

TABLE OF CONTENTS

Introduction

Offenses Against Persons

Chapter 1 Homicide

A.	Murder	1
1.	Elements	1
2.	Elements Defined	2
a.	Killing (death) of any person	2
b.	Malice	3
c.	Malice aforethought	5
d.	Express or implied malice	6
e.	Causation	7
3.	Felony Murder	8
4.	Penalties	9
B.	Voluntary Manslaughter	9
1.	Elements	10
2.	Elements Defined	10
a.	Heat of passion and sudden provocation	10
b.	“Cooling off” time	12
3.	Penalties	13
C.	Involuntary Manslaughter	14
1.	Elements	14
2.	Elements Defined	15
3.	Penalties	17
D.	Reckless Homicide (Vehicular Homicide)	17
1.	The Statute	17
2.	Elements	18

Table of Contents

3. Elements Defined	18
4. Penalties	19
E. Felony DUI	20
1. The Statute	20
2. Elements	21
3. Elements Defined	21
4. Penalties	22
F. Homicide by Child Abuse	22
1. The Statute	22
2. Elements	23
3. Elements Defined	24
4. Penalties	25
G. Attempted murder	25
H. Capital Murder	26

**Chapter 2
Assault and Battery**

A. Assault and Battery of a High and Aggravated Nature (ABHAN)	27
1. Elements Defined	28
B. Assault and Battery in the First Degree	29
1. Elements Defined	29
C. Assault and Battery in the Second Degree	30
1. Elements Defined	30
D. Assault and Battery in the Third Degree	31

**Chapter 3
Criminal Sexual Conduct**

A. Introduction	33
B. Common Law Rape	33
1. Definition and Elements	33
a. Carnal knowledge	33

Table of Contents

b. Use of force by the male	34
c. Intent to have intercourse	34
d. Lack of consent	34
C. Common Law Assault with Intent to Ravish	34
1. Definition and Elements	34
a. Assault	34
b. Assailant had intent to commit rape	35
2. Defenses	35
D. Related Statutory Offenses, criminal sexual conduct	35
1. Criminal sexual conduct; definitions	35
2. First-degree criminal sexual conduct	36
a. Penalties	37
3. Second-degree criminal sexual conduct	37
a. Penalties	38
4. Third-degree criminal sexual conduct	38
a. Penalties	38
5. Assault with intent to commit criminal sexual conduct	38
E. Sexual offenses with minors	39
1. S.C. Code Ann. § 16-3-655	39
a. Penalties	40
F. Spousal sexual battery	40
G. Sexual battery with a student	40

Chapter 4
Kidnapping

A. S.C. Code Ann. § 16-3-910	43
B. Elements	43
C. Penalties	46
D. Conspiracy to kidnap	46

Chapter 5 Criminal Domestic Violence

A.	Household member defined	47
B.	Acts prohibited	48
C.	Criminal Domestic Violence in the First Degree	48
	1. Elements	49
D.	Criminal Domestic Violence in the Second Degree	50
	1. Elements	51
E.	Criminal Domestic Violence in the Third Degree	52
	1. Elements	53
F.	Domestic violence of high and aggravated nature (DVHAN)	53
	1. Elements	54
G.	Effect on enforcement of contempt orders and police arrest powers; construction with assault and battery and other criminal offenses	55

Chapter 6 Robbery, Armed Robbery and Related Offenses (Entering bank with intent to steal, safecracking and purse snatching)

A.	Common law robbery classified as felony	57
	1. Definition	57
	2. Elements	57
	3. Elements Defined	57
	a. Using force or intimidation to take and carry away the personal property of another	57
	b. From the person of another or in his presence	58
	c. With the intent to steal	59
B.	Robbery and attempted robbery while armed with deadly weapon	59
	1. Elements	59
	2. Elements Defined	60
	a. Deadly weapon	60

Table of Contents

b.	Or, alleging to be armed	60
3.	Penalties	61
C.	Entering bank, depository or building and loan association with intent to steal; theft or solicitation of person using automated teller machine ..	61
1.	Elements	62
2.	Penalties	63
D.	Safecracking	63
1.	Elements Defined	63
E.	Purse snatching	63

Offenses Against Property

Chapter 7 **Larceny, Embezzlement and Related Crimes**

A.	Grand and petty larceny	67
1.	Elements	68
B.	Shoplifting	69
1.	Elements	69
2.	Penalties	71
C.	Receiving stolen goods	71
1.	Elements	71
2.	Penalties	72
D.	Embezzlement of public funds	72
1.	Penalties	73
E.	Breach of trust with fraudulent intent	73
1.	Elements	73
2.	Penalties	74
F.	Obtaining signature or property by false pretenses	74

Chapter 8 Forgery and Fraudulent Checks

A.	Forgery	75
1.	Elements Defined	76
2..	Falsity and Material Alteration	76
3.	Legal Efficacy of the Instrument	76
4.	Knowledge and Intent	77
5.	Penalties	77
B.	Drawing and uttering fraudulent check, draft, or other written order	77
1.	Elements	78
C.	Stopping payment on check, draft, or order with intent to defraud	82
1.	Penalties	83

Chapter 9 Financial Transaction Card Crimes

A.	Overview	85
B.	Definitions	85
C.	Financial transaction card or number theft	87
1.	Elements under S.C. Code Ann. § 16-14-20(1)	88
2.	Elements under S.C. Code Ann. § 16-14-20(2)	88
3.	Elements under S.C. Code Ann. § 16-14-20(3)	89
4.	Elements under S.C. Code Ann. § 16-14-20(4)	89
D.	Financial transaction card forgery	89
1.	Elements under S.C. Code Ann. § 16-14-40(a)(1) & (2)	91
2.	Elements under S.C. Code Ann. § 16-14-40(a)(3)	91
3.	Elements under S.C. Code Ann. § 16-14-40(b)	91
4.	Elements under S.C. Code Ann. § 16-14-40(c)	92
5.	Elements under S.C. Code Ann. § 16-14-40(d)	92
E.	Financial transaction card fraud	92
1.	Under § 16-14-60(a)	92
a.	Elements under S.C. Code Ann. § 16-14-60(a)(1)	94

Table of Contents

b.	Elements under S.C. Code Ann. § 16-14-60(a)(2)	94
c.	Elements under S.C. Code Ann. § 16-14-60(a)(3)	95
d.	Elements under S.C. Code Ann. § 16-14-60(a)(4)	95
e.	Elements under S.C. Code Ann. § 16-14-60(a)(5)	95
2.	Under § 16-14-60(b)	96
a.	Elements under S.C. Code Ann. § 16-14-60(b)(1)	96
b.	Elements under S.C. Code Ann. § 16-14-60(b)(2)	97
3.	Under § 16-14-60(c)	97
a.	Elements under S.C. Code Ann. § 16-14-60(c)	97
4.	Under § 16-14-60(d)	98
a.	Elements under S.C. Code Ann. § 16-14-60(d)	98
5.	Under § 16-14-60(e) and (f)	98
6.	Under § 16-14-60(g)	99
a.	Elements under S.C. Code Ann. § 16-14-60(g)(1)	99
b.	Elements under S.C. Code Ann. § 16-14-60(g)(2)	100
F.	Criminal possession of financial transaction card forgery device	100
1.	Elements under S.C. Code Ann. § 16-14-70(A)(1)	100
2.	Elements under S.C. Code Ann. § 16-14-70(A)(2)	101
G.	Criminally receiving goods and services fraudulently obtained	101
1.	Elements	102
H.	Presumption of knowledge that transportation ticket obtained at discount was fraudulently acquired	102
I.	Penalties for violation of Financial Transaction Card Crime Act	102

Chapter 10
Fraudulent Use of Food Stamps and Other Crimes
Against Government Assistance Programs

A.	Fraudulent acquisition or use of food stamps	103
1.	Elements	104
2.	Penalties	105

Table of Contents

B. False statement or representation as to income, to public housing agency	105
1. Elements	105
2. Penalty	106

**Chapter 11
Carjacking**

A. Carjacking	107
1. Elements	107
2. Elements Defined	107
3. Penalties	108

**Chapter 12
Burglary**

A. Introduction and Definitions	109
1. Entry with the Intent to Commit a Crime	109
2. Dwelling and Building	110
3. Enters a Building without Consent of Person in Lawful Possession ..	111
B. Burglary; first degree	112
1. Elements Defined	112
a. Armed with a deadly weapon or explosive	112
C. Burglary; second degree	113
D. Burglary; third degree	114
E. Penalties	114

**Chapter 13
Arson**

A. Introduction	115
1. Common Law vs. Statutory Arson	115
2. Definitions and Elements	116
a. Arson; first degree	116
b. Arson; second degree	116

Table of Contents

c. Arson; third degree	116
3. Elements Defined	117
4. Penalties	117

Chapter 14 Blackmail and Extortion

A. Blackmail	119
1. Elements	119
2. Elements Defined	120
3. Defenses	120
4. Penalties	120
B. Extortion, Common Law	120
1. Elements	120
2. Elements Defined	121
3. Defenses	121
4. Penalties	121

Chapter 15 Bribery

A. Giving or offering bribes to executive, legislative and judicial officers ..	124
1. Elements	124
2. Elements Defined	124
a. Corrupt intent	124
b. Value	125
3. Defenses	125
4. Penalties	125
B. Acceptance of bribes by executive, legislative and judicial officers	125
1. Elements	126
2. Elements Defined	126
a. Officer vs. employee	126
b. Corrupt intent	126

Table of Contents

c. Value	127
3. Defenses	127
4. Penalties	127
C. Acceptance of rebates and extra compensation by any person holding an office or position of trust or profit	127
1. Elements	128
2. Elements Defined	128
3. Penalties	128
D. Taking of consideration or the like by sheriff or other officer for not performing duties	128
1. Elements	128
2. Elements Defined	129
3. Penalties	129
E. Unlawful acceptance of remuneration by peace officers for performing official duties	129
1. Elements	129
2. Elements Defined	130
3. Penalties	130
F. Corrupting jurors, arbitrators, umpires or referees	130
1. Elements	130
2. Elements Defined	130
3. Defenses	131
4. Penalties	131
G. Acceptance of bribes by jurors, arbitrators, umpires or referees	131
1. Elements	131
2. Elements Defined	131
3. Penalties	131
H. Offering bribe for purpose of inducing another to procure public office ..	132
1. Elements	132
2. Elements Defined	133
3. Penalties	133

Table of Contents

I.	Accepting bribes for purpose of procuring public office	133
1.	Elements	133
2.	Elements Defined	133
3.	Penalties	133
J.	Bribery with respect to agents, servants or employees	134
1.	Elements	134
2.	Elements Defined	135
3.	Penalties	136
K.	Bribery of athletes and athletic officials	136
1.	Elements	136
2.	Elements Defined	137
3.	Penalties	137

Other Crimes

Chapter 16 **Crimes Against Morality and Decency**

A.	Prostitution Statutes	141
1.	Elements	141
a.	Prostitution; lewdness, assignation and prostitution generally . . .	141
b.	Prostitution; further unlawful acts	142
c.	Prostitution; violations	142
2.	Elements Defined	143
B.	Indecent exposure; breastfeeding	143
1.	Elements	143
2.	Elements Defined	144

Chapter 17 Driving Offenses: DUI and DUAC

Relevant Statutes	145
A Quick Summary of the Law	146
A. Unlawful operation of a vehicle	151
1. Elements	151
2. Elements Defined	153
3. Defenses	154
4. Penalties	155
B. Driving with an unlawful alcohol concentration	155
1. Elements	155
2. Elements Defined	155
3. Defenses	156
4. Penalties	157
C. Felony DUI (Great bodily injury or death)	157
1. Elements	157
2. Elements Defined	157
3. Penalties	158

Chapter 18 Identification Fraud

A. Fraudulent refunds from businesses; use of false or fictitious driver's license or identification cards	159
1. Elements - Under Section (A)	160
2. Elements - Under Section (B)	160
B. Unlawful issuance, sale, or offer to sell identification card or document purporting to contain age or date of birth	160
1. Elements	162
C. Unlawful submission of documentation required under S.C. Code Ann. § 16-13-450 (ID for age)	163

Chapter 19 Various Firearm Offenses

A. Definitions	165
B. Unlawful carrying of handgun; exceptions	166
1. Elements	168
C. Sale or delivery of handgun to and possession by certain persons unlawful; stolen handguns	168
1. Elements	169
D. Pointing firearm at another person	169
1. Elements	170
E. Carrying concealed weapons; forfeiture of weapons	170

Chapter 20 Offenses Against Public Justice

A. Perjury and subornation of perjury	171
1. Elements Defined	171
B. Subornation of perjury in civil actions	172
C. False swearing before persons authorized to administer oaths	172
1. Elements	173
D. Intimidation of court officials, jurors, or witnesses	173
1. Elements	173
E. Taking money or reward to compound or conceal offense	174
1. Elements	174

Narcotics Offenses

Chapter 21 Narcotics

A. The Statutes	179
1. Definitions	179
2. Drug Schedules	179

Table of Contents

3. Penalty Statutes	180
B. Elements	181
1. Possession	181
2. Intent to Distribute and Distribution	182
3. Trafficking	184
4. Conspiracy	185
5. Miscellaneous	186
a. Distribution of controlled substances within proximity of a school	186
b. Distribution of persons under eighteen	186
c. Conditional discharge	187
d. Accommodation distribution	189
e. Drug paraphernalia	189
f. Statutory double jeopardy	190
g. Money laundering	191
6. Penalties	191

Inchoate Crimes

Chapter 22 **Attempt**

A. Attempt	195
1. Definition	195
2. Elements	195
a. Specific intent to commit the crime	196
b. A direct ineffectual act done toward its commission	196
3. Possible Defenses	197
a. Impossibility	197
b. Abandonment	198
4. Attempted Misdemeanors	198

Chapter 23 Solicitation

A. Solicitation	199
1. Definition	199
2. Defenses	199
a. Crime was intended but not solicited	199
b. Crime was “invited” (solicited) but not intended	200
3. Special Considerations	200
a. Solicitation of prostitution	200
b. Solicitation of a minor	200

Chapter 24 Conspiracy and Accomplice Liability

A. Conspiracy	203
1. Definition	203
a. Common law conspiracy	203
b. Statutory conspiracy	203
2. Elements	204
3. Elements Defined	204
a. Combination or agreement	204
b. Between two or more persons	205
c. For the purpose of accomplishing an unlawful object or accomplishing a lawful object by unlawful means	205
4. Vicarious Liability	206
5. Possible Defenses	206
a. Impossibility	206
b. Abandonment or withdrawal	206
c. Wharton’s Rule	206
6. Other Issues	207
a. Evidentiary	207
b. Single vs. multiple conspiracies	207

Table of Contents

B.	Accomplice Liability	207
1.	In General	207
2.	Discussion	208
3.	Accessory before the Fact	209
4.	Accessory after the Fact	209
C.	Final Note on Conspiracy and Accomplice Liability	209

Defenses

Chapter 25 Defense of Property

A.	Defense of Property, Common Law	213
1.	Elements	213
2.	Elements Defined	213

Chapter 26 Defenses and Lesser Included Offenses

A.	Self-Defense	215
1.	Definition	215
2.	Elements	215
3.	Elements Defined	216
a.	Fault	216
b.	Imminent danger	217
c.	Duty of retreat	219
4.	Burden of Proof	220
5.	Jury Charges	221
B.	Defense of Third Party	222
1.	Definition	222
a.	The alter ego rule	223
b.	Intervener acting on good faith based on reasonable appearances	223

Table of Contents

2. Elements	223
3. Elements Defined	224
4. Burden of Proof	224
5. Jury Charges	224
C. Mistake of Fact	225
1. Definition	225
2. Elements	225
3. Elements Defined	225
a. Mistaken belief	226
b. Belief as to facts	226
4. Burden of Proof	226
5. Jury Instructions	226
D. Mistake of Law	226
1. Definition	226
2. Elements	227
a. Good faith mistake	227
b. The elements	227
3. Elements Defined	227
4. Burden of Proof	228
E. Accident	228
1. Definition	228
2. Elements	228
3. Elements Defined	229
4. Burden of Proof	229
5. Jury Instructions	229
F. Ignorance of the Law	230
1. Definition	230
2. Elements	230
3. Elements Defined	230
G. Alibi	231
1. Basic Definition	231

Table of Contents

H.	Entrapment	231
1.	Basic Definition	231
I.	Duress and Necessity	233
1.	Basic Definitions	233
2.	Elements	234
3.	Necessity and “Lawful” Escape	235
J.	Third-Party Guilt	236
K.	Protection of Person and Property Act (PPPA)	237
L.	Charging Lesser Included Offenses and Defenses	237

Chapter 27
Mental Defenses

A.	Insanity Overview	241
1.	Affirmative defense	242
2.	Statutory Elements	242
3.	Common Law Elements	242
4.	Mental Disease or Defect	243
5.	Effect of a “Not Guilty by Reason of Insanity” Defense	244
B.	Guilty but mentally ill (GBMI)	245
1.	Elements	245
2.	Elements Defined	245
3.	Effect of a “Guilty But Mentally Ill” Verdict	246
C.	Voluntary and Involuntary Intoxication	246
Appendix A: Self-Defense Instructions		249
Index		253