed in fulfilling defense contracts with
21 the government of the United States or agencies thereof when
22 possession of the same is necessary for manufacture, trans-
23 port, installation and testing under the requirements of such
24 contract.

25 (d) During the month of June only each year, a person
26 voluntarily surrendering such weapon, instrument, appliance
27 or substance, provided that such surrender shall be made to

1 the sheriff of the county in which such person resides and in
2 the county of Nassau to the commissioner of police or a mem-
3 ber of the police department thereof designated by him, or if
4 such person resides in a city having a population of seventy-
5 five thousand or more to the police commissioner or head of the
6 police force or department, or to a member of the force or
7 department designated by such commissioner or head; and
8 provided, further, that the same shall be surrendered by such
9 person only after he gives notice in writing to the appropriate
10 authority, stating his name, address, the nature of the weapon
11 to be surrendered, and the approximate time of day and the
12 place where such surrender shall take place. Such notice shall
13 be acknowledged immediately upon receipt thereof by such
14 authority. Nothing in paragraph (d) of subdivision one hereof
15 shall be construed as granting immunity from prosecution for
16 any crime or offense except that of unlawful possession of
17 such weapons, instruments, appliances or substances sur-
18 rendered as herein provided.

19 2. Possession of a machine-gun, firearm, switchblade knife, grav-
20 ity knife, billy or blackjack by a warden, superintendent, head-
21 keeper or deputy of a state prison, penitentiary, workhouse,
22 county jail or other institution for the detention of persons con-
23 victed or accused of crime or detained as witnesses in criminal
24 cases, in pursuit of official duty or when duly authorized by
25 regulation or order to possess the same.

26 3. Possession of a pistol or revolver by a person to whom a
27 license therefor has been issued as provided under section 400.00.

1 4. Possession of a rifle or shotgun by a person who has been
2 convicted as specified in section 265.05, subdivision six to whom a
3 certificate of good conduct has been issued pursuant to section
4 two hundred forty-two, subdivision three of the executive law.

5 5. Possession of a switchblade or gravity knife for use while
6 hunting, trapping or fishing by a person carrying a valid license
7 issued to him pursuant to article four, part four of the conserva-
8 tion law.

9 6. Possession, at an indoor or outdoor rifle range for the pur-
10 pose of loading and firing the same, of a rifle of not more than
11 twenty-two calibre rim fire, the propelling force of which may be
12 either gunpowder, air or springs, by a person under sixteen years
13 of age but not under twelve, who is a duly enrolled member of
14 any club, team or society organized for educational purposes and
15 maintaining as a part of its facilities, or having written permis-
16 sion to use, such rifle range under the supervision, guidance and
17 instruction of (a) a duly commissioned officer of the United States
18 army, navy, marine corps or coast guard, or of the national guard
19 of the state of New York; or (b) a duly qualified adult citizen
20 of the United States who has been granted a certificate as an
21 instructor in small arms practice issued by the United States army,
22 navy or marine corps, or by the adjutant general of this state, or
23 by the national rifle association of America, a membership corpo-
24 ration duly organized under the laws of this state.

25 7. The manufacturer of machine-guns, switchblade or gravity
26 knives, billies or blackjacks as merchandise and the disposal and
27 shipment thereof direct to a regularly constituted or appointed

1 state or municipal police department, sheriff, policeman or other
2 peace officer, or to a state prison, penitentiary, workhouse, county
3 jail or other institution for the detention of persons convicted or
4 accused of crime or held as witnesses in criminal cases, or to the
5 military service of this state or of the United States.

6 8. The regular and ordinary transport of firearms as merchan-
7 dise, provided that the person transporting such firearms, where
8 he knows or has reasonable means of ascertaining what he is
9 transporting, notifies in writing the police commissioner, police
10 chief or other law enforcement officer performing such functions
11 at the place of delivery, of the name and address of the consignee
12 and the place of delivery, and withholds delivery to the consignee
13 for such reasonable period of time designated in writing by such
14 police commissioner, police chief or other law enforcement officer
15 as such official may deem necessary for investigation as to whether
16 the consignee may lawfully receive and possess such firearms.

17 9. Engaging in the business of gunsmith or dealer in firearms
18 by a person to whom a valid license therefor has been issued pur-
19 suant to section 400.00.

20 b. At any time, any person who voluntarily delivers to a peace
21 officer any weapon, instrument, appliance or substance specified
22 in section 265.05, under circumstances not suspicious, peculiar or
23 involving the commission of any crime, shall not be arrested.
24 Instead, the officer who might make the arrest shall issue or cause
25 to be issued in a proper case a summons or other legal process to
26 the person for investigation of the source of the weapon, instru-
27 ment, appliance or substance.

1 § 265.25 Certain wounds to be reported.

2 Every case of a bullet wound, gunshot wound, powder burn or
3 any other injury arising from or caused by the discharge of a
4 gun or firearm, and every case of a wound which is likely to or
5 may result in death and is actually or apparently inflicted by a
6 knife, icepick or other sharp or pointed instrument, shall be
7 reported at once to the police authorities of the city, town or
8 village where the person reporting is located by: (a) the physi-
9 cian attending or treating the case; or (b) the manager, superin-
10 tendent or other person in charge, whenever such case is treated
11 in a hospital, sanitarium or other institution. Failure to make
12 such report is a class A misdemeanor. This subdivision shall not
13 apply to such wounds, burns or injuries received by a member of
14 the armed forces of the United States or the state of New York
15 while engaged in the actual performance of duty.

16 § 265.30 Certain convictions to be reported.

17 Every conviction under this article or section 400.00, of a per-
18 son who is not a citizen of the United States, shall be certified to
19 the proper officer of the United States government by the district
20 attorney of the county in which such conviction was had.

21 § 265.35 Prohibited use of weapons.

22 1. Except as permitted in section 265.20, any person who uses
23 a machine-gun is guilty of a class D felony. Any person who
24 attempts to use against another an imitation pistol is guilty of a
25 class A misdemeanor, and he is guilty of a class D felony if he has
26 previously been convicted of any crime.

27 2. Any person hunting with a dangerous weapon in any county

1 wholly embraced within the territorial limits of a city is guilty
2 of a class A misdemeanor.

3 3. Any person who wilfully discharges a loaded firearm or any
4 other gun, the propelling force of which is gunpowder, at an air-
5 craft while such aircraft is in motion in the air or in motion or
6 stationary upon the ground, or at any railway or street railroad
7 train as defined by the public service law, or at a locomotive,
8 car, bus or vehicle standing or moving upon such railway, rail-
9 road or public highway, is guilty of a class D felony if thereby
10 the safety of any person is endangered, and in every other case,
11 of a class E felony.

12 4. Any person who, otherwise than in self defense or in the dis-
13 charge of official duty, (a) wilfully discharges any species of fire-
14 arms, air-gun or other weapon, or throws any other deadly missile,
15 either in a public place, or in any place where there is any person to
16 be endangered thereby, or, in Putnam county, within one-quarter
17 mile of any occupied school building other than under supervised
18 instruction by properly authorized instructors although no injury
19 to any person ensues; (b) intentionally, without malice, points or
20 aims any firearm or any other gun, the propelling force of which
21 is gunpowder, at or toward any other person; (c) discharges, with-
22 out injury to any other person, firearms or any other guns, the
23 propelling force of which is gunpowder, while intentionally without
24 malice, aimed at or toward any person; or (d) maims or injures
25 any other person by the discharge of any firearm or any other gun,
26 the propelling force of which is gunpowder, pointed or aimed in-
27 tentively, but without malice, at any such person, is guilty of a
28 class A misdemeanor.

ARTICLE 270

1

2

OTHER OFFENSES RELATING TO PUBLIC SAFETY

3 Section 270.00 Unlawfully dealing with fireworks.

4 270.05 Unlawfully possessing noxious material.

5 270.10 Creating a hazard.

6 270.15 Unlawfully refusing to yield a party line.

7 § 270.00 Unlawfully dealing with fireworks.

8 1. Definition of "fireworks." The term "fireworks," as used
9 in this section, is defined and declared to be and to include any
10 blank cartridge, blank cartridge pistol, or toy cannon in which
11 explosives are used, firecrackers, torpedoes, skyrockets, Roman
12 candles, bombs, sparklers or other combustible or explosive of like
13 construction, or any preparation containing any explosive or in-
14 flammable compound or any tablets or other device commonly used
15 and sold as fireworks containing nitrates, chlorates, oxalates, sul-
16 phides of lead, barium, antimony, arsenic, mercury, nitroglycerine,
17 phosphorus or any compound containing any of the same or other
18 explosives, or any substance or combination of substances, or article
19 prepared for the purpose of producing a visible or an audible effect
20 by combustion, explosion, deflagration or detonation, or other
21 device containing any explosive substance. The provisions of this
22 definition however, shall not be deemed to include (1) flares of the
23 type used by railroads or any warning lights commonly known as
24 red flares, or marine distress signals of a type approved by the
25 United States coast guard or (2) toy pistols, toy canes, toy guns or
26 other devices in which paper caps containing twenty-five hundredths
27 grains or less of explosive compound are used, providing they are so

1 constructed that the hand cannot come in contact with the cap when
2 in place for use, and toy pistol paper caps which contain less than
3 twenty-hundredths grains of explosive mixture, the sale and use of
4 which shall be permitted at all times.

5 2. Offense. Except as herein otherwise provided, or except where
6 a permit is obtained pursuant to section 405.00, any person who
7 shall offer or expose for sale, possess or sell, furnish, use, explode or
8 cause to explode any fireworks is guilty of a class B misdemeanor.

9 3. The provisions of this section shall not apply to articles of the
10 kind and nature herein mentioned, while in possession of railroads
11 and transportation agencies for the purpose of transportation, the
12 shipment of which is not prohibited by the interstate commerce
13 commission regulations as formulated and published from time to
14 time, unless the same be held voluntarily by such railroads or
15 transportation companies as warehousemen; provided, that none of
16 the provisions of this section shall apply to signaling devices used
17 by railroad companies or motor vehicles referred to in subdivision
18 seventeen of section three hundred seventy-five of the vehicle and
19 traffic law, or to high explosives for blasting or similar purposes;
20 provided that none of the provisions of this section shall apply to
21 fireworks and the use thereof by the army and navy departments of
22 the state and federal government; nor shall anything in this act
23 contained be construed to prohibit any manufacturer, wholesaler,
24 dealer or jobber from manufacturing, possessing or selling at whole-
25 sale such fireworks to municipalities, religious or civic organizations,
26 fair associations, amusement parks, or other organizations or groups
27 of individuals authorized to possess and use fireworks under this

1 act, or the sale or use of blank cartridges for a show or theatre, or
2 for signal purposes in athletic sports, or the use, or the storage,
3 transportation or sale for use of fireworks in the preparation for
4 or in connection with television broadcasts; nor shall anything in
5 this act contained be construed to prohibit the manufacture of
6 fireworks, nor the sale of any kind of fireworks, provided the same
7 are to be shipped directly out of the state.

8 4. Sales of ammunition not prohibited. Nothing contained in this
9 section shall be construed to prevent, or interfere in any way with,
10 the sale of ammunition for revolvers or pistols of any kind, or for
11 rifles, shot guns, or other arms, belonging or which may belong to
12 any persons whether as sporting or hunting weapons or for the
13 purpose of protection to them in their homes, or, as they may go
14 abroad; and manufacturers are authorized to continue to manu-
15 facture, and wholesalers and dealers to continue to deal in and
16 freely to sell ammunition to all such persons for such purposes.

17 § 270.05 Unlawfully possessing noxious material.

18 1. As used in this section, "noxious material" means any con-
19 tainer which contains any drug or other substance capable of
20 generating offensive, noxious or suffocating fumes, gases or vapors.

21 2. A person is guilty of unlawfully possessing noxious material
22 when he possesses such material under circumstances evincing an
23 intent to use it or to cause it to be used to inflict physical injury
24 upon or to cause annoyance to a person, or to damage property of
25 another, or to disturb the public peace.

26 3. Possession of noxious material is presumptive evidence of in-
27 tent to use it or cause it to be used in violation of this section.

1 Unlawfully possessing noxious material is a class B misdemeanor.

2 § 270.10 Creating a hazard.

3 A person is guilty of creating a hazard when :

4 1. Having discarded in any place where it might attract children,
5 a container which has a compartment of more than one and one-
6 half cubic feet capacity and a door or lid which locks or fastens
7 automatically when closed and which cannot easily be opened from
8 the inside, he fails to remove the door, lid, locking or fastening
9 device; or

10 2. Being the owner or otherwise having possession of property
11 upon which an abandoned well or cesspool is located, he fails to cover
12 the same with suitable protective construction.

13 Creating a hazard is a class B misdemeanor.

14 § 270.15 Unlawfully refusing to yield a party line.

15 1. As used in this section :

16 (a) "Party line" means a subscriber's line telephone circuit,
17 consisting of two or more main telephone stations connected
18 therewith, each station with a distinctive ring or telephone
19 number.

20 (b) "Emergency call" means a telephone call to a police or
21 fire department, or for medical aid or ambulance service, neces-
22 sitated by a situation in which human life or property is in
23 jeopardy and prompt summoning of aid is essential.

24 2. A person is guilty of unlawfully refusing to yield a party line
25 when, being informed that a party line is needed for an emergency
26 call, he refuses immediately to relinquish such line.

27 Unlawfully refusing to yield a party line is a class B misdemeanor.

PART FOUR

ADMINISTRATIVE PROVISIONS

TITLE W

PROVISIONS RELATING TO FIREARMS, FIREWORKS AND PORNOGRAPHY

EQUIPMENT

ARTICLE 400

LICENSING AND OTHER PROVISIONS RELATING TO FIREARMS

Section 400.00 Licenses to carry, possess, repair and dispose of firearms.

400.05 Destruction of weapons and dangerous instruments, appliances and substances.

§ 400.00 Licenses to carry, possess, repair and dispose of firearms.

1. Eligibility. No license shall be issued or renewed pursuant to this section except by the licensing officer, and then only after investigation and finding that all statements in a proper application for a license are true. No license shall be issued or renewed except for an applicant (a) of good moral character; (b) who has not been convicted anywhere of a felony or any one of the misdemeanors or offenses mentioned in section five hundred fifty-two of the code of criminal procedure; (c) who has stated whether he has ever suffered any mental illness or been confined to any hospital or institution, public or private, for mental illness; and (d) concerning whom no good cause exists for the denial of the license. No person shall engage in the business of gunsmith or dealer in firearms unless licensed pursuant to this section. An applicant to engage in such business shall also be a citizen of the United States, more than twenty-one years of age and maintain a place of business in

1 the city or county where the license is issued. For such business, if
2 the applicant is a firm or partnership, each member thereof shall
3 comply with all of the requirements set forth in this subdivision
4 and if the applicant is a corporation, each officer thereof shall so
5 comply.

6 2. Types of licenses. A license for gunsmith or dealer in firearms
7 shall be issued to engage in such business. A license for a pistol
8 or revolver shall be issued to (a) have and possess in his dwelling
9 by a householder; (b) have and possess in his place of business by
10 a merchant or storekeeper; (c) have and carry concealed while so
11 employed by a messenger employed by a banking institution or
12 express company; (d) have and carry concealed while so employed
13 by a regular employee of an institution of the state, or of any
14 county, city, town or village, under control of a commissioner of
15 correction of the city or any warden, superintendent or head keeper
16 of any state prison, penitentiary, workhouse, county jail or other
17 institution for the detention of persons convicted or accused of crime
18 or held as witnesses in criminal cases, provided that application
19 is made therefor by such commissioner, warden, superintendent
20 or head keeper; and (e) have and carry concealed, without regard
21 to employment or place of possession, by any person when proper
22 cause exists for the issuance thereof.

23 3. Applications. Applications shall be made and renewed, in
24 the case of a license to carry or possess a pistol or revolver, to the
25 licensing officer in the city or county, as the case may be, where
26 the applicant resides, is principally employed or has his principal
27 place of business as merchant or storekeeper; and, in the case of

1 a license as gunsmith or dealer in firearms, to the licensing officer
2 where such place of business is located. Blank applications shall,
3 except in the city of New York, be approved as to form by the
4 superintendent of state police. An application shall state the full
5 name, date of birth, residence, present occupation of each person
6 or individual signing the same, whether or not he is a citizen of
7 the United States, whether or not he complies with each require-
8 ment for eligibility specified in subdivision one of this section and
9 such other facts as may be required to show the good character,
10 competency and integrity of each person or individual signing
11 the application. An application shall be signed and verified by the
12 applicant. Each individual signing an application shall submit
13 one photograph of himself and a duplicate for each required
14 copy of the application. Such photographs shall have been taken
15 within thirty days prior to filing the application. In case of a
16 license as gunsmith or dealer in firearms, the photographs sub-
17 mitted shall be two inches square, and the application shall also
18 state the previous occupation of each individual signing the same
19 and the location of the place of such business, or of the bureau,
20 agency, subagency, office or branch office for which the license is
21 sought, specifying the name of the city, town or village, indicating
22 the street and number and otherwise giving such apt description
23 as to point out reasonably the location thereof. In such case, if the
24 applicant is a firm, partnership or corporation, its name, date and
25 place of formation, and principal place of business shall be stated.
26 For such firm or partnership, the application shall be signed and
27 verified by each individual composing or intending to compose
28 the same, and for such corporation, by each officer thereof.

1 4. Investigation. Before a license is issued or renewed, there
2 shall be an investigation of all statements required in the applica-
3 tion by the duly constituted police authorities of the locality where
4 such application is made. For that purpose, the records of the
5 department of mental hygiene concerning previous or present
6 mental illness of the applicant shall be available for inspection by
7 the investigating officer of the police authority. In order to
8 ascertain any previous criminal record, the investigating officer
9 shall take the fingerprints and physical descriptive data in quad-
10 ruplicate of each individual by whom the application is signed
11 and verified. Two copies of such fingerprints shall be taken on
12 standard fingerprint cards eight inches square, and one copy may
13 be taken on a card supplied for that purpose by the federal bureau
14 of investigation. When completed, one standard card shall be
15 forwarded to and retained by the division of criminal identification,
16 department of correction, at Albany. A search of the files of such
17 division and written notification of the results of the search to the
18 investigating officer shall be made without unnecessary delay.
19 Thereafter, such division shall notify the licensing officer and the
20 executive department, division of state police, Albany, of any
21 criminal record of the applicant filed therein subsequent to the
22 search of its files. A second standard card, or the one supplied by
23 the federal bureau of investigation, as the case may be, shall be
24 forwarded to that bureau at Washington with a request that the
25 files of the bureau be searched and notification of the results of the
26 search be made to the investigating police authority. Of the re-
27 maining two fingerprint cards, one shall be filed with the executive

1 department, division of state police, Albany, within ten days after
2 issuance of the license, and the other remain on file with the
3 investigating police authority. No such fingerprints may be in-
4 spected by any person other than a peace officer, except on order
5 of a judge or justice of a court of record either upon notice to the
6 licensee or without notice, as the judge or justice may deem
7 appropriate. Upon completion of the investigation, the police
8 authority shall report the results to the licensing officer without
9 unnecessary delay.

10 5. Filing of approved applications. The application for any
11 license, if granted, shall be a public record. Such application shall
12 be filed by the licensing officer with the clerk of the county of
13 issuance, except that in the city of New York and county of Nassau,
14 the licensing officer shall designate the place of filing in the
15 appropriate division, bureau or unit of the police department
16 thereof. A duplicate copy of such application shall be filed by the
17 licensing officer in the executive department, division of state
18 police, Albany, within ten days after issuance of the license.

19 6. License: validity. Any license issued pursuant to this sec-
20 tion shall be valid notwithstanding the provisions of any local
21 law or ordinance. No license shall be transferable to any other
22 person or premises. A license to carry or possess a pistol or
23 revolver, not otherwise limited as to place or time of possession,
24 shall be effective throughout the state, except that the same shall
25 not be valid within the city of New York unless a special permit
26 granting validity is issued by the police commissioner of that
27 city. Such license to carry or possess shall be valid within the

1 city of New York in the absence of a permit issued by the police
2 commissioner of that city, provided that (a) the firearms covered
3 by such license are being transported by the licensee in a locked
4 container; and (b) the trip through the city of New York is
5 continuous and uninterrupted; and (c) such licensee exhibits upon
6 demand by a peace officer proof of registration in a pistol match
7 which such licensee is about to attend or has attended and is
8 returning therefrom. A license as gunsmith or dealer in firearms
9 shall not be valid outside the city or county, as the case may be,
10 where issued.

11 7. License: form. Any license issued pursuant to this section
12 shall, except in the city of New York, be approved as to form by
13 the superintendent of state police. A license to carry or possess
14 a pistol or revolver shall have attached the licensee's photograph,
15 and a coupon which shall be removed and retained by any person
16 disposing of a firearm to the licensee. Such license shall specify
17 the weapon covered by calibre, make, model, manufacturer's name
18 and serial number, or if none, by any other distinguishing number
19 or identification mark, and shall indicate whether issued to carry
20 on the person or possess on the premises, and if on the premises
21 shall also specify the place where the licensee shall possess the
22 same. If such license is issued to an alien, or to a person not a
23 citizen of and usually a resident in the state, the licensing officer
24 shall state in the license the particular reason for the issuance
25 and the names of the persons certifying to the good character of
26 the applicant. Any license as gunsmith or dealer in firearms shall
27 mention and describe the premises for which it is issued and shall
28 be valid only for such premises.

1 8. License: exhibition and display. Every licensee while carry-
2 ing a pistol or revolver shall have on his person a license to carry
3 the same. Every person licensed to possess a pistol or revolver
4 on particular premises shall have the license for the same on such
5 premises. Upon demand, the license shall be exhibited for inspec-
6 tion to any peace officer. A license as gunsmith or dealer in fire-
7 arms shall be prominently displayed on the licensed premises.
8 Failure of any licensee to so exhibit or display his license, as the
9 case may be, shall be presumptive evidence that he is not duly
10 licensed.

11 9. License: amendment. Elsewhere than in the city of New
12 York, a person licensed to carry or possess a pistol or revolver
13 may apply at any time to his licensing officer for amendment of
14 his license to include one or more such weapons or to cancel
15 weapons held under license. If granted, a record of the amend-
16 ment describing the weapons involved shall be filed by the licens-
17 ing officer in the executive department, division of state police,
18 Albany. Notification of any change of residence shall be made in
19 writing by any licensee within ten days after such change occurs,
20 and a record of such change shall be inscribed by such licensee
21 on the reverse side of his license. Elsewhere than in the city
22 of New York, such notification shall be made to the executive
23 department, division of state police, Albany, and in the city of
24 New York to the police commissioner of that city.

25 10. License: expiration and renewal. Any license for gunsmith
26 or dealer in firearms and, in the city of New York and the counties
27 of Nassau and Suffolk, any license to carry or possess a pistol or

1 revolver, issued at any time pursuant to this section or prior to
2 the first day of July, nineteen hundred sixty-three and not limited
3 to expire on an earlier date fixed in the license, shall expire on the
4 first day of the second January after the date of issuance. Else-
5 where than in the city of New York and the counties of Nassau
6 and Suffolk, any license to carry or possess a pistol or revolver,
7 issued at any time pursuant to this section or prior to the first
8 day of July, nineteen hundred sixty-three and not previously
9 revoked or cancelled, shall be in force and effect until revoked as
10 herein provided. Any application to renew a license that has
11 not previously expired, been revoked or cancelled shall thereby
12 extend the term of the license until disposition of the application
13 by the licensing officer. In the case of a license for gunsmith or
14 dealer in firearms, in counties having a population of less than
15 two hundred thousand inhabitants, photographs and fingerprints
16 shall be submitted on original applications and upon renewal
17 thereafter only at six year intervals. Upon satisfactory proof
18 that a currently valid original license has been despoiled, lost or
19 otherwise removed from the possession of the licensee and upon
20 application containing an additional photograph of the licensee, the
21 licensing officer shall issue a duplicate license.

22 11. License: revocation. The conviction of a licensee anywhere
23 of a felony or any one of the misdemeanors or offenses mentioned
24 in section five hundred fifty-two of the code of criminal procedure
25 shall operate as a revocation of the license. A license may be
26 revoked and cancelled at any time in the city of New York
27 and county of Nassau by the licensing officer, and elsewhere than

1 in the city of New York by any judge or justice of a court of record.
2 The official revoking a license shall give written notice thereof
3 without unnecessary delay to the executive department, division
4 of state police, Albany, and shall also notify immediately the duly
5 constituted police authorities of the locality.

6 12. Records required of gunsmiths and dealers in firearms.
7 Any person licensed as gunsmith or dealer in firearms shall keep
8 a record book approved as to form, except in the city of New York,
9 by the superintendent of state police. In the record book shall
10 be entered at the time of every transaction involving a firearm
11 the date, name, age, occupation and residence of any person from
12 whom a firearm is received or to whom a firearm is delivered, and
13 the calibre, make, model, manufacturer's name and serial number,
14 or if none, any other distinguishing number or identification mark
15 on such firearm. Before delivering a firearm to any person, the
16 licensee shall require him to produce either a license valid under
17 this section to carry or possess the same, or proof of lawful
18 authority as a peace officer or other exempt person pursuant to
19 section 265.20. The licensee shall remove and retain the attached
20 coupon and enter in the record book the date of such license,
21 number, if any, and name of the licensing officer, in the case of
22 the holder of a license to carry or possess, or the shield or other
23 number, if any, assignment and department or unit, in the case of
24 an exempt person. The record book shall be maintained on the
25 premises mentioned and described in the license and shall be open
26 at all reasonable hours for inspection by any peace officer. In
27 the event of cancellation or revocation of the license for gunsmith

1 or dealer in firearms, or discontinuance of business by a licensee,
2 such record book shall be immediately surrendered to the licensing
3 officer in the city of New York and county of Nassau, and elsewhere
4 in the state to the executive department, division of state police.

5 13. Expenses. The expense of providing a licensing officer with
6 blank applications, licenses and record books for carrying out the
7 provisions of this section shall be a charge against the county, and
8 in the city of New York against the city.

9 14. Fees. In the city of New York, the annual license fee shall
10 be twenty-five dollars for gunsmiths and fifty dollars for dealers in
11 firearms. In such city, the city council shall fix the fee to be
12 charged for a license to carry or possess a pistol or revolver and
13 provide for the disposition of such fees. Elsewhere in the state,
14 the licensing officer shall collect and pay into the county treasury
15 the following fees: for each license to carry or possess a pistol or
16 revolver, not less than three dollars nor more than five dollars as
17 may be determined by the board of supervisors of the county; for
18 each amendment thereto, one dollar, and two dollars in the county
19 of Suffolk; and for each license issued to a gunsmith or dealer in
20 firearms, four dollars. The fee for a duplicate license shall be two
21 dollars.

22 15. Any violation by any person of any provision of this section
23 is a class A misdemeanor.

24 § 400.05 Destruction of weapons and dangerous instruments,
25 appliances and substances.

26 1. Any weapon, instrument, appliance or substance specified in
27 article two hundred sixty-five, when unlawfully possessed, manu-

1 factured, transported or disposed of, or when surrendered or vol-
2 untarily delivered pursuant to section 265.20, is hereby declared a
3 nuisance. When the same shall come into the possession of any
4 peace officer, it shall be surrendered immediately to the official
5 mentioned in paragraph (d) of subdivision one of section 265.20,
6 except that such weapon, instrument, appliance or substance com-
7 ing into the possession of the state police shall be surrendered to
8 the superintendent of state police.

9 2. The official to whom the weapon, instrument, appliance or
10 substance is so surrendered shall, at any time but at least once each
11 year, destroy the same or cause it to be destroyed, or render the
12 same or cause it to be rendered ineffective and useless for its
13 intended purpose and harmless to human life.

14 3. Notwithstanding subdivision two of this section, the official
15 to whom the weapon, instrument, appliance or substance is so sur-
16 rendered shall not destroy the same if (a) a judge or justice of a
17 court of record, or a district attorney, shall file with the official
18 a certificate that the non-destruction thereof is necessary or proper
19 to serve the ends of justice; or (b) the official directs that the
20 same be retained in any laboratory conducted by any police or
21 sheriff's department for the purpose of research, comparison, iden-
22 tification or other endeavor toward the prevention and detection
23 of crime.

24 4. In the case of any machine-gun or firearm taken from the
25 possession of any person, the official to whom such weapon is sur-
26 rendered pursuant to subdivision one of this section shall immedi-
27 ately notify the executive department, division of state police,

1 Albany, giving the calibre, make, model, manufacturer's name and
 2 serial number, or if none, any other distinguishing number or iden-
 3 tification mark. A search of the files of such division and notifica-
 4 tion of the results of the search to such official shall immediately
 5 be made.

6 5. Before any machine-gun or firearm is destroyed pursuant to
 7 subdivision two of this section, (a) the official to whom the same
 8 has been surrendered shall forward to the executive department,
 9 division of state police, Albany, a notice of intent to destroy and
 10 the calibre, make, model, manufacturer's name and serial number,
 11 or if none, any other distinguishing number or identification mark
 12 of the machine-gun or firearm; (b) such division shall make and
 13 keep a record of such description together with the name and
 14 address of the official reporting the same and the date such notice
 15 was received; and (c) a search of the files of such division and
 16 notification of the results of the search to such official shall be
 17 made without unnecessary delay.

18 ARTICLE 405

19 LICENSING AND OTHER PROVISIONS RELATING TO FIREWORKS

20 Section 405.00 Permits for public displays of fireworks.

21 405.05 Seizure and destruction of fireworks.

22 § 405.00 Permits for public displays of fireworks.

23 1. Definition of "permit authority." The term "permit author-
 24 ity," as used in this section, means and includes the agency
 25 authorized to grant and issue the permits provided in this sec-
 26 tion, which agency in the territory within a state park shall be
 27 the regional state park commission, in the territory within a county

1 park shall be the county park commission, or such other agency
2 having jurisdiction, control and/or operation of the parks or park-
3 ways within which any fireworks are to be displayed, in a city
4 shall be the duly constituted licensing agency thereof and, in the
5 absence of such agency, shall be an officer designated for the pur-
6 pose of the legislative body thereof, in a village shall be an officer
7 designated for the purpose by the board of trustees thereof and
8 in the territory of a town outside of villages shall be an officer
9 designated for the purpose by the town board thereof.

10 2. Permits for public displays. Notwithstanding the provisions
11 of section 270.00, the permit authority of a state park, county park,
12 city, village or town may upon application in writing, grant a per-
13 mit for the public display of fireworks by municipalities, fair asso-
14 ciations, amusement parks or organizations of individuals. The
15 application for such permit shall set forth:

16 (a) The name of the body sponsoring the display and the
17 names of the persons actually to be in charge of the firing of
18 the display.

19 (b) The date and time of day at which the display is to be
20 held.

21 (c) The exact location planned for the display.

22 (d) The age, experience and physical characteristics of the
23 persons who are to do the actual discharging of the fireworks.

24 (e) The number and kind of fireworks to be discharged.

25 (f) The manner and place of storage of such fireworks prior
26 to the display.

27 (g) A diagram of the grounds on which the display is to be

1 held showing the point at which the fireworks are to be dis-
2 charged, the location of all buildings, highways and other lines
3 of communication, the lines behind which the audience will be
4 restrained and the location of all nearby trees, telegraph or
5 telephone lines or other overhead obstructions.

6 (h) Such other information as the permit authority may
7 deem necessary to protect persons or property.

8 3. Applications for permits. All applications for permits for
9 the public display of fireworks shall be made at least five days in
10 advance of the date of the display and the permit shall contain pro-
11 visions that the actual point at which the fireworks are to be fired
12 shall be at least two hundred feet from the nearest permanent
13 building, public highway or railroad or other means of travel and
14 at least fifty feet from the nearest above ground telephone or tele-
15 graph line, tree or other overhead obstruction, that the audience
16 at such display shall be restrained behind lines at least one hun-
17 dred and fifty feet from the point at which the fireworks are
18 discharged and only persons in active charge of the display shall
19 be allowed inside these lines, that all fireworks that fire a projectile
20 shall be so set up that the projectile will go into the air as nearby
21 as possible in a vertical direction, unless such fireworks are to be
22 fired from the shore of a lake or other large body of water, when
23 they may be directed in such manner that the falling residue from
24 the deflagration will fall into such lake or body of water, that any
25 fireworks that remain unfired after the display is concluded shall
26 be immediately disposed of in a way safe for the particular type
27 of fireworks remaining, that no fireworks display shall be held

1 during any wind storm in which the wind reaches a velocity of
2 more than thirty miles per hour, that all the persons in actual
3 charge of firing the fireworks shall be over the age of eighteen
4 years, competent and physically fit for the task, that there shall
5 be at least two such operators constantly on duty during the dis-
6 charge and that at least two sodaacid or other approved type fire
7 extinguishers of at least two and one-half gallons capacity each
8 shall be kept at as widely separated points as possible within the
9 actual area of the display. The legislative body of a state park,
10 county park, city, village or town may provide for approval of such
11 permit by the head of the police or fire department or both where
12 there are such departments. No permit granted and issued here-
13 under shall be transferable. After such permit shall have been
14 granted, sales, possession, use and distribution of fireworks for such
15 display shall be lawful solely therefor.

16 4. Bonds. Before granting and issuing a permit for a public
17 display of fireworks as herein provided, the permit authority shall
18 require an adequate bond from the applicant therefor, unless it is a
19 state park, county park, city, village or town, or from the person to
20 whom a contract for such display shall be awarded, in a sum to be
21 fixed by the permit authority, which, however, shall not be less than
22 five thousand dollars, conditioned for the payment of all damages,
23 which may be caused to a person or persons or to property, by rea-
24 son of the display so permitted and arising from any acts of the
25 permittee, his agents, employees, contractors or subcontractors.
26 Such bond shall run to the state park, county park, city, village
27 or town in which the permit is granted and issued and shall be for

1 the use and benefit of any person or persons or any owner or own-
2 ers of any property so injured or damaged, and such person or
3 persons or such owner or owners are hereby authorized to main-
4 tain an action thereon, which right of action also shall accrue to
5 the heirs, executors, administrators, successors or assigns of such
6 person or persons or such owner or owners. The permit authority
7 may accept, in lieu of such bond, an indemnity insurance policy
8 with liability coverage and indemnity protection equivalent to
9 the terms and conditions upon which such bond is predicated and
10 for the purposes herein provided.

11 5. Local ordinances superseded. All local ordinances regulating
12 or prohibiting the display of fireworks are hereby superseded by
13 the provisions of this section. Every city, town or village shall
14 have the power to enact ordinances or local laws regulating or pro-
15 hibiting the use, or the storage, transportation or sale for use of
16 fireworks in the preparation for or in connection with television
17 broadcasts.

18 § 405.05 Seizure and destruction of fireworks.

19 Fireworks possessed unlawfully may be seized by any peace
20 officer, who must deliver the same to the magistrate before whom
21 the person arrested is required to be taken. The magistrate must,
22 upon the examination of the defendant, or if such examination is
23 delayed or prevented, without awaiting such examination, deter-
24 mine whether the fireworks had been possessed by the defendant
25 in violation of the provisions of section 270.00; and if he finds that
26 the fireworks had been so possessed by the defendant, he must
27 cause such fireworks to be destroyed, in a way safe for the par-

1 ticular type of such fireworks, or to be delivered to the district
 2 attorney of the county in which the defendant is liable to indict-
 3 ment or trial, as the interests of justice and public safety may, in
 4 his opinion, require. Upon the conviction of the defendant, the
 5 district attorney must cause to be destroyed, in a way safe for the
 6 particular type of such fireworks, the fireworks in respect whereof
 7 the defendant stands convicted, and which remain in the possession
 8 or under the control of the district attorney.

9 ARTICLE 410

10 SEIZURE AND FORFEITURE OF EQUIPMENT USED IN PROMOTING 11 PORNOGRAPHY

12 Section 410.00 Seizure and forfeiture of equipment used in photo-
 13 graphing, filming, producing, manufacturing,
 14 projecting or distributing pornographic still or
 15 motion pictures.

16 § 410.00 Seizure and forfeiture of equipment used in photograph-
 17 ing, filming, producing, manufacturing, projecting or
 18 distributing pornographic still or motion pictures.

19 1. Any peace officer of this state may seize any equipment used
 20 in the photographing, filming, printing, producing, manufacturing
 21 or projecting of pornographic still or motion pictures and may seize
 22 any vehicle or other means of transportation, other than a vehicle
 23 or other means of transportation used by any person as a com-
 24 mon carrier in the transaction of business as such common carrier,
 25 used in the distribution of such obscene prints and articles and
 26 such equipment or vehicle or other means of transportation shall
 27 be subject to forfeiture as hereinafter in this section provided.

1 2. The seized property shall be delivered by the peace officer
2 having made the seizure to the custody of the district attorney of
3 the county wherein the seizure was made, except that in the cities
4 of New York and Buffalo, the seized property shall be delivered to
5 the custody of the police department of such cities, together with
6 a report of all the facts and circumstances of the seizure.

7 3. It shall be the duty of the district attorney of the county
8 wherein the seizure was made, if elsewhere than in the cities of New
9 York or Buffalo, and where the seizure is made in either such city
10 it shall be the duty of the corporation counsel of the city, to inquire
11 into the facts of the seizure so reported to him and if it appears
12 probable that a forfeiture has been incurred, for the determination
13 of which the institution of proceedings in the supreme court is nec-
14 essary, to cause the proper proceedings to be commenced and prose-
15 cuted, at any time after thirty days from the date of seizure, to
16 declare such forfeiture, unless, upon inquiry and examination such
17 district attorney or corporation counsel decides that such proceed-
18 ings can not probably be sustained or that the ends of public jus-
19 tice do not require that they should be instituted or prosecuted,
20 in which case, the district attorney or corporation counsel shall
21 cause such seized property to be returned to the owner thereof.

22 4. Notice of the institution of the forfeiture proceeding shall
23 be served either (a) personally on the owners of the seized prop-
24 erty or (b) by registered mail to the owners' last known address
25 and by publication of the notice once a week for two successive
26 weeks in a newspaper published or circulated in the county wherein
27 the seizure was made.

1 5. Forfeiture shall not be adjudged where the owners established
2 by preponderance of the evidence that (a) the use of such seized
3 property was not intentional on the part of any owner, or (b) said,
4 seized property was used by any person other than an owner
5 thereof, while such seized property was unlawfully in the possession
6 of a person who acquired possession thereof in violation of the
7 criminal laws of the United States, or of any state.

8 6. The district attorney or the police department having custody
9 of the seized property, after such judicial determination of for-
10 feiture, shall, by a public notice of at least five days, sell such for-
11 feited property at public sale. The net proceeds of any such sale,
12 after deduction of the lawful expenses incurred, shall be paid into
13 the general fund of the county wherein the seizure was made except
14 that the net proceeds of the sale of property seized in the cities
15 of New York and Buffalo shall be paid into the respective general
16 funds of such cities.

17 7. Whenever any person interested in any property which is
18 seized and declared forfeited under the provisions of this section
19 files with a justice of the supreme court a petition for the recov-
20 ery of such forfeited property, the justice of the supreme court
21 may restore said forfeited property upon such terms and condi-
22 tions as he deems reasonable and just, if the petitioner establishes
23 either of the affirmative defenses set forth in subdivision five of
24 this section and that the petitioner was without personal or actual
25 knowledge of the forfeiture proceeding. If the petition be filed
26 after the sale of the forfeited property, any judgment in favor of
27 the petitioner shall be limited to the net proceeds of such sale,

1 after deduction of the lawful expenses and costs incurred by the
2 district attorney, police department or corporation counsel.

3 8. No suit or action under this section for wrongful seizure shall
4 be instituted unless such suit or action is commenced within two
5 years after the time when the property was seized.

6 9. For the purposes of this section only, a pornographic still or
7 motion picture, is defined as a still or motion picture showing acts
8 of sexual intercourse or acts of sexual perversion. This section
9 shall not be construed as applying to bona fide medical photographs
10 or films.

11 TITLE Z

12 LAWS REPEALED; TIME OF TAKING EFFECT

13 ARTICLE 500

14 LAWS REPEALED; TIME OF TAKING EFFECT

15 § 500.00 Laws repealed.

16 Chapter eighty-eight of the laws of nineteen hundred nine,
17 entitled "An act providing for the punishment of crime, constitut-
18 ing chapter forty of the consolidated laws," and all acts amenda-
19 tory thereof and supplemental thereto, constituting the penal law
20 as heretofore in force, are hereby repealed.

21 § 500.05 Time of taking effect.

22 This act shall take effect September first, nineteen hundred
23 sixty-seven.

*See
changes*

NOTE.—The Temporary Commission on Revision of the Penal Law and Criminal Code has prepared two bills, of which this is the main bill, to revise the Penal Law. The companion bill supplements this bill by relocating 373 sections, or parts thereof, repealed by this bill in other, more appropriate chapters of the consolidated and unconsolidated laws. See New York Legislative Documents No. 41 (1962); No. 8 (1963); and No. 14 (1964).

Section 500.00 repeals the present Penal Law in its entirety.

TABLE I

The left column of this table lists each section of the revised Penal Law. The right column shows the corresponding section of the old Penal Law (or where indicated, some other law) from which the new section is specifically or generally derived. The word "new" indicates that there is no counterpart in the old Penal Law.

| Penal Law Section (REVISED) | Penal Law Section (OLD) |
|--------------------------------|--------------------------------------|
| 1.00 | 1 |
| 1.05 | 20 |
| 5.00 | 21 |
| 5.05(1) | 22 |
| 5.05(2) | new |
| 5.05(3) | 22, 38 |
| 5.10(1) | 41 |
| 5.10(2) | 39 |
| 5.10(3) | 23, 24, 37 |
| 10.00 | cf. 370, 741, 1230 |
| 15.00 | new |
| 15.05 | new |
| 15.10 | new |
| 15.15 | new |
| 15.20 | new |
| 15.25 | 1220 |
| 20.00 | cf. 2(5th para.), 26, 27, 1934, 1936 |
| 20.05 | new |
| 20.10 | new |
| 20.15 | new |
| 20.20 | new |
| 25.00 | new |
| 30.00 | 2186 |
| 30.05 | 1120; see, 34, 815 |
| 35.00 | new |
| 35.05 | new |
| 35.10 | see, generally, 42, 246, 1054, 1055 |
| 35.15 | 42, 246(3), 1055(B 1, 2) |
| 35.20 | 246(3) |
| 35.25 | 246(3) |
| 35.30 | 246(1), 1055(A3) |
| 35.35 | 859 |
| 35.40 | new |
| 35.45 | new |
| 55.00 | new |
| 55.05 | new |
| 55.10(1) | 1935 |
| 55.10(2) | 1937 |
| 55.10(3) | new |
| 60.00 | new |

TABLE I—Continued

| Penal Law Section (REVISED) | Penal Law Section (OLD) |
|--------------------------------|--|
| 65.00(1,2) | 2188, Code Crim. Proc. 483 |
| 65.00(3) | Code Crim. Proc. 933 |
| 65.05 | 2188 |
| 65.10 | 2188, 2188-b, Code Crim. Proc. 932 |
| 65.15(1) | new |
| 65.15(2) | Code Crim. Proc. 933 |
| 65.15(3) | new |
| 65.20 | new |
| 70.00(1) | 2189 |
| 70.00(2) | new |
| 70.00(3) | new |
| 70.05 | 2186, 2187 |
| 70.10 | 1941, 1942 |
| 70.15 | new |
| 70.20(1) | 2183, 2187 |
| 70.20(2) | 2181, 2182(2) |
| 70.25(1) | 2190 |
| 70.25(2) | 1938, 406 |
| 70.25(3) | new |
| 70.30(1,2) | new; see, however, Correction Law 231 |
| 70.30(3) | 2193(1) |
| 70.30(4) | new; see, however, Correction Law 230, 250 |
| 70.30(5) | 2193(4) |
| 70.30(6) | 1693; Correction Law 132 |
| 70.35 | new |
| 70.40(1-a) | new; see, however, Correction Law 212 |
| 70.40(1-b) | new; see, however, Correction Law 230(4) |
| 70.40(2) | new; see, however, Correction Law Article 7A |
| 70.40(3-a, b) | new; see, however, Correction Law 218 |
| 70.40(3-e) | 2193(3) |
| 75.00 | 2184-a, 2187-a, 2195 |
| 75.05 | 2184-a, 2187-a |
| 75.10(1) | 1931, 2184-a, 2187-a, 2195 |
| 75.10(2) | new |
| 75.10(3) | 2193(1) |
| 75.10(4) | 2193(4) |
| 75.10(5) | new |
| 75.15 | new; see, Correction Law 281-283 |
| 75.20 | new; see, however, N.Y.C. Cr. Ct. Act 81; Cor- rection Law Article 7A |
| 80.00 | new |
| 80.05 | new |
| 80.10 | 1932 |
| 80.15 | 1938 |
| 100.00 | new |
| 100.05 | new |
| 100.10 | new |
| 100.15 | new |
| 100.20 | new |
| 105.00 | 580(1) |
| 105.05 | 580(1), 580-a |
| 105.10 | 580(1), 580-a |
| 105.15 | 580(1), 580-a |
| 105.20 | 583 |
| 105.25 | new |
| 105.30 | new |
| 110.00 | 2 (last para.) |
| 110.05 | 261 |
| 110.10 | new |

TABLE I — Continued

| Penal Law Section (REVISED) | Penal Law Section (OLD) |
|--------------------------------|---|
| 115.00 | new |
| 115.05 | new |
| 115.10 | new |
| 115.15 | new |
| 120.00(1) | 244(1), 245, see 2 (last para.), 244(3) |
| 120.00(2) | new, see 244(2), 247, 1761 |
| 120.00(3) | 244(2) |
| 120.05(1) | 242(3), 243 |
| 120.05(2) | 2 (last para.), 242(4), 243 |
| 120.05(3) | 242(5), 243 |
| 120.05(4) | new, see, 242(2), 1761 |
| 120.05(5) | 2 (last para.), 242(1, 2), 243, see, 1752 |
| 120.10(1) | 2 (last para.), 240, 241 |
| 120.10(2) | 1400 |
| 120.10(3) | new |
| 120.10(4) | cf. 242(5), 1392 |
| 120.15 | new, see, 244(1) |
| 120.20 | new, cf. 197, 1222, 1422, 1423(1, 2, 3, 10, 11, 12, 12-a), 1424, 1433, 1760, 1760-a, 1761, 1890, 1892, 1893, 1895, 1911, 1913, 1984, 1991 |
| 120.25 | same as 120.20 |
| 120.30 | 2305 |
| 120.35 | new |
| 125.00 | 1042 |
| 125.05 | new |
| 125.10 | 1052 (last 7 unnumbered paras.), 1053-a to 1053-f |
| 125.15(1) | 1052(3), 1053-a to 1053-f, 1391 |
| 125.15(2) | 1050 (unnumbered paras.) |
| 125.15(3) | 2304 |
| 125.20(1) | cf. 1050(2), 1052(2) |
| 125.20(2) | cf. 1046 |
| 125.20(3) | 1050(2) |
| 125.25(1) | 1044(1), 1046 |
| 125.25(2) | 1044(2) |
| 125.25(3) | 1044(2) |
| 125.30 | 1045 |
| 125.35 | 1045-a |
| 125.40 | 80 |
| 125.45 | 80, 1050 (last 2 unnumbered paras.), 1051 |
| 125.50 | 81 |
| 125.55 | 81, 1052 (1st unnumbered para.), 1053 |
| 125.60 | 82, 1142 |
| 130.00 | new, see, 691, 2011 |
| 130.05 | new |
| 130.10 | new |
| 130.15 | 2013 |
| 130.20(1) | 2010 (last unnumbered para.) |
| 130.20(2) | 690 (last unnumbered para.) |
| 130.20(3) | 690(5) |
| 130.25(1) | 2010 (1, 4, 5) |
| 130.25(2) | 2010 (2nd unnumbered para.) |
| 130.30 | new, see, 2010 (last unnumbered para.) |
| 130.35(1) | 2010 (2, 3) |
| 130.35(2) | see, 2010(1) |
| 130.35(3) | cf. 2010(1) |
| 130.40(1) | 690 (1, 4, 5) |
| 130.40(2) | 690 (last unnumbered para.) |
| 130.45 | new, see, 690 (last unnumbered para.) |
| 130.50(1) | 690 (2, 3) |
| 130.50(2) | see, 690(1) |
| 130.50(3) | cf. 690(1) |
| 130.55 | 483-a, 483-b |
| 130.60 | 483-a, 483-b |
| 130.65 | 483-a, 483-b |

TABLE I—Continued

| Penal Law Section (REVISED) | Penal Law Section (OLD) |
|--------------------------------|---|
| 135.00 | new |
| 135.05 | new, cf. 70, 1121, 1250 |
| 135.10 | new, cf. 70, 1121, 1250 |
| 135.15 | new |
| 135.20 | 1250A |
| 135.25 | 1250A |
| 135.30 | new |
| 135.35 | 1250B |
| 135.40 | 1250C |
| 135.45(1) | see, 1250A (1st unnumbered para.) |
| 135.45(2) | 1250-a |
| 135.50 | 1250-a, see, 1250A (1st unnumbered para.) |
| 135.55 | 923 |
| 135.60 | 530, 853, 1323, 1324, 1454, 2070, 2073 |
| 135.65 | 530, 853, 860, 1323, 1324, 1824, 2070, 2073 |
| 140.00 | 400, 401 |
| 140.05 | new, cf. 466, 743(3), 927, 1425(5), 1990(4), 2034, 2035, 2036, 2036-a |
| 140.10 | new, cf. 1990(4) |
| 140.15 | new |
| 140.20 | 404, 405 |
| 140.25 | 403, 404 |
| 140.30 | 402 |
| 140.35 | 408 |
| 145.00 | 223, 463, 464, 466, 1420, 1420-a, 1421, 1423, 1423-a, 1423-b, 1423-c, 1424, 1425, 1426, 1427(2), 1428, 1430, 1431, 1432, 1433, 1873, 1906(1, 2), 1911, 1991 |
| 145.05 | same references as for 145.00 |
| 145.10 | same references as for 145.00 |
| 145.15 | 463, 1422, 1423-a, 1423-b, 1424, 1427, 1431, 1432, 1432-a, 1433, 1911, 1991 |
| 145.20 | 1422, 1423, 1423-a, 1431, 1432 |
| 145.25 | new |
| 145.30 | 2036-a |
| 150.00 | 220 |
| 150.05 | new, cf. 1906 |
| 150.10 | see, 222, 223, 1420, 1420-a |
| 150.15 | see, 221, 222, 1420, 1420-a, 1895, 2 (last para.) |
| 155.00 | new |
| 155.05(1) | 1290 (1st unnumbered para.) |
| 155.05(2) | new, see, 194-b, 466, 662, 665(1), 850, 851, 856, 922, 925-b, 930, 937-a, 945, 947, 960, 1292-a, 1293-c, 1300, 1302, 1310, 1311, 1347, 1838(2), 1863, 1864, 1865, 1867, 1873, 1911 |
| 155.10 | new |
| 155.15(1) | 1306 |
| 155.15(2) | new |
| 155.20 | 1303, 1304, 1305 |
| 155.25 | 1296(1), 1298, 1299 |
| 155.30 | 850, 851, 852, 856, 1296, 1297, 1298 |
| 155.35 | 1294(3), 1295 |
| 155.40 | 850, 851, 852, 856 |
| 155.45 | 1290-a |
| 160.00 | 2120, 2121, 2122, 2123 |
| 160.05 | 2126, see 2129 |
| 160.10 | 2124(2), see 2127 |
| 160.15 | 2124(1, 3), see 2125 |
| 165.00 | 941, 1310 |
| 165.05 | 1293-a |
| 165.10 | new |

TABLE I—Continued

| Penal Law Section (REVISED) | Penal Law Section (OLD) |
|--------------------------------|---|
| 165.15(1) | new |
| 165.15(2) | 925 |
| 165.15(3) | 1990, 1990-b |
| 165.15(4) | 967, 1293-c |
| 165.15(5) | 1431, 1431-a, 1432 |
| 165.15(6) | 1431, 1432 |
| 165.15(7) | new |
| 165.20 | 932, 934, 935, 937-a |
| 165.25 | 722(6) |
| 165.30 | 722(6) |
| 165.35 | new, see, Code Crim. Proc. 899(3) |
| 165.40 | 1308, see, 1301 |
| 165.45 | 1308(2), see, 1301 |
| 165.50 | new, see, 1308 |
| 165.55(1) | new |
| 165.55(2) | 1308(3) |
| 165.60(1) | 1309 |
| 165.60(2) | new |
| 165.60(3) | see, 1308(1) |
| 165.65(1) | new |
| 165.65(2) | 1308-a |
| 170.00 | 880, 882 |
| 170.05 | 660, 889(2, 3), 889-b, 926(1), see, 893 |
| 170.10 | 884(1, 2, 4, 6), 887(1, 2, 4), 889(4), 889-a, 890, 891, 1325, 1326, see, 888 |
| 170.15 | 884(3, 5), 892, see, 886 |
| 170.20 | 661, 881(3), 889(3), 889-b, 926(2) |
| 170.25 | 662, 881(1, 3), 887(4), 889(4), 891 |
| 170.30 | 881(2), 892, 894 |
| 170.35 | new |
| 170.40 | 881, 887(3, 5) |
| 170.45 | see, 959 |
| 170.50 | new |
| 170.55 | 1293-d |
| 170.60 | 1293-d |
| 175.00 | new |
| 175.05 | 665(2, 3, 4), 887(2), 889(A1, B1-4), 1865(2, 3) |
| 175.10 | 665(2, 3, 4), 887(2), 889(A1, B1-4), 1865(2, 3) |
| 175.15 | 889(B4) |
| 175.20 | 1836, 1838(1), 2050 |
| 175.25 | 1836, 1838(1), 2050 |
| 175.30 | 460, 1872, 1872-a, 2051, 2321 |
| 175.35 | 460, 1872, 1872-a, 2051, 2321 |
| 175.40 | 461, 1860, 1861 |
| 175.45 | 665(3), 1293-b |
| 175.50 | 1202 |
| 180.00 | 439 |
| 180.05 | 439 |
| 180.10 | new, see, 380 |
| 180.15 | 380(1) |
| 180.20 | new |
| 180.25 | 380(2) |
| 180.30 | new |
| 180.35 | new, see, 382 |
| 180.40 | 382(1) |
| 180.45 | 382(2) |
| 180.50 | 190-a |
| 180.55 | 965 |
| 185.00 | 1170, 1171, 1172, 1173 |
| 185.05 | 940-a |
| 185.10 | 940(1), 1291(2) |
| 185.15 | 940(2) |

TABLE I—Continued

| Penal Law Section (REVISED) | Penal Law Section (OLD) |
|--------------------------------|---|
| 190.00 | new |
| 190.05 | 1292-a |
| 190.10 | 1292-a |
| 190.15 | new |
| 190.20 | 421 |
| 190.25(1) | 928, 930, 942 |
| 190.25(2) | 930, 1278 |
| 190.25(3) | 854, 931, 936-b, 1846 |
| 190.30 | 2052 |
| 190.35 | 664(1-6) |
| 195.00(1) | 373, 461, 489, 854, 1231(1, 3, 4, 5, 6), 1792, 1830, 1839(2), 1847, 1862, 1863, 1864, 1866, 1867, 1875, 1876, see, 1786, 1788 |
| 195.00(2) | 462, 997, 1231(2, 4, 7), 1792, 1840, 1841, 1842, 1843, 1844, 1857, 1865(4), 1866, 1867, 1869, 1874, 1875 |
| 195.05 | 196, 490(2nd unnumbered para.), 1320, 1322, 1824, 1825, 1851 |
| 195.10 | 1848, 2095 |
| 195.15 | 1906(4), 1914 |
| 200.00 | 371, 378, 465, 1233(1), 1822 |
| 200.05 | new |
| 200.10 | 372, 374, 465, 1233(3), 1823, 1826, 1829, 1833, 1839(1) |
| 200.15 | new |
| 200.20 | new |
| 200.25 | new, see, 1826 |
| 200.30 | new |
| 200.35 | 855, 1826, 1831 |
| 200.40 | new |
| 200.45 | 1832(1) |
| 200.50 | 1832(2) |
| 205.00 | cf. 1690 |
| 205.05 | 1694 |
| 205.10 | 1694 |
| 205.15 | 1694, see, 1695 |
| 205.20(1) | 489, 1691(1, 2), 1791, 1796, 1828-a(1) |
| 205.20(2) | new |
| 205.25(1) | 1961(3), 1796, 1828-a(2) |
| 205.25(2) | new |
| 205.30 | see 242(5) |
| 205.35 | 1694-a, 1694-b |
| 205.40 | 1694-a, 1694-b |
| 205.45 | new |
| 205.50 | 2(8th para.), 1698 |
| 205.55 | 1698, 1934 |
| 205.60 | 1698, 1934 |
| 205.65 | 1698, 1934, see, 1250-b |
| 210.00 | 1621(3), 1622, 1625, 1626, cf. 1620(1, 2, 3) |
| 210.05 | 1232, 1620-b, see, 1633(2) |
| 210.10 | 1232, 1620-a, see, 1633(1) |
| 210.15 | 1232, 1620-a, see, 1633(1) |
| 210.20(1) | 1627-a |
| 210.20(2) | 1627, 1627-a |
| 210.20(3) | new |
| 210.25 | new |
| 210.30(1) | 1623 |
| 210.30(2) | 1624 |
| 210.30(3) | 1621(1, 2) |
| 210.35 | new |
| 210.40 | new |
| 210.45 | new, see, 1232-a, 1620(4), 2321 |
| 210.50 | new |

TABLE I -- Continued

| Penal Law Section (REVISED) | Penal Law Section (OLD) |
|--------------------------------|--|
| 215.00 | 2440 |
| 215.05 | 379 |
| 215.10 | 2441, 2442 |
| 215.15 | 371 |
| 215.20 | 374 |
| 215.25 | 376, 376-a, 860 |
| 215.30 | 373(1) |
| 215.35 | new |
| 215.40(1) | 810, 811 |
| 215.40(2) | 812, 814 |
| 215.45 | 570 |
| 215.50 | 600, 1235 |
| 215.55 | 601, 602, 1939 |
| 215.60(1) | 1329 |
| 215.60(2) | 1330 |
| 215.60(3) | 1330 |
| 215.60(4) | 1330 |
| 215.65 | 2448 |
| 215.70 | 1783, 1783-a, 1784 |
| 215.75 | 1782 |
| 220.00 | see, 1747-b, 1747-c, 1751 |
| 220.05 | 1747-b, 1747-c, 1751-a(1) |
| 220.10 | 1751(2) |
| 220.15(1) | 1751(2) |
| 220.15(2) | 1751(3) |
| 220.20 | new, see, 1751(2) |
| 220.25 | 1751(4) |
| 220.30 | 1747-b, 1747-c, 1751(1) |
| 220.35 | 1751(1) |
| 220.40 | 1751(1) |
| 220.45 | 1747-d |
| 225.00 | cf. 982(2), 1370, see, 1387 |
| 225.05 | 970, 973, 974, 980, 986, 1372, 1373, 1376, 1377, 1378, 1381, 1388 |
| 225.10(1) | 986-c |
| 225.10(2) | 974-a |
| 225.15(1) | 986-b |
| 225.15(2) | 975 |
| 225.20(1) | 985-c |
| 225.20(2) | new |
| 225.25 | new |
| 225.30(1) | 970-a, 982(1, 2) |
| 225.30(2) | 970-a, 970-b |
| 225.35(1) | see, 986-b |
| 225.35(2) | 986-a |
| 230.00 | new, see Code Crim. Proc. 887(4) |
| 230.05 | new |
| 230.10 | new |
| 230.15 | new |
| 230.20 | 70(2), 1090, 1148, 2460 |
| 230.25(1) | 1146, (1st unnumbered para.), 2460, see, Code Crim. Proc. 899(4) |
| 230.25(2) | 70(1, 4) |
| 230.30(1) | 1090, 2460(7) |
| 230.30(2) | 70(1, 4) |
| 230.35 | see, 2460(9) |
| 230.40 | 1146 (3rd unnumbered para.) |

TABLE I—Concluded

| Penal Law Section (REVISED) | Penal Law Section (OLD) |
|--------------------------------|---|
| 235.00 | new |
| 235.05(1) | 1141, 1141-a, 1141-b, 1143 |
| 235.05(2) | 1140, 1140-a, 1140-b |
| 235.10(1) | new |
| 235.10(2) | 1141(4) |
| 235.15 | new |
| 235.20 | 484-h |
| 235.25 | 484-f |
| 235.30 | 484-g |
| 240.00 | new |
| 240.05 | 2090, 2091 |
| 240.10 | 2092, 2094 |
| 240.15 | 160, 161, see, 162, 164 |
| 240.20(1) | 722(1) |
| 240.20(2) | 722(1, 5) |
| 240.20(3) | 722(1, 10) |
| 240.20(4) | 1321, 1470, 2071 |
| 240.20(5) | new |
| 240.20(6) | 722(3), 2093 |
| 240.20(7) | 722(2, 4, 9) |
| 240.25(1) | 720 |
| 240.25(2) | 720 |
| 240.25(3) | new |
| 240.25(4) | 1030 |
| 240.25(5) | new |
| 240.30(1) | 551, 555 |
| 240.30(2) | 1423(6) |
| 240.35(1) | 722(7), see Code Crim. Proc. 887(5) |
| 240.35(2) | see 971, Code Crim. Proc. 899(8) |
| 240.35(3) | 722(8), 1148 |
| 240.35(4) | 710, 711 |
| 240.35(5) | 722-b |
| 240.35(6) | new |
| 240.35(7) | 150(1), 1990-a(1) |
| 240.35(8) | 150(2), 1990-a(2) |
| 240.35(9) | 1533(2, 3, 4) |
| 240.40 | 1221 |
| 240.45(1) | 1530, 1533(1) |
| 240.45(2) | 1530(2) |
| 240.50(1) | 727 |
| 240.50(2) | 1424 |
| 240.50(3) | 727, 1250-b(3), 1786 |
| 245.00 | 1140 |
| 245.05(1) | 832, 833 |
| 245.05(2) | 834 |
| 245.05(3) | 831(1, 2) |
| 245.05(4) | 834 |
| 245.10(1) | 180(1) |
| 245.10(2) | new, see, 180(2) |
| 245.15 | 181, 182, 185, 186, 187, 189(1), 190, 191, 194, 194-a |
| 245.20 | 185 (2nd unnumbered para.) |
| 250.00 | new, cf. 739 |
| 250.05 | 738 |
| 250.10 | 742 |
| 250.15 | 744 |
| 250.20 | 745 |
| 250.25(1) | 553(1) |
| 250.25(2) | 553(2, 3, 4) |
| 250.25(3) | 743(1) |
| 250.25(4) | 743(1) |
| 250.30 | 743(2) |
| 250.35 | 743(1) |

TABLE I—Continued

| Penal Law Section (REVISED) | Penal Law Section (OLD) |
|--------------------------------|------------------------------------|
| 255.00 | 1450 |
| 255.05 | 1451 |
| 255.10 | 1453 |
| 255.15 | 340, 343 |
| 255.20 | new, cf. 341, 1453 |
| 255.25 | 1110 |
| 255.30 | new |
| 260.00 | 481 |
| 260.05 | 482(1) |
| 260.10(1) | 483 |
| 260.10(2) | 494 |
| 260.15 | 495 |
| 260.20(1) | 484(1) |
| 260.20(2) | 484(2) |
| 260.20(3) | 483-c |
| 260.20(4) | 484(3) |
| 260.20(5) | 484(5th and last unnumbered para.) |
| 260.25 | 1121, 1123 |
| 265.00 | 1896 |
| 265.05 | 1897 |
| 265.10 | 1898, 1902(3) |
| 265.15 | 1899 |
| 265.20 | 1900 |
| 265.25 | 1902(4) |
| 265.30 | 1902(5) |
| 265.35 | 1904 |
| 270.00 | 1894-a |
| 270.05 | 726 |
| 270.10 | 1920, 1923 |
| 270.15 | 1424-a |
| 400.00 | 1903 |
| 400.05 | 1901, 1902 |
| 405.00 | 1894-a |
| 405.05 | 1894-a |
| 410.00 | 1141-c |

TABLE II

The left column of this table lists each section of the old Penal Law; the right column shows the disposition of each such section. The numbers in the right column employing the decimal system refer to the appropriate section of the revised Penal Law which specifically or generally covers the same or approximately the same subject matter. The word "omitted" indicates that the old section has not been included in the revision because it has no further utility, or because it duplicates a provision in some other body of law. The word "transferred" indicates that the old section has been relocated in the designated body of law.

| Penal Law Section (OLD) | Disposition |
|-----------------------------|--|
| Article 1 | |
| Short Title and Definitions | |
| 1 | 1.00 |
| 2 | 10.00(1, 2, 3, 4, 5), 20.00, 110.00, 120.00(1), 120.05(2, 5), 120.10(1), 150.15 |
| 3 | omitted |

TABLE II— (Continued)

| Penal Law Section (OLD) | Disposition |
|----------------------------|--|
| Article 2 | |
| General Provisions | |
| 20 | 1.05 |
| 21 | 5.00 |
| 22 | 5.05(1) |
| 23 | 5.10(3) |
| 24 | 5.10(3) |
| 25 | omitted |
| 26 | 20.00 |
| 27 | 20.00 |
| 28 | to be treated in Code Crim. Proc. |
| 29 | omitted |
| 30 | omitted |
| 31 | omitted |
| 32 | to be treated in Code Crim. Proc. |
| 33 | to be treated in Code Crim. Proc. |
| 34 | 30.05 |
| 35 | omitted |
| 36 | omitted |
| 37 | 5.10(3) |
| 38 | 5.05(3) |
| 39 | 5.10(2) |
| 40 | omitted |
| 41 | 5.10(1) |
| 42 | 35.10, 35.15 |
| 43 | omitted |
| Article 3 | |
| Abandonment | |
| 50 | omitted |
| Article 4 | |
| Abduction | |
| 70 | 135.05, 135.10, 230.20, 230.25(2), 230.30(2) |
| 71 | omitted |
| Article 6 | |
| Abortion | |
| 80 | 125.40, 125.45 |
| 81 | 125.50, 125.55 |
| 81-a | to be treated in Code Crim. Proc. |
| 82 | 125.60 |
| Article 8 | |
| Adultery | |
| 100-103 | omitted |
| Article 13 | |
| Air and Bus Terminals | |
| 150 | 240.35(7, 8) |
| Article 14 | |
| Anarchy | |
| 160 | 240.15 |
| 161 | 240.15 |
| 162 | 240.15 |
| 163 | see, Art. 115 |
| 164 | 240.15 |
| 165 | omitted |
| 166 | to be treated in Code Crim. Proc. |
| Article 16 | |
| Animals | |
| 180 | 245.10(1) |
| 181 | 245.15 |
| 182 | 245.15 |
| 185 | 245.15 |

TABLE II—(Continued)

| Penal Law Section (OLD) | Disposition |
|----------------------------|---|
| 185-a | transferred—Agriculture and Markets Law |
| 186 | 245.15 |
| 187 | 245.15 |
| 188 | transferred—Agriculture and Markets Law |
| 188-a | transferred—General Business Law |
| 189(1) | 245.15 |
| 189(2) | transferred—Agriculture and Markets Law |
| 190 | 245.15 |
| 190-a | 180.50 |
| 191 | 245.15 |
| 192-a | omitted |
| 194 | 245.15 |
| 194-a | transferred—Agriculture and Markets Law |
| 194-b | 155.05(2) |
| 195 | omitted |
| 195-a | transferred—Agriculture and Markets Law |
| 196 | 195.05 |
| 197 | 120.20, 120.25 |
| Article 18 | |
| Arson | |
| 220 | 150.00 |
| 221 | 150.15 |
| 222 | 150.10, 150.15 |
| 223 | 145.00, 145.05, 145.10, 150.10 |
| 224 | 150.05, 150.10, 150.15 |
| 225 | see, 145.20 |
| 226 | see, 145.20 |
| 227 | see, Art. 150 |
| Article 20 | |
| Assault | |
| 240 | 120.10(1) |
| 241 | 120.10(1) |
| 242 | 120.05, 120.10(4) |
| 243 | 120.05 |
| 244 | 120.00, 120.15 |
| 245 | 120.00 |
| 246 | 35.10, 35.15, 35.20, 35.25, 35.30 |
| 247 | 120.00(2) |
| 248 | 120.00 |
| Article 22 | |
| Attempt to Commit Crime | |
| 260 | see, 110.00 |
| 261 | 110.05 |
| 262 | omitted |
| Article 24 | |
| Attorneys | |
| 270-280 | transferred—Judiciary Law |
| Article 26 | |
| Banking | |
| 290-306 | transferred—Banking Law |
| Article 28 | |
| Barratry | |
| 320-323 | omitted |
| Article 30 | |
| Bigamy | |
| 340 | 255.15 |
| 341 | 255.20 |
| 342 | omitted |
| 343 | 255.15 |

TABLE II — (Continued)

| Penal Law Section (OLD) | Disposition |
|---|-----------------------------------|
| Article 31 Billiard and Pocket Billiard Rooms 344-355 | transferred—General Business Law |
| Article 32 Bills of Lading, Warehouse Receipts, Other Receipts and Vouchers 360-369-f | transferred—General Business Law |
| Article 34 Bribery and Corruption | |
| 370 | 10.00(15) |
| 371 | 200.00 |
| 372 | 200.10 |
| 373 | 195.00 215.30 |
| 374 | 200.10, 215.20 |
| 375 | omitted |
| 376 | 215.25 |
| 376-a | 215.25 |
| 377 | omitted |
| 378 | 200.00 |
| 379 | 215.05 |
| 380(1) | 180.15, 180.20 |
| 380(2) | 180.25, 180.30 |
| 380(3) | to be treated in Code Crim. Proc. |
| 381 | to be treated in Code Crim. Proc. |
| 382 | 180.35, 180.40, 180.45 |
| Article 36 Bucket Shops 390-395 | transferred—General Business Law |
| Article 38 Burglary | |
| 400 | 140.00 |
| 401 | 140.00 |
| 402 | 140.30 |
| 403 | 140.25 |
| 404 | 140.20 |
| 405 | 140.20 |
| 406 | 70.25(2) |
| 407 | 140.20, 140.25, 140.30 |
| 408 | 140.35 |
| Article 39 Budget Planning 410-412 | transferred—General Business Law |
| Article 40 Business and Trade | |
| 420 | omitted |
| 421 | 190.20 |
| 421-a | transferred—General Business Law |
| 421-b | transferred—General Business Law |
| 421-c | transferred—General Business Law |
| 421-d | transferred—General Business Law |
| 421-e | transferred—General Business Law |
| 422 | transferred—General Business Law |
| 423 | transferred—General Business Law |
| 424 | transferred—General Business Law |
| 425 | transferred—General Business Law |
| 426 | transferred—General Business Law |
| 427 | transferred—General Business Law |
| 428 | transferred—General Business Law |
| 429 | transferred—General Business Law |

TABLE II— (Continued)

| Penal Law Section (OLD) | Disposition |
|----------------------------|---|
| 430 | transferred—General Business Law |
| 431 | transferred—General Business Law |
| 432 | omitted |
| 433 | omitted |
| 434 | transferred—Agriculture and Markets Law |
| 435 (1) | transferred—General Business Law |
| 435 (2) | transferred—General Business Law |
| 435 (3) | transferred—General Business Law |
| 435 (4) | omitted |
| 435-a | omitted |
| 435-b | omitted |
| 435-c | omitted |
| 435-d | transferred—General Business Law |
| 436 | transferred—General Business Law |
| 436-a | omitted |
| 436-b | transferred—Navigation Law |
| 436-c | transferred—Agriculture and Markets Law |
| 436-d | omitted |
| 437 | omitted |
| 438 | transferred—Agriculture and Markets Law |
| 438-a | transferred—General Business Law |
| 439 | 180.00, 180.05 |
| 440 | transferred—General Business Law |
| 440-a | transferred—General Business Law |
| 440-b | omitted |
| 441 | transferred—General Business Law |
| 441-a | transferred—General Business Law |
| 442 | omitted |
| 442-a | transferred—Insurance Law |
| 442-b | transferred—Insurance Law |
| 442-c | transferred—Insurance Law |
| 443 | omitted |
| 444 | transferred—General Business Law |
| 445 | transferred—General Business Law |
| 446 | transferred—General Business Law |
| 447 | transferred—General Business Law |
| 448 | transferred—General Business Law |
| 449 | transferred—General Business Law |
| 450 | transferred—General Business Law |
| 451 | transferred—General Business Law |
| 452 | transferred—General Business Law |
| 453 | transferred—General Business Law |
| Article 42 | |
| Canals | |
| 460 | 175.30, 175.35 |
| 461 | 175.40, 195.00 |
| 462 | 195.00 |
| 463 | 145.00, 145.05, 145.10 |
| 464 | 145.00 |
| 465 | 200.00, 200.10 |
| 466 | 140.05, 145.00, 145.05, 145.10 |
| Article 44 | |
| Children | |
| 480 | see, 260.00 |
| 481 | 260.00 |
| 482 (1) | 260.05 |
| 482 (2) | omitted |
| 482 (3) | transferred—Public Health Law |
| 483 | 260.10 (1) |
| 483-a | 130.55, 130.60, 130.65 |
| 483-b | 130.55, 130.60, 130.65 |
| 483-c | 260.20 (3) |
| 483-d | transferred—Public Health Law |

TABLE II— (Continued)

| Penal Law Section (OLD) | Disposition |
|----------------------------|--|
| 484(1) | 260.20(1) |
| 484(2) | 260.20(2) |
| 484(3) | 260.20(4) |
| 484(4) | transferred—General Business Law |
| 484(5) | 260.20(5) |
| 484(5-a) | omitted |
| 484(6) | transferred—General Business Law |
| 484-a | transferred—General Business Law |
| 484-b | transferred—General Business Law |
| 484-c | 20.00, 20.05 |
| 484-d | transferred—Alcoholic Beverage Control Law |
| 484-e | omitted |
| 484-f | 235.25 |
| 484-g | 235.30 |
| 484-h | 235.20 |
| 485 | omitted |
| 485-a | transferred—Education Law |
| 486 | omitted |
| 487 | omitted |
| 487-a | omitted |
| 488 | see, 260.20, 260.10 |
| 489 | 195.00, 205.20(1) |
| 490 | 195.05 |
| 492 | omitted |
| 494 | 260.10(2) |
| 495 | 260.15 |
| 496 | transferred—Alcoholic Beverage Control Law |
| Article 46 | |
| Civil Rights | |
| 510 | transferred—Civil Rights Law |
| 510-a | transferred—Election Law |
| 511 | transferred—Civil Rights Law |
| 512 | transferred—Civil Rights Law |
| 512-a | transferred—Civil Rights Law |
| 512-b | transferred—Civil Rights Law |
| 513 | transferred—Civil Rights Law |
| 514 | transferred—Civil Rights Law |
| 515 | transferred—Civil Rights Law |
| 516 | transferred—Civil Rights Law |
| 517 | transferred—Civil Rights Law |
| 518 | transferred—Civil Rights Law |
| Article 48 | |
| Coercion | |
| 530 | 135.60, 135.65 |
| 531 | omitted |
| Article 50 | |
| Communication | |
| 550 | omitted |
| 551 | 240.30(1) |
| 551-a | omitted |
| 553 | 250.25 |
| 554 | see, 155.30(3) |
| 555 | 240.30(1) |
| Article 52 | |
| Compounding Crime | |
| 570 | 215.45 |
| 571 | omitted |

TABLE II — (Continued)

| Penal Law Section (OLD) | Disposition |
|----------------------------|--|
| Article 54 | |
| Conspiracy | |
| 580(1) | 105.00, 105.05, 105.10, 105.15 |
| 580(2-6) | omitted |
| 580-a | 105.05, 105.10, 105.15 |
| 581 | omitted |
| 581-a | transferred—General Municipal Law |
| 582 | omitted |
| 583 | 105.20 |
| 584 | to be treated in Code Crim. Proc. |
| Article 56 | |
| Contempt of Court | |
| 600 | 215.50 |
| 601 | 215.55 |
| 602 | 215.55 |
| Article 58 | |
| Conviction | |
| 610 | omitted |
| Article 64 | |
| Corporations | |
| 660 | 170.05 |
| 661 | 170.20 |
| 662 | 155.05(2), 170.25 |
| 663 | omitted |
| 663-a | omitted |
| 664 | 190.35 |
| 665(1) | 155.05(2) |
| 665(2) | 175.05, 175.10 |
| 665(3) | 175.05, 175.10, 175.45 |
| 665(4) | 175.05, 175.10 |
| 665(5) | omitted |
| 665(6) | omitted |
| 666 | transferred—General Business Law |
| 667 | omitted |
| 668 | omitted |
| 669 | transferred—Transportation Corporations Law |
| 671 | transferred—Election Law |
| Article 66 | |
| Crime Against Nature | |
| 690 | 130.20, 130.40, 130.45, 130.50 |
| 691 | 130.00(2) |
| Article 67 | |
| Discrimination | |
| 700 | transferred—Civil Rights Law |
| 701 | transferred—Civil Rights Law |
| Article 68 | |
| Disguises | |
| 710 | 240.35(4) |
| 711 | 240.35(4) |
| 712 | omitted |
| 713 | to be treated in Code Crim. Proc. |
| Article 70 | |
| Disorderly Conduct | |
| 720 | 240.25(1, 2) |
| 722(1-10) | 240.20, 240.35 |
| 722(11-12) | omitted |
| 722-a | omitted |
| 722-b | 240.35(5) |
| 723 | 240.20 |

TABLE II—(Continued)

| Penal Law Section (OLD) | Disposition |
|----------------------------|-------------------------------|
| 724 | omitted |
| 725 | omitted |
| 726 | 270.05 |
| 727 | 245.50(1, 3) |
| 728 | 240.50 |
| Article 72 | |
| Dueling | |
| 730-737 | see, 35.15(4) (c) |
| Article 73 | |
| Eavesdropping | |
| 738 | 250.05 |
| 739 | 250.00 |
| 740 | 250.05 |
| 741 | 10.00(6) |
| 742 | 250.10 |
| 743(1) | 250.25(3, 4), 250.35 |
| 743(2) | 250.30 |
| 743(3) | 140.05, 140.10 |
| 744 | 250.15 |
| 745 | 250.20 |
| Article 74 | |
| Elective Franchise | |
| 750-783 | transferred—Election Law |
| Article 76 | |
| Evidence | |
| 810 | 215.40(1) |
| 811 | 215.40(1) |
| 812 | 215.40(2) |
| 813 | see, Art. 100 |
| 814 | 215.40(2) |
| 815 | 25.00, 30.05 |
| 816 | omitted |
| 817 | omitted |
| Article 78 | |
| Exhibitions | |
| 831(1) | 245.05(3) |
| 831(2) | 245.05(3) |
| 831(3) | omitted |
| 832 | 245.05(1) |
| 833 | 245.05(1) |
| 834 | 245.05(2, 4) |
| 835 | omitted |
| Article 80 | |
| Extortion and Threats | |
| 850 | 155.05(2), 155.30, 155.40 |
| 851 | 155.05(2), 155.30, 155.40 |
| 852 | 155.30, 155.40 |
| 853 | 135.60, 135.65 |
| 854 | 190.25(3), 195.00 |
| 855 | 200.35 |
| 856 | 155.05, 155.30, 155.40 |
| 857 | 155.05 |
| 858 | 155.05 |
| 859 | 35.35 |
| 860 | 135.60, 215.25 |
| 861 | transferred—Real Property Law |
| Article 82 | |
| Ferries | |
| 870 | transferred—Navigation Law |
| 871 | omitted |
| 872 | omitted |

TABLE II — (Continued)

| Penal Law Section (OLD) | Disposition |
|----------------------------|---|
| Article 84 | |
| Forgery | |
| 880 | 170.00 |
| 881 | 170.20, 170.25, 170.30, 170.40 |
| 882 | 170.00 |
| 883 | 170.20 |
| 884 | 170.10, 170.15 |
| 885 | see, 195.00 |
| 886 | 170.15 |
| 887 | 170.10, 170.25, 170.40, 175.05, 175.10 |
| 888 | 170.10 |
| 889 | 170.05, 170.10, 170.20, 170.25, 175.05, 175.10, 175.15 |
| 889-a | 170.10 |
| 889-b | 170.05, 170.20 |
| 890 | 170.10 |
| 891 | 170.10, 175.25 |
| 892 | 170.15, 170.30 |
| 893 | 170.05 |
| 894 | 170.30 |
| 895 | omitted |
| Article 86 | |
| Frauds and Cheats | |
| 920 | omitted |
| 921 | omitted |
| 922 | 155.05(2) |
| 923 | 135.55 |
| 924 | transferred—General Business Law |
| 925 | 165.15(2) |
| 925-a | transferred—General Business Law |
| 925-b | 155.05(2) |
| 926(1) | 170.05 |
| 926(2) | 170.20 |
| 926(3) | omitted |
| 926-a | see, 175.45 |
| 927 | 140.05 |
| 928 | 190.25(1) |
| 929 | omitted |
| 930 | 155.05, 190.25(1, 2) |
| 931 | 190.25(3) |
| 932 | 165.20 |
| 932-a | transferred—Agriculture and Markets Law |
| 933 | transferred—Agriculture and Markets Law |
| 934 | 165.20 |
| 935 | 165.20 |
| 936 | transferred—General Business Law |
| 936-a | omitted |
| 936-b | 190.25(3) |
| 937 | see, 155.05 |
| 937-a | 155.05(2), 165.20 |
| 938 | see, 165.25, 155.05(2) |
| 939 | omitted |
| 940(1) | 185.10 |
| 940(2) | 185.15 |
| 940-a | 185.05 |
| 940-b | transferred—General Business Law |
| 941 | 165.00 |
| 942 | 190.25(1) |
| 943 | transferred—General Business Law |
| 944 | 170.10 |
| 945 | 155.05(2) |
| 946 | transferred—General Business Law |
| 947 | 155.05(2) |
| 948 | transferred—General Business Law |
| 949 | 155.05 |
| 950 | omitted |

TABLE II— (Continued)

| Penal Law Section (OLD) | Disposition |
|----------------------------|---|
| 951 | transferred—General Business Law |
| 952 | transferred—General Business Law |
| 953 | transferred—General Business Law |
| 954 | transferred—General Business Law |
| 955 | transferred—General Business Law |
| 956 | transferred—General Business Law |
| 957 | transferred—General Business Law |
| 958 | transferred—Vehicle and Traffic Law |
| 959 | 170.45 |
| 960 | 155.05 (2) |
| 961 | transferred—General Business Law |
| 962 | transferred—Labor Law |
| 962-a | transferred—Labor Law |
| 963 | transferred—General Business Law |
| 964 | transferred—General Business Law |
| 964-a | transferred—General Business Law |
| 965 | 180.55 |
| 966 | transferred—General Business Law |
| 967 | 165.15 (4) |
| 968 | transferred—Agriculture and Markets Law |
| Article 88 | |
| Gambling | |
| 970 | 225.05 |
| 970-a | 225.30 |
| 970-b | 225.30 (2) |
| 971 | see, 240.35 (2) |
| 972 | see, 240.45 |
| 973 | 225.05 |
| 974 | 225.05 |
| 974-a | 225.10 (2) |
| 975 | 225.15 (2) |
| 977 | to be treated in Code Crim. Proc. |
| 978 | to be treated in Code Crim. Proc. |
| 979 | to be treated in Code Crim. Proc. |
| 980 | 225.05 |
| 981 | see, 225.05 |
| 982 (1) | 225.30 (1) |
| 982 (2) | 225.30 (1) |
| 982 (3) | 225.30 |
| 983 | to be treated in Code Crim. Proc. |
| 984 | to be treated in Code Crim. Proc. |
| 985 | to be treated in Code Crim. Proc. |
| 985-a | to be treated in Code Crim. Proc. |
| 986 | 225.05 |
| 986-a | 225.35 (2) |
| 986-b | 225.15, 225.35 (1) |
| 986-c | 225.10 (1) |
| 987 | see, 225.05 |
| 988 | see, 155.05 |
| 989 | omitted |
| 990 | omitted |
| 991 | transferred—General Obligations Law |
| 992 | transferred—General Obligations Law |
| 993 | transferred—General Obligations Law |
| 994 | transferred—General Obligations Law |
| 995 | transferred—General Obligations Law |
| 996 | to be treated in Code Crim. Proc. |
| 997 | 195.00 (2) |
| 998 | omitted |
| Article 90 | |
| Habitual Criminals | |
| 1020-1022 | omitted |
| Article 92 | |
| Hazing | |
| 1030 | 240.25 (4) |

TABLE II — (Continued)

| Penal Law Section (OLD) | Disposition |
|----------------------------|---|
| Article 94 | |
| Homicide | |
| 1040 | omitted |
| 1041 | omitted |
| 1042 | 125.00 |
| 1043 | 125.00 |
| 1044 | 125.25 |
| 1045 | 125.30 |
| 1045-a | 125.35 |
| 1046 | 125.20, 125.25(1) |
| 1047 | omitted |
| 1048 | omitted |
| 1049 | 125.00 |
| 1050 | 125.15 (2), 125.20(1, 3), 125.45 |
| 1051 | 125.20, 125.45 |
| 1052 | 125.10, 125.15(1), 125.20(1), 125.55 |
| 1053 | 125.15 |
| 1053-a | 125.10, 125.15(1) |
| 1053-b | 125.10, 125.15(1) |
| 1053-c | 125.10, 125.15(1) |
| 1053-d | 125.10, 125.15(1) |
| 1053-e | 125.10, 125.15(1) |
| 1053-f | 125.10, 125.15(1) |
| 1054 | 35.10 |
| 1055 | 35.10, 35.15, 35.30 |
| Article 96 | |
| Horse Racing | |
| 1081 | transferred—Unconsolidated Laws |
| 1082 | omitted |
| Article 98 | |
| Husband and Wife | |
| 1090 | 230.20, 230.30(1) |
| 1091 | omitted |
| 1092 | omitted |
| Article 100 | |
| Ice | |
| 1100 | omitted |
| Article 102 | |
| Incest | |
| 1110 | 255.25 |
| Article 104 | |
| Incompetent Persons | |
| 1120 | 30.05 |
| 1121 | 135.05, 135.10, 260.25 |
| 1122 | transferred—Mental Hygiene Law |
| 1123 | 260.25 |
| Article 106 | |
| Indecency | |
| 1140 | 235.05 (2), 245.00 |
| 1140-a | 235.05 (2) |
| 1140-b | 235.05 (2) |
| 1141 | 235.05, 235.10(2) |
| 1141-a | 235.05 (1) |
| 1141-b | 235.05 (1) |
| 1141-c | 410.00 |
| 1142 | 125.60 (in part); transferred—Public Health Law (in part) |
| 1142-a | transferred—Public Health Law |
| 1143 | 235.05 (1) |
| 1144 | omitted |
| 1145 | transferred—Public Health Law |

TABLE II— (Concluded)

| Penal Law Section (OLD) | Disposition |
|----------------------------|--|
| 1146 (para. 1) | 230.25(1) |
| 1146 (para. 2) | omitted |
| 1146 (para. 3) | 230.40 |
| 1146 (para. 4) | omitted |
| 1146 (para. 5) | omitted |
| 1147 | omitted |
| 1148 | 230.20, 240.35(3) |
| Article 108 | |
| Indians | |
| 1160 | omitted |
| 1161 | omitted |
| Article 110 | |
| Insolvency | |
| 1170 | 185.00 |
| 1171 | 185.00 |
| 1172 | 185.00 |
| 1173 | 185.00 |
| Article 112 | |
| Insurance | |
| 1190 | transferred—Insurance Law |
| 1191 | omitted |
| 1192 | omitted |
| 1194 | omitted |
| 1195 | omitted |
| 1196 | transferred—Insurance Law |
| 1196-a | transferred—Insurance Law |
| 1197 | omitted |
| 1197-a | transferred—Insurance Law |
| 1198 | omitted |
| 1199 | transferred—Insurance Law |
| 1200 | transferred—Insurance Law |
| 1201 | omitted |
| 1202 | 175.50 |
| 1203 | transferred—Insurance Law |
| 1204 | transferred—Insurance Law |
| Article 113 | |
| Intoxicating Liquor | |
| 1220 | 15.25 |
| 1221 | 240.40 |
| 1222 | 120.20, 120.25 |
| Article 116 | |
| Juries and Jurors | |
| 1230 | 10.00 |
| 1231 | 195.00 |
| 1232 | 210.05, 210.10, 210.15 |
| 1232-a | 210.45 |
| 1233(1) | 200.00 |
| 1233(2) | omitted |
| 1233(3) | 200.10 |
| 1233(4) | omitted |
| 1234 | omitted |
| 1235 | 215.50 |
| Article 118 | |
| Kidnapping | |
| 1250 (para. A) | 135.05, 135.10, 135.20, 135.25, 135.45(1), 135.50 |
| 1250 (para. B) | 135.35 |
| 1250 (para. C) | 135.40 |
| 1250 (para. D) | 135.40 |
| 1250-a | 135.45(2), 135.50 |
| 1250-b | 205.65, 240.50(3) |

TABLE II — (Continued)

| (OLD) Penal Law Section | Disposition |
|----------------------------|--|
| 1251 | omitted |
| 1252 | 135.00 |
| 1253 | omitted |
| 1255 | omitted |
| 1256 | to be treated in Code Crim. Proc. |
| Article 120 | |
| Labor | |
| 1270 | omitted |
| 1271(1) | transferred—Labor Law |
| 1271(2) | omitted |
| 1271(3) | omitted |
| 1271(4) | omitted |
| 1272 | transferred—Labor Law |
| 1274 | transferred—Labor Law |
| 1275 | transferred—Labor Law |
| 1276 | omitted |
| 1278 | transferred—Labor Law |
| 1279 | transferred—General Business Law |
| Article 122 | |
| Larceny | |
| 1290 | 155.05(1) |
| 1290-a | 155.45 |
| 1291(1) | 155.00 |
| 1291(2) | 185.10 |
| 1292 | 155.00 |
| 1292-a | 155.05(2), 190.05, 190.10 |
| 1293 | 155.05 |
| 1293-a | 165.05 |
| 1293-b | 175.45 |
| 1293-c | 155.05(2), 165.15(4) |
| 1293-d | 170.55, 170.60 |
| 1294 | 155.30, 155.35 |
| 1295 | 155.30, 155.35 |
| 1296 | 155.25, 155.30 |
| 1297 | 155.25, 155.30 |
| 1298 | 155.25, 155.30 |
| 1299 | 155.25, 155.30 |
| 1300 | 155.05(2) |
| 1301 | 165.40, 165.45 |
| 1302 | 155.05(2) |
| 1302-a | transferred—Real Property Law |
| 1302-b | omitted |
| 1302-c | transferred—Lien Law |
| 1303 | 155.20 |
| 1304 | 155.20 |
| 1305 | 155.20 |
| 1306 | 155.15(1) |
| 1307 | omitted |
| 1307-a | omitted |
| 1308 | 165.45, 165.50, 165.55, 165.60, 165.65 |
| 1308-a | 165.65(2) |
| 1309 | 165.60(1) |
| 1310 | 155.05(2), 165.00 |
| 1311 | 155.05(2) |
| 1312 | 155.05(2) |
| 1313 | 155.05(2) |
| Article 124 | |
| Legislature | |
| 1320 | 195.05 |
| 1321 | 240.20(4) |
| 1322 | 195.05 |
| 1323 | 135.60, 135.65 |
| 1324 | 135.60, 135.65 |

TABLE II— (Continued)

| Penal Law Section (OLD) | Disposition |
|----------------------------|--|
| 1325 | 170.10 |
| 1326 | 170.10 |
| 1329 | 215.60(1) |
| 1330 | 215.60(2, 3, 4) |
| 1331 | omitted |
| Article 126 | |
| Libel | |
| 1340 | omitted |
| 1341 | omitted |
| 1342 | omitted |
| 1343 | omitted |
| 1344 | omitted |
| 1345 | omitted |
| 1346 | omitted |
| 1347 | 155.05(2) |
| 1348 | omitted |
| 1349 | omitted |
| Article 130 | |
| Lotteries | |
| 1370 | 225.00 |
| 1371 | see, 225.05 |
| 1372 | 225.05 |
| 1373 | 225.05 |
| 1374 | see, 225.05 |
| 1375 | see, 225.05 |
| 1376 | 225.05 |
| 1377 | 225.05 |
| 1378 | 225.05 |
| 1379 | see, 225.05 |
| 1380 | to be treated in Code Crim. Proc. |
| 1381 | 225.05 |
| 1382 | 225.40 |
| 1383 | transferred—General Obligations Law |
| 1384 | omitted |
| 1385 | transferred—General Obligations Law |
| 1386 | transferred—General Obligations Law |
| 1387 | 225.40 |
| 1388 | 225.05 |
| Article 131 | |
| Lynching and Mob Violence | |
| 1390 | omitted |
| 1391 | 125.15(1) |
| 1392 | 120.10(4) |
| Article 132 | |
| Maiming | |
| 1400 | 120.10(2) |
| 1401 | omitted |
| 1402 | omitted |
| 1403 | omitted |
| 1404 | omitted |
| Article 134 | |
| Malicious Mischief | |
| 1420 | 145.00, 145.05, 145.10, 150.10, 150.15 |
| 1420-a | 145.00, 145.05, 145.10, 150.10, 150.15 |
| 1421 | 145.00, 145.05, 145.10 |
| 1422 | 120.20, 120.25, 145.15, 145.20 |
| 1423 | 120.20, 125.20, 145.00, 145.05, 145.10, 145.15, 145.20 |
| 1423-a | 145.00, 145.05, 145.10, 145.15, 145.20 |
| 1423-b | 145.00, 145.05, 145.10, 145.15 |
| 1423-c | 145.00, 145.05, 145.10 |
| 1424 | 120.20, 120.25, 145.00, 145.05, 145.10, 145.15 |

TABLE II— (Continued)

| Penal Law Section (OLD) | Disposition |
|----------------------------|---|
| 1424-a(1) | 270.15 |
| 1424-a(2) | 270.15 |
| 1424-a(3) | transferred—General Business Law |
| 1425 | 140.05, 145.00, 145.05, 145.10 |
| 1425(16) | transferred—General Business Law |
| 1425-a | omitted |
| 1426 | 145.00, 145.05, 145.10 |
| 1427 | 145.00, 145.05, 145.10, 145.15 |
| 1428 | 145.00, 145.05, 145.10 |
| 1429 | transferred—Election Law |
| 1430 | 145.00, 145.05, 145.10 |
| 1431 | 145.00, 145.05, 145.10, 145.15, 165.15(5, 6), 145.20 |
| 1431-a | 165.15(5) |
| 1432 | 145.00, 145.05, 145.10, 145.15, 165.15(5, 6), 145.20 |
| 1432-a | 145.00, 145.05, 145.10, 145.15, 165.15(5, 6) |
| 1433(1) | 145.00, 145.05, 145.10, 145.15 |
| 1433(2) | 145.00, 145.05, 145.10, 145.15 |
| 1433(3) | omitted |
| 1435 | transferred—Military Law |
| 1436 | see, 105.00 |
| 1437 | omitted |
| 1438 | 145.00, 145.05, 145.10 |
| Article 136 | |
| Marriage and Divorce | |
| 1450 | 255.00 |
| 1451 | 255.05 |
| 1452 | transferred—General Business Law |
| 1453 | 255.10, 255.20 |
| 1454 | 135.60 |
| 1455 | omitted |
| Article 140 | |
| Meetings | |
| 1470 | 240.20(4) |
| 1471 | omitted |
| 1472 | to be treated in Code Crim. Proc. |
| Article 142 | |
| Military | |
| 1480 | transferred—Military Law |
| 1481 | transferred—Military Law |
| 1482 | see, 120.05 |
| 1483 | transferred—Military Law |
| 1484 | transferred—Military Law |
| 1484-a | transferred—Military Law |
| 1486 | omitted |
| 1487 | omitted |
| Article 144 | |
| Navigation | |
| 1500 | transferred—Navigation Law |
| 1500-a | transferred—Navigation Law |
| 1500-b | transferred—Navigation Law |
| 1501 | transferred—Navigation Law |
| 1502 | transferred—Navigation Law |
| 1503 | transferred—Navigation Law |
| 1504 | transferred—Navigation Law |
| 1505 | transferred—Navigation Law |
| 1505-a | transferred—Navigation Law |
| 1506 | omitted |
| 1507 | omitted |
| 1508 | omitted |
| 1509 | omitted |
| 1510 | transferred—Navigation Law |
| 1511 | transferred—Navigation Law |

TABLE II— (Continued)

| Penal Law Section (OLD) | Disposition |
|---|----------------------------------|
| Article 146 Negotiable Instruments 1520-1522 | transferred—General Business Law |
| Article 148 Nuisances | |
| 1530 | 240.45 (1) |
| 1531 | omitted |
| 1532 | omitted |
| 1533 | 240.35 (9), 240.45 (1) |
| 1534 | transferred—General Business Law |
| Article 150 Oysters | |
| 1550 | omitted |
| 1551 | omitted |
| Article 152 Passage Tickets 1560-1574 | transferred—General Business Law |
| Article 154 Pawnbrokers 1590-1593 | omitted |
| Article 156 Peddlers 1610 | omitted |
| Article 158 Perjury and Subornation of Perjury | |
| 1620 (1) | 210.00 |
| 1620 (2) | 210.00 |
| 1620 (3) | 210.00 |
| 1620 (4) | 210.45 |
| 1620-a | 210.10, 210.15 |
| 1620-b | 210.05 |
| 1621 (1) | 210.30 (3) |
| 1621 (2) | 210.30 (3) |
| 1621 (3) | 210.00 |
| 1622 | 210.00 (1) |
| 1623 | 210.30 (1) |
| 1624 | 210.30 (2) |
| 1625 | 210.00 (5) |
| 1626 | 210.00 (5) |
| 1627 | 210.20 (2) |
| 1627-a | 210.20 (1, 2) |
| 1628 | omitted |
| 1629 | omitted |
| 1630 | omitted |
| 1632 | see, Art. 100 |
| 1632-a | see, Art. 100 |
| 1633 (1) | 210.10, 210.20 |
| 1633 (2) | 210.05 |
| 1634 | omitted |
| Article 159 Platinum Stamping 1635-1643 | transferred—General Business Law |
| Article 160 Poor Persons 1650 | omitted |
| Article 161 Portable Kerosene Heaters 1670-1674 | transferred—Real Property Law |

TABLE II—(Continued)

| Penal Law Section (OLD) | Disposition |
|----------------------------------|--|
| Article 162 | |
| Prisoners | |
| 1690 | 205.00 |
| 1691 | 205.20(1), 205.25(1) |
| 1692 | 210.05, 210.10, 210.15 |
| 1693 | 70.30(6) |
| 1694 | 205.00, 205.05, 205.10, 205.15 |
| 1694-a | 205.35, 205.40 |
| 1694-b | 205.35, 205.40 |
| 1695 | 205.15 |
| 1696 | 205.05, 205.10, 205.15, see, 20.00 |
| 1697 | 205.05, 205.10, 205.15, see, 20.00 |
| 1698 | 205.50, 205.55, 205.60, 205.65 |
| 1699 | omitted |
| 1699-a | transferred—Correction Law |
| Article 164 | |
| Prize-Fighting and Spar- ring | |
| 1710-1716 | omitted |
| Article 166 | |
| Public Health | |
| 1740 | transferred—Public Health Law |
| 1741 | transferred—Public Health Law |
| 1742 | transferred—Education Law |
| 1743 | omitted |
| 1744 | omitted |
| 1745 | transferred—Education Law |
| 1746 | transferred—General Business Law |
| 1747 | transferred—Education Law |
| 1747-a | transferred—Education Law |
| 1747-b | transferred—Public Health Law (in part); 220.00, 220.05, 220.30 (in part) |
| 1747-c | transferred—Public Health Law (in part); 220.00, 220.05, 220.30 (in part) |
| 1747-d | transferred—Public Health Law (in part); 220.45 (in part) |
| 1747-e | 170.10 |
| 1748 | omitted |
| 1749 | transferred—Agriculture and Markets Law |
| 1750 | transferred—Agriculture and Markets Law |
| 1751(1) | 220.30, 220.35, 220.40 |
| 1751(2) | 220.10, 220.15(1), 220.20 |
| 1751(3) | 220.15(2) |
| 1751(4) | 220.25 |
| 1751(5) | omitted |
| 1751-a(1) | 220.05 |
| 1751-a(2) | omitted |
| 1751-a(3) | omitted |
| 1751-a(4) | omitted |
| 1751-a(5) | omitted |
| 1752 | 120.05(5) |
| 1752-a | to be treated in Code Crim. Proc. |
| 1753 | transferred—Public Health Law |
| 1754 | transferred—Public Health Law |
| 1755 | omitted |
| 1756 | omitted |
| 1757 | transferred—Agriculture and Markets Law |
| 1758 | transferred—Public Health Law |
| 1759 | transferred—Public Health Law |
| 1760 | 120.20, 120.25 |
| 1760-a | 120.20, 120.25 |
| 1761 | 120.20, 120.25 |
| 1762 | omitted |
| 1763 | omitted |
| 1764 | transferred—Agriculture and Markets Law |

TABLE II— (Continued)

| Penal Law Section (OLD) | Disposition |
|-----------------------------|--|
| Article 168 | |
| Public Justice | |
| 1780 | omitted |
| 1781 | omitted |
| 1782 | 215.75 |
| 1783 | 215.70 |
| 1783-a | 215.70 |
| 1784 | 215.70 |
| 1785 | omitted |
| 1786 | 195.00, 240.50(3) |
| 1787(1) | see, 105.00 |
| 1787(2) | omitted |
| 1787(3) | to be treated in Code Crim. Proc. |
| 1788 | 195.00(1) |
| 1789 | omitted |
| 1790 | omitted |
| 1791 | 205.20(1) |
| 1792 | 195.00 |
| Article 170 | |
| Public Offices and Officers | |
| 1820 | omitted |
| 1820-a | transferred—Executive Law |
| 1821 | omitted |
| 1822 | 200.00 |
| 1823 | 200.05 |
| 1824 | 135.65, 195.05 |
| 1825 | 195.05 |
| 1826 | 200.25, 200.35 |
| 1827 | transferred—Tax Law |
| 1828 | transferred—Correction Law |
| 1828-a | 205.20(1), 205.25(1) |
| 1829 | 200.10 |
| 1830 | 195.00(1) |
| 1831 | 200.35 |
| 1832 | 200.45, 200.50 |
| 1833 | 200.10 |
| 1834 | omitted |
| 1835 | omitted |
| 1836 | 175.20, 175.25 |
| 1837 | see, 10.00(14) |
| 1838(1) | 175.20, 175.25 |
| 1838(2) | 155.05(2) |
| 1839(1) | 200.10 |
| 1839(2) | 195.00(1) |
| 1840 | 195.00(2) |
| 1841 | 195.00(2) |
| 1842 | 195.00(2) |
| 1843 | 195.00(2) |
| 1844 | 195.00(2) |
| 1845 | transferred—Public Officers Law |
| 1846 | 190.25(3) |
| 1847 | 195.00(1) |
| 1848 | 195.10 (in part); transferred—General Municipal Law (in part) |
| 1849 | omitted |
| 1850 | 195.05 |
| 1851 | 195.05 |
| 1852 | omitted |
| 1853 | omitted |
| 1854 | omitted |
| 1855 | omitted |
| 1856 | omitted |
| 1857 | 195.00(2) |
| 1858 | omitted |
| 1859 | omitted |

TABLE II — (Continued)

| Penal Law Section (OLD) | Disposition |
|----------------------------|-----------------------------------|
| 1860 | 175.40 |
| 1861 | 175.40 |
| 1862 | 195.00(1) |
| 1863 | 155.05(2), 195.00(1) |
| 1864 | 155.05(2), 195.00(1) |
| 1865(1) | 155.05(2) |
| 1865(2) | 175.05, 175.10 |
| 1865(3) | 175.05, 175.10 |
| 1865(4) | 195.00(2) |
| 1866 | 195.00 |
| 1867 | 155.05(2), 195.00 |
| 1868 | transferred—Education Law |
| 1869 | 195.00(2) |
| 1870 | see, 195.05 |
| 1871 | transferred—Education Law |
| 1872 | 175.30, 175.35 |
| 1872-a | 175.30, 175.35 |
| 1873 | 145.00, 145.05, 145.10, 155.05(2) |
| 1874 | 195.00(2) |
| 1875 | 195.00 |
| 1876 | 195.00(1) |
| 1877 | omitted |
| 1878 | transferred—Public Officers Law |
| 1879 | transferred—General City Law |
| Article 172 | |
| Public Safety | |
| 1890 | 120.20, 120.25 |
| 1891 | omitted |
| 1892 | 120.20, 120.25 |
| 1893 | 120.20, 120.25 |
| 1894 | transferred—General Business Law |
| 1894-a(1-a) | 270.00 |
| 1894-a(1-b) | 405.00 |
| 1894-a(2) | 270.00 |
| 1894-a(3) | 405.00 |
| 1894-a(4) | 405.00 |
| 1894-a(5) | 405.00 |
| 1894-a(6) | 270.00 |
| 1894-a(7) | 270.00 |
| 1894-a(8) | 270.00 |
| 1894-a(9) | 405.05 |
| 1894-a(10) | 405.05 |
| 1895 | 120.20, 120.25, 150.15 |
| 1896 | 265.00 |
| 1897 | 265.05 |
| 1898 | 265.10(1-6) |
| 1899 | 265.15 |
| 1900 | 265.20 |
| 1901 | 400.05(1, 2, 3) |
| 1902(1) | 400.05(4, 5) |
| 1902(2) | 400.05(4, 5) |
| 1902(3) | 265.10(7) |
| 1902(4) | 265.25 |
| 1902(5) | 265.30 |
| 1903 | 400.00 |
| 1904(1) | 265.35 |
| 1904(2) | 265.35 |
| 1904(3) | 265.35 |
| 1904(4) | 265.35 |
| 1904(5) | omitted |
| 1904(6) | to be treated in Code Crim. Proc. |
| 1905 | omitted |
| 1906(1) | 145.00, 145.05, 145.10, 145.20 |
| 1906(2) | 145.00, 145.05, 145.10, 145.20 |
| 1906(3) | 145.00, 145.05, 145.10, 145.20 |
| 1906(4) | 195.15 |

TABLE II— (Continued)

| Penal Law Section (OLD) | Disposition |
|----------------------------|--|
| 1907 | omitted |
| 1908 | omitted |
| 1909 | omitted |
| 1910 | omitted |
| 1911 | 120.20, 120.25, 145.05, 145.10, 145.15, 155.05(2) |
| 1912 | omitted |
| 1913 | 120.20, 120.25 |
| 1914 | 195.15 |
| 1915 | transferred—General Business Law |
| 1916 | transferred—Vehicle and Traffic Law |
| 1917 | omitted |
| 1918 | transferred—General Business Law |
| 1919 | transferred—General Business Law |
| 1920 | 270.10(1) |
| 1921 | transferred—General Business Law |
| 1922(para. 1) | transferred—General Business Law |
| 1922(para. 2) | omitted |
| 1923 | 270.10(2) |
| Article 174 | |
| Punishment | |
| 1930 | omitted |
| 1931 | omitted |
| 1932 | see, 20.20 |
| 1933 | omitted |
| 1934 | see, 20.00 |
| 1935 | 55.10(1) |
| 1936 | see, 20.00 |
| 1937 | 55.10(2) |
| 1938 | 70.25, 75.10, 80.15 |
| 1939 | 215.55 |
| 1940 | Under study |
| 1941 | 70.10 |
| 1942 | 70.10 |
| 1943 | to be treated in Code Crim. Proc. |
| 1944 | omitted |
| 1944-a | Under study |
| 1945 | omitted |
| Article 176 | |
| Quarantine | |
| 1960-1964 | omitted |
| Article 178 | |
| Railroads | |
| 1980 | omitted |
| 1981 | omitted |
| 1982 | omitted |
| 1983 | omitted |
| 1984 | 120.20, 120.25 |
| 1985 | transferred—Railroad Law |
| 1987 | omitted |
| 1988 | omitted |
| 1989 | omitted |
| 1990 | 140.05, 140.10, 165.15(3) |
| 1990-a | 240.35(7, 8) |
| 1990-b | 165.15(3) |
| 1991 | 120.20, 120.25, 145.00, 145.05, 145.10 |
| Article 180 | |
| Rape | |
| 2010 | 130.20, 130.25, 130.30, 130.35 |
| 2011 | 130.00 |
| 2012 | omitted |
| 2013 | 130.15 |

TABLE II— (Continued)

| Penal Law Section (OLD) | Disposition |
|------------------------------------|-----------------------------------|
| Article 182 | |
| Real Property | |
| 2030 | omitted |
| 2034 | 140.05 |
| 2035 | 140.05 |
| 2036 | 140.05 |
| 2036-a | 140.05, 145.30 |
| 2037 | omitted |
| 2038 | to be treated in Code Crim. Proc. |
| 2039 | omitted |
| 2040 | transferred—Real Property Law |
| 2041 | transferred—Real Property Law |
| 2042 | transferred—Real Property Law |
| Article 184 | |
| Records and Documents | |
| 2050 | 175.20, 175.25 |
| 2051 | 175.30, 175.35 |
| 2052(1) | 190.30 |
| 2052(2) | to be treated in Code Crim. Proc. |
| 2053 | omitted |
| Article 186 | |
| Religion | |
| 2070 | 135.60, 135.65 |
| 2071 | 240.20(4) |
| 2072 | omitted |
| 2073 | 135.60, 135.65 |
| 2074 | omitted |
| Article 188 | |
| Riots and Unlawful As- semblies | |
| 2090 | 240.05 |
| 2091 | 240.05 |
| 2092 | 240.10 |
| 2093 | 240.20(6) |
| 2094 | 240.10 |
| 2095 | 195.10 |
| 2095-a | omitted |
| 2096 | omitted |
| 2097 | to be treated in Code Crim. Proc. |
| Article 190 | |
| Robbery | |
| 2120 | 160.00 |
| 2121 | 160.00 |
| 2122 | 160.00 |
| 2123 | 160.00 |
| 2124 | 160.10; 160.15 |
| 2125 | 160.15 |
| 2126 | 160.05 |
| 2127 | 160.10 |
| 2128 | omitted |
| 2129 | 160.05 |
| Article 192 | |
| Sabbath | |
| 2140-2153 | transferred—General Business Law |
| Article 194 | |
| Salt Works | |
| 2170 | omitted |
| Article 195 | |
| Seduction | |
| 2175-2177 | omitted |

TABLE II— (Continued)

| Penal Law Section (OLD) | Disposition |
|-----------------------------|---|
| Article 196 | |
| Sentence | |
| 2180 | to be treated in Correction Law |
| 2181 | 70.20(2) |
| 2182(1) | 70.20(2) |
| 2182(2) | 70.00(3) |
| 2182(3) | to be treated in Correction Law |
| 2183 | 70.20(1) |
| 2184 | omitted |
| 2184-a | 75.00, 75.05, 75.15 |
| 2185 | omitted |
| 2186 | 70.05, 30.00 |
| 2187 | 70.20, 75.00 |
| 2187-a | 75.00, 75.05, 75.10, 75.15 |
| 2188 | 65.00, 65.05, 65.10, 65.15, 65.20 |
| 2188-a | to be treated in Correction Law |
| 2188-b | 65.10 |
| 2189 | 70.00(1) |
| 2189-a | Under study |
| 2190 | 70.25(1), 70.30(1, 2) |
| 2191 | omitted |
| 2192 | omitted |
| 2193(1) | 70.30(3) |
| 2193(2) | 70.40(3) |
| 2193(3) | 70.40(3) |
| 2193(4) | 70.30(5) |
| 2194 | omitted |
| 2195 | 75.00 |
| 2196 | 70.20(2); also to be treated in Correction Law |
| 2198 | to be treated in Code Crim. Proc. and Correction Law |
| Article 198 | |
| Sepulture | |
| 2214 | transferred—Public Health Law |
| 2216 | transferred—Public Health Law |
| 2217 | transferred—Public Health Law |
| 2218 | transferred—Public Health Law |
| 2219 | transferred—Public Health Law |
| 2220 | transferred—Public Health Law |
| 2221 | omitted |
| Article 200 | |
| Societies and Orders | |
| 2240 | transferred—General Business Law |
| 2240-a | omitted |
| 2241 | transferred—Civil Service Law |
| Article 202 | |
| Suicide | |
| 2300 | omitted |
| 2301 | omitted |
| 2304 | 125.15(3) |
| 2305 | 120.30 |
| 2306 | omitted |
| Article 204 | |
| Taxes | |
| 2320 | omitted |
| 2321 | 210.45 |
| 2322 | transferred—Tax Law |
| Article 206 | |
| Trade-Marks | |
| 2350-2357 | transferred—General Business Law |

TABLE II— (Continued)

| Penal Law Section (OLD) | Disposition |
|---|-------------------------------------|
| Article 208 | |
| Trading Stamps | |
| 2360 | omitted |
| 2361 | omitted |
| Article 210 | |
| Tramps | |
| 2370-2372 | omitted |
| Article 212 | |
| Treason | |
| 2380-2383 | omitted |
| Article 214 | |
| Usury | |
| 2400 | transferred—General Obligations Law |
| Article 216 | |
| Weights and Measures | |
| 2410-2416 | omitted |
| Article 218 | |
| Witness | |
| 2440 | 215.00 |
| 2441 | 215.10 |
| 2442 | 215.10 |
| 2443 | omitted |
| 2444 | omitted |
| 2445 | omitted |
| 2446 | to be treated in Code Crim. Proc. |
| 2447 | to be treated in Code Crim. Proc. |
| 2448 | 215.65 |
| Article 220 | |
| Women | |
| 2460(1) | 230.20, 230.25 |
| 2460(2) | 230.20, 230.25 |
| 2460(3) | 230.20, 230.25 |
| 2460(4) | 230.20, 230.25 |
| 2460(5) | 230.20, 230.25 |
| 2460(6) | 230.20, 230.25 |
| 2460(7) | 230.30(1) |
| 2460(8) | 230.20, 230.25 |
| 2460(9) | 230.35 |
| 2461 | omitted |
| Article 222 | |
| Wrecks | |
| 2480 | transferred—Navigation Law |
| 2481 | transferred—Navigation Law |
| 2482 | transferred—Navigation Law |
| Article 224 | |
| Repeal of Provisions of Penal Law Must Be Ex- plicit; Laws Repealed; Time of Taking Effect | |
| 2500-2502 | omitted |

Gal. 1

When was P.L. approved?

Gal. 7

§ 35.40

"offense" is said to be indef.

Gal. 12

§ 70.00 (3)(a) - last line:

~~that~~ in orig. is incorrect. Should be ~~than~~
Thompson should leave ~~that~~ in statute and
footnote set with observation that ~~than~~
was probably intended.

Gal. 45

§ 215.50 (6)

Should we allow Thompson to include
the footnote? <Ed. inquires here>

Gal. 46

§ 220.00 (6)

Should we allow Thompson to include
the footnote? <Ed. did not inquire here>

Gal. 54 -

¶ 250.25 (2) - last line
Should accent be placed over the two
e's in resumes?

Gal. 57 -

¶ 265.00 (8) -

Should we insert a comma after
altering? It is not in original. < See
Gal. 12 for same problem >

Gal. 59 -

¶ 265.20 (5) -

Should we allow Th. to include
the footnote? < Ed. did not signify here >

April 19, 1965).

CRIMES

Physician Issuing Prescription For Fictitious Patient Guilty Of Forgery

Defendant, licensed physician, issued prescriptions for deceased or fictitious patients in order to secure and transmit narcotic drugs to an addict. Second Department affirmed conviction for violation of §889-b of Penal Law which provides that: "A person who shall falsely make, alter, forge or counterfeit a doctor's prescription, or utter the same, shall be guilty of forgery in the third degree." Court held prescriptions counterfeit and fraudulent although signed by physician himself and valid on their face. Defendant had unsuccessfully argued that his writing of false names was not forgery but merely making of false statements of fact, that prescriptions could not have been falsely made since he in fact executed them, and that purpose of statute was to discourage forgery of prescriptions by persons other than licensed physicians. *People v. Klein*, 23 A.D.2d 95 (2d Dep't, April 19, 1965).

* * *

Sections 70.00, 220.40, proposed Penal Law would be amended to fix at 15 years, minimum sentence of imprisonment where convicted for criminally selling dangerous drug in first degree, and to extend definition of such felony to include knowing and unlawful sale of narcotic drug to any person by one who is not addicted to use of narcotics. S. Int. 4712, Rules Committee.

June 16 Rept. 3rd rdg.; June 22: lost and tabled.

* * *

1965 Session

to preserve a reverter which would not take effect in the
circumstances, §345 could not be sustained as a Statute
before the right to enforce it matured. Nor could it be
power as a precaution against defrauding later innocent
conditional limitations in deeds as between the parties
protection of protecting the intervening rights of third persons
entry of a judgment declaring that defendants are vested

**COURT OF APPEALS HOLDS THAT DEFENDANTS
INFORMED "IN CLEAR AND UNEQUIVOCAL TERMS"**

The three defendants, all under 21 years of age, were
10:30 P.M. in the act of stealing a half bushel of apples
midnight they were brought before a Justice of the Peace
was represented by an attorney, all of them pleaded guilty
Each was sentenced to imprisonment for 30 days plus