

SENATE CS FOR CS FOR HOUSE BILL NO. 158(RLS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE

Offered: 4/28/96

Referred: Today's Calendar

Sponsor(s): REPRESENTATIVES PORTER, Toohey, Mulder, Ogan

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to civil actions; amending Rules 13(e), 68, 79(b), 82(b), and
2 95, Alaska Rules of Civil Procedure."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1. PURPOSE.** It is the purpose of this Act to

5 (1) enact further reforms that create a more equitable distribution of the cost
6 and risk of injury;

7 (2) reduce costs associated with the civil justice system, while ensuring that
8 adequate and appropriate compensation for persons injured through the fault of others is
9 available;

10 (3) help match losses with compensation by helping to

11 (A) ensure that money paid to an injured person is available when
12 anticipated expenses or losses occur;

13 (B) ensure that a claimant with substantial injury requiring long-term
14 treatment will have money available for future medical care;

1 (C) reduce reparation system costs by eliminating those portions of
2 awards that are not needed to compensate the claimant;

3 (D) eliminate duplicate recoveries;

4 (E) reduce the costs of litigation;

5 (F) establish appropriate thresholds for a damage award in order to
6 allow predictability of liability exposure; and

7 (G) reduce the ultimate costs to the state and to local governments of
8 providing medical services to those who cannot otherwise afford those services;

9 (4) reduce the amount of litigation proceeding to trial by modifying the
10 allocation of attorney fees and court costs based on the offer of judgment and the final court
11 award thereby providing a financial incentive to both parties to settle the dispute;

12 (5) enact a statute of repose that meets the tests set out in Turner Construction
13 Co., Inc. v. Scales, 752 P.2d 467 (Alaska 1988);

14 (6) clarify the circumstances in which hospitals are held directly liable for the
15 actions of emergency room physicians who are not employees of the hospital;

16 (7) encourage health care providers to provide quality medical care in all areas
17 of this state at a cost that is affordable;

18 (8) stabilize the rapidly escalating costs of health care by curtailing the rapid
19 escalation in malpractice premiums and thereby make broader based health care available to
20 more residents of the state;

21 (9) require that 75 percent of punitive damages awarded by a court be
22 deposited into the general fund for the benefit of the public welfare and to deter future harm
23 to the public.

24 * **Sec. 2.** AS 05 is amended by adding a new chapter to read:

25 CHAPTER 50. CIVIL LIABILITY FOR COMMERCIAL
26 RECREATIONAL ACTIVITIES.

27 Sec. 05.50.010. ACCEPTANCE OF INHERENT RISKS. Participation in
28 a commercial recreational activity constitutes acceptance of the inherent risks of the
29 commercial recreational activity that are or should be apparent to an ordinarily prudent
30 person.

31 Sec. 05.50.020. REDUCTION FOR NEGLIGENCE. A person who accepts

1 an inherent risk of a commercial recreational activity as described in AS 05.50.010 is
2 negligent to the extent that the inherent risk causes injury, death, or property damage.
3 In an action seeking to recover damages for injury or death to a person or harm to
4 property resulting from an inherent risk of a commercial recreational activity,
5 compensatory damages shall be reduced by the injured person's negligence as provided
6 under AS 09.17.060.

7 Sec. 05.50.030. RESPONSIBILITIES OF PARTICIPANTS. A participant in
8 a commercial recreational activity has the responsibility to

- 9 (1) learn about and expressly accept the risks of the activities;
- 10 (2) act within the limits of the person's abilities;
- 11 (3) heed all warnings regarding participation in the commercial
12 recreational activity;
- 13 (4) maintain control of the participant's person, the participant's
14 children, and any equipment, devices, or animals the participant is using;
- 15 (5) refrain from acting in a manner that may cause or contribute to
16 injury of the participant or another person.

17 Sec. 05.50.040. RESPONSIBILITIES OF OPERATORS OF COMMERCIAL
18 RECREATIONAL ACTIVITIES. A person who operates a business that offers a
19 commercial recreational activity shall

- 20 (1) explain to a participant the
 - 21 (A) fundamental inherent risks of the commercial recreational
22 activity; and
 - 23 (B) skills or equipment required to participate in the commercial
24 recreational activity that are not apparent to an inexperienced participant;
- 25 (2) require that employees who are responsible for assisting participants
26 in the actual performance of a commercial recreational activity have training in basic
27 first aid and cardiopulmonary resuscitation and explain to those employees how to use
28 emergency medical services available in the area;
- 29 (3) maintain recreational equipment and facilities in good repair;
- 30 (4) provide trained and competent personnel; and
- 31 (5) act in a reasonably safe and competent manner.

1 Sec. 05.50.050. INTERACTION WITH OTHER LAWS. This chapter does
2 not affect the immunity of an owner of unimproved land under AS 09.65.200 or of a
3 ski area operator under AS 05.45.

4 Sec. 05.50.100. DEFINITIONS. In this chapter,

5 (1) "children" means persons under 18 years of age;

6 (2) "commercial recreational activity" means a recreational activity for
7 which the participants pay compensation;

8 (3) "recreational activity" means an outdoor activity undertaken for the
9 purpose of exercise, education, relaxation, pleasure, sport, or as a hobby.

10 * **Sec. 3.** AS 09.10.055 is repealed and reenacted to read:

11 Sec. 09.10.055. STATUTE OF REPOSE OF 10 YEARS. (a) A person may
12 not bring an action for personal injury, death, or property damage unless commenced
13 within 10 years of the earlier of the date of

14 (1) substantial completion of the construction alleged to have caused
15 the personal injury, death, or property damage; however, the limitation of this
16 paragraph does not apply to a claim resulting from an intentional or reckless disregard
17 of specific project design plans and specifications or building codes; or

18 (2) the last act alleged to have caused the personal injury, death, or
19 property damage.

20 (b) This section does not apply if

21 (1) the personal injury, death, or property damage resulted from

22 (A) exposure to a hazardous substance; in this subparagraph,
23 "hazardous substance" means an element or compound that, when it enters into
24 the air or on the surface or subsurface land or water of the state, presents an
25 imminent and substantial danger to public or individual health and welfare;

26 (B) an intentional act or gross negligence;

27 (C) fraud or fraudulent misrepresentation;

28 (D) breach of an express warranty or guarantee; or

29 (E) a defective product; in this subparagraph, "product" means
30 an object that has intrinsic value, is capable of delivery as an assembled whole
31 or as a component part, and is introduced into trade or commerce; "product"

1 includes an element or compound that if ingested by humans or if humans are
2 exposed to, or are in contact with the element compound or product, poses a
3 threat to human health;

4 (2) facts that would give notice of a potential cause of action are
5 intentionally concealed; or

6 (3) a shorter period of time for bringing the action is imposed under
7 another provision of law.

8 (4) a longer period of time for bringing the action was provided under
9 a contract.

10 (c) The limitation imposed under (a) of this section is tolled

11 (1) as provided under AS 09.10.140(a)(1); and

12 (2) during any period in which there exists the undiscovered presence
13 of a foreign body, that has no therapeutic or diagnostic purpose or effect, in the body
14 of the injured person and the action is based on the presence of the foreign body.

15 (d) In this section, "substantial completion" means the date when construction
16 is sufficiently completed to allow the owner or a person authorized by the owner to
17 occupy the improvement or to use the improvement in the manner for which it was
18 intended.

19 * **Sec. 4.** AS 09.10.070 is amended to read:

20 Sec. 09.10.070. ACTIONS FOR CERTAIN TORTS AND CERTAIN
21 STATUTORY LIABILITIES TO BE BROUGHT IN TWO YEARS. **Except as**
22 **otherwise provided by law, a** [A] person may not bring an action (1) for libel,
23 slander, assault, battery, seduction, **or** false imprisonment [, OR FOR ANY INJURY
24 TO THE PERSON OR RIGHTS OF ANOTHER NOT ARISING ON CONTRACT
25 AND NOT SPECIFICALLY PROVIDED OTHERWISE]; (2) upon a statute for a
26 forfeiture or penalty to the state; or (3) upon a liability created by statute, other than
27 a penalty or forfeiture; unless the action is commenced within two years **from the**
28 **accrual of the action.**

29 * **Sec. 5.** AS 09.10 is amended by adding a new section to read:

30 Sec. 09.10.075. LIMITATION ON ACTIONS INVOLVING INJURY TO
31 PERSON OR PROPERTY. (a) A person may not bring an action for personal injury,

1 death, property damage, or injury to the rights of another not arising on contract,
2 unless the action is brought within two years of the accrual of the action.

3 (b) This section does not apply if a shorter period of time for bringing the
4 action is imposed under another provision of law.

5 * **Sec. 6.** AS 09.17.010 is repealed and reenacted to read:

6 Sec. 09.17.010. NONECONOMIC DAMAGES. (a) In an action to recover
7 damages for personal injury or wrongful death, all damage claims for noneconomic
8 losses shall be limited to compensation for pain, suffering, inconvenience, physical
9 impairment, disfigurement, loss of enjoyment of life, loss of consortium, and other
10 nonpecuniary damage.

11 (b) Except as provided under (c) of this section, the aggregate amount of
12 damages awarded by a court or a jury under (a) of this section for all claims of a party
13 or parties, including a loss of consortium claim, arising out of a single injury or death
14 may not exceed \$500,000.

15 (c) In an action for personal injury, the damages awarded by a court or jury
16 that are described under (b) of this section may not exceed \$750,000 when the
17 claimant, as a result of the injury,

18 (1) is a hemiplegic, paraplegic, or quadriplegic and has permanent
19 functional loss of one or more limbs resulting from injury to the spine or spinal cord;

20 (2) has lost both arms or both legs or an arm and a leg;

21 (3) has permanently impaired cognitive capacity, is incapable of making
22 independent, responsible decisions, and is permanently incapable of independently
23 performing the activities of normal, daily living;

24 (4) is both deaf and blind; or

25 (5) has third degree burns over one half or more of the claimant's body.

26 (d) The limit under (b) or (c) of this section does not apply to noneconomic
27 damages awarded by a court or jury against a person who, as proven by a
28 preponderance of the evidence, was attempting to commit or committing a felony, if
29 the person bringing the action was a victim of that offense and the offense
30 substantially contributed to the injury or death. In this subsection, "victim" has the
31 meaning given in AS 12.55.185.

1 (e) Multiple injuries sustained as a result of a single incident shall be treated
2 as a single injury for purposes of this section.

3 * **Sec. 7.** AS 09.17.020 is amended to read:

4 Sec. 09.17.020. PUNITIVE DAMAGES. Punitive damages may not be
5 awarded in an action, whether in tort, contract, or otherwise, unless supported by clear
6 and convincing evidence **of outrageous conduct, including acts done with malice or**
7 **bad motives, or reckless indifference to the interest of another person.**

8 * **Sec. 8.** AS 09.17.020 is amended by adding new subsections to read:

9 (b) The amount of punitive damages awarded by a court or jury under (a) of
10 this section may not exceed three times the amount of compensatory damages awarded
11 or \$300,000, whichever amount is greater.

12 (c) The limit under (b) of this section does not apply to punitive damages
13 awarded by a court or jury against a person who, as proven by a preponderance of the
14 evidence, was attempting to commit or committing a felony if the person bringing the
15 action was a victim of that offense and the offense substantially contributed to the
16 injury or death. In this subsection, "victim" has the meaning given in AS 12.55.185.

17 (d) If a person receives an award of punitive damages, the court shall require
18 that 75 percent of the award be deposited into the general fund of the state. This
19 subsection does not grant the state the right to file or join a civil action to recover
20 punitive damages.

21 * **Sec. 9.** AS 09.17.040(e) is amended to read:

22 (e) **If a judgment is paid by periodic payments, the** [THE] court **shall**
23 [MAY] require security be posted [,] in order to ensure that funds are available as
24 periodic payments become due. The court may **waive this requirement if the person**
25 **in whose favor judgment is entered agrees to waive the posting of security or the**
26 **court determines that waiver is prudent in the action** [NOT REQUIRE SECURITY
27 TO BE POSTED IF AN AUTHORIZED INSURER, AS DEFINED IN AS 21.90.900,
28 ACKNOWLEDGES TO THE COURT ITS OBLIGATION TO DISCHARGE THE
29 JUDGMENT].

30 * **Sec. 10.** AS 09.17.040(f) is amended to read:

31 (f) A judgment ordering payment of future damages **for personal injury or**

1 **death** by periodic payment shall specify the recipient, the dollar amount of the
2 payments, **including any increases in future payments for anticipated inflation or**
3 **the formula for the increases,** the interval between payments, and the number of
4 payments or the period of time over which payments shall be made. Payments may
5 be modified only in the event of the death of the judgment creditor, in which case
6 payments may not be reduced or terminated, but shall be paid to persons to whom the
7 judgment creditor owed a duty of support, as provided by law, immediately before
8 death. In the event the judgment creditor owed no duty of support to dependents at
9 the time of the judgment creditor's death, the money remaining shall be distributed in
10 accordance with a will of the deceased judgment creditor accepted into probate or
11 under the intestate laws of the state if the deceased had no will.

12 * **Sec. 11.** AS 09.17.080(a) is amended to read:

13 (a) In all actions involving fault of more than one **person** [PARTY TO THE
14 ACTION], including third-party defendants and persons who have been released under
15 **AS 09.17.091** [AS 09.16.040], the court, unless otherwise agreed by all parties, shall
16 instruct the jury to answer special interrogatories or, if there is no jury, shall make
17 findings, indicating

18 (1) the amount of damages each claimant would be entitled to recover
19 if contributory fault is disregarded; and

20 (2) the percentage of the total fault [OF ALL OF THE PARTIES TO
21 EACH CLAIM] that is allocated to each claimant, defendant, third-party defendant,
22 [AND] person who has been released from liability under **AS 09.17.091, or other**
23 **person responsible for the damages to each claimant regardless of whether the**
24 **other person, including an employer, is or could have been named as a party to**
25 **the action** [AS 09.16.040].

26 * **Sec. 12.** AS 09.17.080(c) is amended to read:

27 (c) The court shall determine the award of damages to each claimant in
28 accordance with the findings [, SUBJECT TO A REDUCTION UNDER
29 AS 09.16.040], and enter judgment against each party liable. The court also shall
30 determine and state in the judgment each party's equitable share of the obligation to
31 each claimant in accordance with the respective percentages of fault **as determined**

1 under (a) of this section. An assessment of a percentage of fault against a person
2 who is not a party may only be used as a measure for accurately determining the
3 percentages of fault of a named party. Assessment of a percentage of fault
4 against a person who is not a party does not subject that person to civil liability
5 in that action and may not be used as evidence of civil liability in another action.

6 * **Sec. 13.** AS 09.17 is amended by adding a new section to read:

7 Sec. 09.17.091. EFFECT OF RELEASE. When a release or covenant not to
8 sue or not to enforce judgment is given in good faith to one of two or more persons
9 civilly liable for the same injury or the same wrongful death it does not discharge any
10 of the other persons from liability for the injury or wrongful death unless its terms so
11 provide.

12 * **Sec. 14.** AS 09.30.065 is repealed and reenacted to read:

13 Sec. 09.30.065. OFFERS OF JUDGMENT. (a) At any time more than 10
14 days before the trial begins either the party making a claim or the party defending
15 against a claim may serve upon the adverse party an offer to allow judgment to be
16 entered in complete satisfaction of the claim for the money or property or to the effect
17 specified in the offer, with costs then accrued. If within 10 days after the service of
18 the offer the adverse party serves written notice that the offer is accepted, either party
19 may then file the offer and notice of acceptance together with proof of service, and the
20 clerk shall enter judgment. An offer not accepted within 10 days is considered
21 withdrawn and evidence of that offer is not admissible except in a proceeding to
22 determine the form of judgment after verdict.

23 (b) If the judgment finally entered on the claim as to which an offer has been
24 made under this section is at least five percent less favorable to the offeree than the
25 offer, the offeree shall pay costs as allowed under the Alaska Rules of Civil Procedure
26 and all reasonable attorney fees incurred by the offeror from the date the offer was
27 made. In comparing the offer to judgment finally entered, the court may not consider
28 prejudgment interest payable under the judgment during the period between when
29 payment would have been made under the offer and the date of entry of judgment.

30 * **Sec. 15.** AS 09.30.070(a) is amended to read:

31 (a) **Notwithstanding AS 45.45.010, the** [THE] rate of interest on judgments

1 and decrees for the payment of money, including prejudgment interest, is three
2 percent above the interest rate set by the United States Bureau of the Public Debt
3 for five-year treasury notes in effect on the day on which the judgment or decree
4 is entered [10.5 PERCENT A YEAR], except that a judgment or decree founded on
5 a contract in writing, providing for the payment of interest until paid at a specified rate
6 not exceeding the legal rate of interest for that type of contract, bears interest at the
7 rate specified in the contract if the interest rate is set out in the judgment or decree.

8 * **Sec. 16.** AS 09.55 is amended by adding a new section to read:

9 Sec. 09.55.551. EXPERT WITNESS QUALIFICATION. (a) Except as
10 provided under (b) of this section, an action based upon professional negligence, a
11 person may not testify as an expert witness on the issue of the appropriate standard of
12 care unless the witness is a professional who is licensed in this state or is licensed in
13 another state or country and

14 (1) is trained and experienced in the same discipline or school of
15 practice as the defendant or in an area directly related to a matter at issue; and

16 (2) is certified by a board recognized by the state as having
17 acknowledged expertise and training directly related to the particular field or matter
18 at issue.

19 (b) The provisions of (a) of this section do not apply to a person who is
20 testifying on the appropriate standard of care in a profession that is not licensed in this
21 state, or another state or country, and who the court determines is qualified as an
22 expert witness.

23 * **Sec. 17.** AS 09.55.560 is amended by adding a new paragraph to read:

24 (4) "professional negligence" means a negligent act or omission in
25 rendering professional services.

26 * **Sec. 18.** AS 09.55 is amended by adding a new section to read:

27 ARTICLE 8. MANDATORY ARBITRATION.

28 Sec. 09.55.700. MANDATORY ARBITRATION. (a) A person who files a
29 civil action for personal injury, death, or property damage shall also submit the claim
30 to the court for arbitration unless the action is excluded under (b) of this section. The
31 costs of arbitration shall be paid in equal shares by the parties.

1 (b) A civil action is not required to be arbitrated as provided under (a) of this
2 section if the

3 (1) amount claimed by a party, excluding interest, costs, and attorney
4 fees, exceeds \$50,000;

5 (2) parties have, under a written agreement made before or after the
6 accrual of the action, agreed to submit the claim to arbitration; or

7 (3) action

8 (A) is a class action;

9 (B) seeks equitable or declaratory relief;

10 (C) concerns the title to real property;

11 (D) is a probate action;

12 (E) is an appeal from a court of limited jurisdiction;

13 (F) involves divorce or domestic relations;

14 (G) is an appeal from action by an administrative agency;

15 (H) is a small claims action.

16 (c) When a claim is submitted as required by (a) of this section, the court shall
17 appoint an arbitrator to review the claim. An arbitrator appointed under this section
18 must be a member of the state bar association who has been admitted to the bar for
19 a minimum of five years or a member of the state bar association who is a retired
20 judge. The arbitrator appointed to review the claim shall interview the parties and
21 examine all records or materials relating to the claim and may compel the attendance
22 of witnesses, interview the parties, or consult with medical specialists.

23 (d) An arbitrator appointed under this section shall conduct a prehearing
24 settlement conference within 30 days after the appointment. The arbitrator shall
25 establish a period for discovery and a date for a hearing. The hearing date may not
26 be more than 120 days after the settlement conference.

27 (e) An arbitrator shall render a decision within 30 days after hearing a claim
28 under (d) of this section. The decision must contain findings of fact and conclusions
29 of law. The decision of the arbitrator may be rejected by a party.

30 (f) If the decision of the arbitrator is rejected by a party, the action may
31 proceed in the appropriate court. If an offer of judgment has not been entered by a

1 party, costs or actual reasonable attorney fees shall be assessed against a party who
2 requests a trial after arbitration, and who fails to improve that party's position in the
3 trial de novo.

4 (g) The provisions of AS 09.43.010 - 09.43.180 (Uniform Arbitration Act)
5 apply to an arbitration under this section to the extent the provisions do not conflict
6 with the provisions of this section.

7 (h) Attorney fees and costs shall be included in the arbitrator's award only if
8 a party is found not liable or is awarded more than the party would have been awarded
9 under an offer of judgment entered under AS 09.30.065. If attorney fees and costs are
10 awarded, attorney fees and costs shall be calculated under the Alaska Rules of Civil
11 Procedure or AS 09.30.065, whichever applies.

12 * **Sec. 19.** AS 09.65 is amended by adding a new section to read:

13 Sec. 09.65.096. CIVIL LIABILITY OF HOSPITALS FOR CERTAIN
14 NONEMPLOYEES. (a) A hospital is not liable for civil damages as a result of an
15 act or omission by an emergency room physician who is not an employee or actual
16 agent of the hospital if the hospital provides notice that the emergency room physician
17 is an independent contractor and the emergency room physician is insured as described
18 under (c) of this section. The notice required by this subsection must be posted
19 conspicuously in all admitting areas of the hospital, published at least annually in a
20 newspaper of general circulation in the area, and must be in substantially the following
21 form:

22 Notice of Limited Liability

23 The following emergency room physicians are independent
24 contractors and are not employees of the hospital:

25 (List specific emergency room physicians)

26 The hospital is responsible for exercising reasonable care in granting privileges to
27 practice in the hospital, for reviewing those privileges on a regular basis, and for
28 taking appropriate steps to revoke or restrict privileges in appropriate circumstances.

29 The hospital is not otherwise liable for the acts or omissions of an emergency room
30 physician who is an independent contractor.

31 (b) This section does not preclude liability for civil damages that are the

1 proximate result of the hospital's own negligence or intentional misconduct.

2 (c) A hospital is not immune from liability under (a) of this section for an act
3 or omission of an emergency room physician who is an independent contractor unless
4 the emergency room physician has liability insurance coverage in the amount of at
5 least \$500,000 per incident and the coverage is in effect and applicable to those health
6 care services offered by the emergency room physician that the hospital is required to
7 provide by law or by accreditation requirements.

8 (d) In this section,

9 (1) "emergency room physician" means a physician who provides health
10 care services in a hospital emergency room;

11 (2) "hospital" has the meaning given in AS 18.20.130 and includes a
12 governmentally owned or operated hospital;

13 (3) "independent contractor" means a licensed health care provider who
14 has been granted specified privileges to render health care services directly or
15 indirectly to patients at the hospital, but who is not an employee or actual agent of the
16 hospital in connection with the rendition of the health care services.

17 * **Sec. 20.** AS 09.65 is amended by adding a new section to read:

18 Sec. 09.65.190. CIVIL LIABILITY FOR FALSE CLAIMS AND IMPROPER
19 PRACTICE. (a) A person may not

20 (1) knowingly or recklessly file, or cause to be filed, a civil complaint,
21 answer, or other civil pleading that contains false allegations or material misstatements
22 of fact;

23 (2) sign a civil pleading before making reasonable inquiry and
24 determining that, to the best of the signer's knowledge, information, and belief, each
25 claim, defense, and allegation contained in the pleading is well grounded in fact and
26 is warranted by existing law or a good faith argument for the extension, modification,
27 or reversal of existing law; or

28 (3) interpose, in a civil action, a claim, defense, or allegation for an
29 improper purpose, including to harass or to cause unnecessary delay or needless
30 increase in the cost of litigation.

31 (b) If the trier of fact determines that a party to a civil action has intentionally

1 made a false statement of a material fact in connection with the prosecution or defense
2 of a civil action, the court shall enter judgment against the party making the false
3 statement on the issue to which the false statement relates. If the civil action involves
4 multiple claims and the false statement does not apply to all claims, the judgment
5 required under this section shall apply only to those claims to which the false
6 statement relates.

7 (c) A person who is injured by a violation of (a) of this section may bring an
8 action for compensatory and punitive damages. However, if the injury is the result of
9 an act or omission of a

10 (1) party, then the action shall be asserted in the same action in which
11 the injury arose; and

12 (2) nonparty, then the action shall be asserted in a separate action
13 commenced after entry of final judgment in the action in which the injury arose.

14 (d) A person who, on the person's own behalf or as a representative of a party,
15 takes part in the initiation, defense, continuation, or procurement of a civil action
16 against another is subject to civil liability for compensatory and punitive damages if
17 the person acts

18 (1) without probable cause on a claim or defense; or

19 (2) primarily for a purpose other than that of securing the proper
20 adjudication of a claim or defense involved in the civil action.

21 (e) In an action to recover damages under (c) of this section, a person is not
22 required to be the prevailing party in the civil action in which the violation of (a) of
23 this section occurred.

24 (f) A person may not bring a civil action to recover damages under (d) of this
25 section unless final judgment has been entered in the civil action described in (d) of
26 this section. For purposes of this subsection, a person is not required to be the
27 prevailing party in the civil action in which the violation of (d) of this section
28 occurred.

29 (g) If a person brings an action under (c) or (d) of this section, the court shall
30 award actual reasonable attorney fees to the prevailing party, regardless of whether the
31 prevailing party is the plaintiff or defendant.

1 * **Sec. 21.** AS 09.65.210 is repealed and reenacted to read:

2 Sec. 09.65.210. DAMAGES RESULTING FROM COMMISSION OF A
3 FELONY. (a) A person who suffers personal injury or property damage may not
4 recover damages for the personal injury or property damage if the injury occurred
5 while the person was committing or attempting to commit a felony, or fleeing from the
6 commission of a felony, and the felony substantially contributed to the injury or
7 property damage.

8 (b) The personal representative of a deceased person may not recover damages
9 for the person's death if the court determines by clear and convincing evidence that
10 the death occurred while the person was committing or attempting to commit a felony,
11 or fleeing from the commission of a felony, and that the felony substantially
12 contributed to the death.

13 * **Sec. 22.** AS 09.68 is amended by adding a new section to read:

14 Sec. 09.68.125. SIGNING OF PLEADINGS, MOTIONS, AND OTHER
15 PAPERS; SANCTIONS. Every pleading, motion, and other paper of a party
16 represented by an attorney shall be signed by at least one attorney of record in the
17 attorney's individual name, whose address shall be stated. A party who is not
18 represented by an attorney shall sign the party's pleading, motion, or other paper and
19 state the party's address. Except when otherwise specifically provided by the Alaska
20 Rules of Civil Procedure or statute, pleadings need not be verified or accompanied by
21 affidavit. The signature of an attorney or party constitutes a certificate by the signer
22 that the signer has read the pleading, motion, or other paper; that to the best of the
23 signer's knowledge, information, and belief formed after reasonable inquiry it is well
24 grounded in fact and is warranted by existing law or a good faith argument of the
25 extension, modification, or reversal of existing law; and that it is not interposed for any
26 improper purpose, including to harass or to cause unnecessary delay or needless
27 increase in the cost of litigation. If a pleading, motion, or other paper is not signed,
28 it shall be stricken unless it is signed promptly after the omission is called to the
29 attention of the pleader or movant. If it is alleged or appears that a pleading, motion,
30 or other paper is signed in violation of this section, the court, upon motion or upon its
31 own initiative, may set the matter for hearing. If the court determines that a pleading,

1 motion, or other paper is signed in violation of this section, the court shall impose
2 upon the person who signed it, a represented party, or both, an appropriate sanction
3 that may include an order to pay to the other party the amount of the reasonable
4 expenses incurred because of the filing of the pleading, motion, or other paper,
5 including costs and attorney fees, and monetary sanctions not to exceed \$10,000.

6 * **Sec. 23.** AS 09.30.065, as amended by sec. 14 of this Act, has the effect of amending
7 Rule 68, Alaska Rules of Civil Procedure, by changing the provisions governing offers of
8 judgment.

9 * **Sec. 24.** AS 09.55.700(f) and (h), enacted in sec. 18 of this Act, have the effect of
10 amending Rule 82(b), Alaska Rules of Civil Procedure, by changing the rules for awards of
11 attorney fees in certain civil actions.

12 * **Sec. 25.** AS 09.55.700(f) and (h), enacted in sec. 18 of this Act, has the effect of
13 amending Rule 79(b), Alaska Rules of Civil Procedure, by changing the rule for awarding
14 costs in certain civil actions.

15 * **Sec. 26.** AS 09.65.190(c)(1), as enacted by sec. 20 of this Act, has the effect of
16 amending Rule 13(e), Alaska Rules of Civil Procedure, by requiring a claim under
17 AS 09.65.190(a) that is acquired after service of a pleading to be asserted in the same action.

18 * **Sec. 27.** AS 09.65.190(g), enacted in sec. 20 of this Act, has the effect of amending Rule
19 82(b), Alaska Rules of Civil Procedure, by allowing the award of actual reasonable attorney
20 fees in a civil action for false claims or improper civil practice.

21 * **Sec. 28.** AS 09.68.125, as enacted in sec. 22 of this Act, has the effect of amending
22 Alaska Rule of Civil Procedure 95, by requiring imposition of sanctions for certain failures
23 to sign pleadings, motions, or other papers.

24 * **Sec. 29.** SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the
25 application of a provision of this Act to any person or circumstance is held invalid, the
26 remainder of this Act and the application to other persons shall not be affected.

27 * **Sec. 30.** APPLICABILITY. Sections 7 and 8 of this Act apply to a civil action that has
28 accrued on, after, or before the effective date of this Act, if judgment has not been entered in
29 the civil action before the effective date of this Act. Except for secs. 7 and 8 of this Act, this
30 Act applies to all causes of action accruing on or after the effective date of this Act.