, the defendant in this case, has been charged with the crime of criminal mischief in the fourth degree.

To prove that the defendant committed this crime, the state must prove beyond a reasonable doubt the following:

[(1) the defendant intentionally damaged the property of another;

(2) the defendant had no right to do so or any reasonable ground to believe that the defendant had such a right; and

(3) the damage to the property was in an amount of $250 or more.]

[(1) the defendant knowingly tampered with a fire protection device;

(2) the defendant had no right to do so or any reasonable ground to believe that the defendant had such a right; and

(3) the device was in a building that was a public place.]

[(1) the defendant knowingly accessed a computer, computer system, computer program, computer network, or part of a computer system or network; and

(2) the defendant had no right to do so or any reasonable ground to believe that the defendant had such a right.]

[(1) the defendant knowingly used a device to descramble an electronic signal that had been scrambled to prevent unauthorized receipt or viewing of the signal [unless the device was used only to descramble signals received directly from a satellite or unless the person owned the device before September 18, 1984]; and

(2) the defendant had no right to do so or any reasonable ground to believe that the defendant had such a right.]

[(1) the defendant knowingly removed, relocated, defaced, altered, obscured, shot at, destroyed, or otherwise tampered with an official traffic control device [or damaged the work upon a highway under construction];

(2) the defendant had no right to do so or any reasonable ground to believe that the defendant had such a right.]

# USE NOTE

The following terms are defined in other instructions:

"access" – 11.46.985

"computer" – 11.46.985

"computer network" – 11.46.985

"computer program" – 11.46.985

"computer system" – 11.46.985

"data" – 11.46.985

"highway" – 11.46.495 and 19.45.001

"intentionally" – 11.81.900

"knowingly" – 11.81.900

"official traffic control device" – 11.46.495

"property" – 11.81.900

"property of another" – 11.46.985

"recklessly" – 11.81.900

"tamper" – 11.46.495

The criminal mischief statutes do not require the state to prove that the defendant knew of or had reason to know that the damage caused would exceed a particular amount or value. Ortberg v. State, 751 P.2d 1368 (Alaska App. 1988).

The amount of damage caused by an act of criminal mischief may be established through evidence showing either diminution in value or reasonable cost of repair. Willett v. State, 826 P.2d 1142, 1144 (Alaska App. 1992).

The state bears the burden of proving beyond a reasonable doubt that a defendant has no reasonable ground to believe that his actions are necessary for self-protection in a prosecution for criminal mischief in which the defendant asserts a necessity defense. McGee v. State, 162 P.3d 1251, 1255 (Alaska App. 2007).

Criminal Mischief in the Fourth Degree is defined as damage to property in an amount less than $750 but more than $250; however, any value over $250 will suffice. *See* AS 11.81.615.