

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 58(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 2/27/97
Referred: Finance

Sponsor(s): REPRESENTATIVES PORTER, Cowdery, Bunde

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to civil actions; relating to independent counsel provided under
2 an insurance policy; relating to attorney fees; amending Rules 16.1, 41, 49, 58,
3 68, 72.1, 82, and 95, Alaska Rules of Civil Procedure; amending Rule 702, Alaska
4 Rules of Evidence; amending Rule 511, Alaska Rules of Appellate Procedure; and
5 providing for an effective date."

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

7 * **Section 1.** LEGISLATIVE INTENT. In enacting this bill, it is the intent of this
8 legislature as a matter of public policy to

9 (1) encourage the efficiency of the civil justice system by discouraging
10 frivolous litigation and by decreasing the amount, cost, and complexity of litigation without
11 diminishing the protection of innocent Alaskans' rights to reasonable, but not excessive,
12 compensation for tortious injuries caused by others;

13 (2) provide for reasonable, but not excessive, punitive damage awards against

1 tortfeasors sufficient to deter conduct and practices that harm innocent Alaskans while not
2 hampering a positive business environment by allowing excessive penalties;

3 (3) encourage individual savings and economic growth by fostering an
4 environment likely to control the increase of liability insurance rates to individuals and
5 businesses resulting in a savings to the state, municipalities, and private businesses that are
6 self-insured;

7 (4) encourage the traditionally recognized Alaska values of self-reliance and
8 independence by underscoring the need for personal responsibility in making choices and
9 personal accountability for the consequences of those choices;

10 (5) alleviate the high cost of malpractice insurance premiums that discourage
11 physicians, architects, engineers, attorneys, and other professionals from rendering needed
12 services to the public;

13 (6) ensure that hospitals that comply with the disclosure requirements set out
14 in this Act are not liable for the negligence of independent contractors; to this extent, this Act
15 is intended to overrule Jackson v. Powers, 743 P.2d 1376 (Alaska 1987);

16 (7) ensure that one of several tortfeasors is not held responsible for the
17 negligence of an employer; to this extent, this Act is intended to overrule Lake v. Construction
18 Machinery, Inc., 787 P.2d 1027 (Alaska 1990);

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

21 (9) ensure that in actions involving the fault of more than one person, the fault
22 of each claimant, defendant, third-party defendant, person who has been released from
23 liability, or other person responsible for the damages be determined and awards be allocated
24 in accordance with the fault of each, thereby overruling Benner v. Wichman, 874 P.2d 949
25 (Alaska 1994); and

26 (10) reduce the amount of litigation proceeding to trial by modifying the
27 allocation of attorney fees and court costs based on the offer of judgment and the final court
28 award, thereby providing a financial incentive to both parties to settle the dispute.

29 * **Sec. 2.** AS 06.05.473(h) is amended to read:

30 (h) After the payment of all other claims, including interest at the rate **of 10.5**
31 **percent a year** [ESTABLISHED UNDER AS 09.30.070], the department shall pay

1 claims that are otherwise valid but that were not filed within the time prescribed.

2 * **Sec. 3.** AS 09.10.050 is repealed and reenacted to read:

3 **Sec. 09.10.050. Certain property actions to be brought in six years.** Unless
4 the action is commenced within six years, a person may not bring an action for waste
5 or trespass upon real property.

6 * **Sec. 4.** AS 09.10 is amended by adding a new section to read:

7 **Sec. 09.10.053. Contract actions to be brought in three years.** Unless the
8 action is commenced within three years, a person may not bring an action upon a
9 contract or liability, express or implied, except as provided in AS 09.10.040 or as
10 otherwise provided by law.

11 * **Sec. 5.** AS 09.10.055 is repealed and reenacted to read:

12 **Sec. 09.10.055. Statute of repose of eight years.** (a) Notwithstanding the
13 disability of minority described under AS 09.10.140(a), a person may not bring an
14 action for personal injury, death, or property damage unless commenced within eight
15 years of the earlier of the date of

16 (1) substantial completion of the construction alleged to have caused
17 the personal injury, death, or property damage; however, the limitation of this
18 paragraph does not apply to a claim resulting from an intentional or reckless disregard
19 of specific project design plans and specifications or building codes; in this paragraph,
20 "substantial completion" means the date when construction is sufficiently completed
21 to allow the owner or a person authorized by the owner to occupy the improvement
22 or to use the improvement in the manner for which it was intended; or

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

25 (b) This section does not apply if

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

27 (A) prolonged exposure to hazardous waste;

28 (B) an intentional act or gross negligence;

29 (C) fraud or fraudulent misrepresentation;

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

31 (E) a defective product; in this subparagraph, "product" means

1 an object that has intrinsic value, is capable of delivery as an assembled whole
2 or as a component part, and is introduced into trade or commerce;

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

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

7 (c) The limitation imposed under (a) of this section is tolled during any period
8 in which there exists the undiscovered presence of a foreign body that has no
9 therapeutic or diagnostic purpose or effect in the body of the injured person and the
10 action is based on the presence of the foreign body.

11 * **Sec. 6.** AS 09.10 is amended by adding a new section to read:

12 **Sec. 09.10.065. Limitation of actions against health care providers.** (a)
13 Notwithstanding the disability of minority described under AS 09.10.140(a), an action
14 based on professional negligence may not be brought against a health care provider if
15 the injured person is, on the date of the alleged negligent act or omission, less than six
16 years of age unless the action is commenced before the person's eighth birthday.

17 (b) The limitation imposed under (a) of this section is tolled during any period
18 in which there exists

19 (1) fraud, including fraud or collusion by a parent, guardian, insurer,
20 or health care provider, resulting in the failure to bring an action on behalf of an
21 injured minor;

22 (2) intentional concealment of facts that would give notice of a
23 potential action; or

24 (3) the undiscovered presence of a foreign object that has no
25 therapeutic or diagnostic purpose or effect in the body of the injured person and the
26 action is based on the presence of the foreign object.

27 (c) In this section,

28 (1) "health care provider" has the meaning given in AS 09.55.560;

29 (2) "professional negligence" has the meaning given in AS 09.55.560;

30 (3) "professional services" has the meaning given in AS 09.55.560.

31 * **Sec. 7.** AS 09.10.070(a) is amended to read:

1 (a) **Except as otherwise provided by law, a** [A] person may not bring an
 2 action (1) for libel, slander, assault, battery, seduction, **or** false imprisonment, **(2)**
 3 [OR] for **personal** [ANY] injury **or death,** [TO THE PERSON] or **injury to the** rights
 4 of another not arising on contract and not specifically provided otherwise; **(3) for**
 5 **taking, detaining, or injuring personal property, including an action for its**
 6 **specific recovery;** **(4)** [(2)] upon a statute for a forfeiture or penalty to the state; or
 7 **(5)** [(3)] upon a liability created by statute, other than a penalty or forfeiture; unless
 8 the action is commenced within two years **of the accrual of the cause of action.**

9 * **Sec. 8.** AS 09.17.010 is repealed and reenacted to read:

10 **Sec. 09.17.010. Noneconomic damages.** (a) In an action to recover damages
 11 for personal injury or wrongful death, all damage claims for noneconomic losses shall
 12 be limited to compensation for pain, suffering, inconvenience, physical impairment,
 13 disfigurement, loss of enjoyment of life, loss of consortium, and other nonpecuniary
 14 damage.

15 (b) Except as provided under (c) of this section, the damages awarded by a
 16 court or a jury under (a) of this section for all claims, including a loss of consortium
 17 claim, arising out of a single injury or death may not exceed \$300,000.

18 (c) In an action for personal injury, the damages awarded by a court or jury
 19 that are described under (b) of this section may not exceed \$500,000 when the
 20 claimant, as a result of the injury,

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

24 (2) has permanently impaired cognitive capacity and is incapable of
 25 making independent, responsible decisions.

26 (d) Multiple injuries sustained by one person as a result of a single incident
 27 shall be treated as a single injury for purposes of this section.

28 * **Sec. 9.** AS 09.17.020 is amended to read:

29 **Sec. 09.17.020. Punitive damages.** Punitive damages may not be awarded in
 30 an action, whether in tort, contract, or otherwise, unless supported by clear and
 31 convincing evidence **of malice or conscious acts showing deliberate disregard of**

1 another person by the person from whom the punitive damages are sought.

2 * **Sec. 10.** AS 09.17.020 is amended by adding new subsections to read:

3 (b) Except as provided under (c) of this section, the amount of punitive
4 damages awarded by a court or jury under (a) of this section may not exceed three
5 times the amount of compensatory damages awarded or \$300,000, whichever amount
6 is greater.

7 (c) The amount of punitive damages awarded by a court or jury under (a) of
8 this section may not exceed four times the amount of compensatory damages awarded
9 or \$600,000, whichever amount is greater, if

10 (1) the wrongful conduct or omission arose in connection with a
11 commercial activity motivated by financial gain; and

12 (2) the likelihood of death or serious bodily injury from the commercial
13 activity was previously known by the person responsible for making policy decisions
14 relating to the commercial activity and the knowledge was gained from previous
15 instances of death or serious bodily injury arising from the same wrongful conduct or
16 omission, regardless of where the previous wrongful conduct or omission occurred.

17 (d) If a person receives an award of punitive damages, the court shall require
18 that 50 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. 11.** AS 09.17.040(a) is amended to read:

22 (a) In every case where damages for personal injury **or death** are awarded by
23 the court or jury,

24 **(1)** the verdict shall be itemized between economic loss and
25 noneconomic loss, if any, as follows:

26 **(A)** [(1)] past economic loss;

27 **(B)** [(2)] past noneconomic loss;

28 **(C)** [(3)] future economic loss;

29 **(D)** [(4)] future noneconomic loss; [AND]

30 **(E)** [(5)] punitive damages; **and**

31 **(2) the amount of damages awarded shall be reduced by the**

1 amount of federal and state income tax that would have been paid on damages
 2 contained in the verdict under tax rates in effect on the date of the injury or
 3 death; this paragraph does not apply to an award of damages if the damages are
 4 taxable under federal or state law.

5 * Sec. 12. AS 09.17.040(d) is amended to read:

6 (d) In an action to recover damages, the court shall, at the request of a [AN
 7 INJURED] party, enter judgment ordering that amounts awarded a judgment creditor
 8 for future damages that exceed \$100,000 be paid to the maximum extent feasible by
 9 periodic payments rather than by a lump-sum payment. If a portion of the judgment
 10 awarded is owed to an attorney under a contingent fee agreement, that portion
 11 of the judgment shall be reduced to present value, if necessary, and paid in a
 12 lump sum, and the remaining portion of the judgment shall be paid as provided
 13 under this subsection.

14 * Sec. 13. AS 09.17.040(e) is amended to read:

15 (e) Except as provided in this subsection, if a judgment is paid by
 16 structured settlement type periodic payments, the [THE] court shall [MAY] require
 17 security be posted in the form of United States government obligations [.] in order
 18 to ensure that funds are available as periodic payments become due. The court may
 19 not require security to be posted if the state, a self-insured municipality, or an
 20 authorized insurer, as defined in AS 21.90.900, acknowledges to the court its
 21 obligation to discharge the judgment, provided that an authorized insurer must be
 22 rated by two nationally recognized independent rating agencies to be in the two
 23 highest categories of quality and financial soundness. If a judgment is paid by
 24 annuity type period payments, the court shall require the annuity be purchased
 25 from an authorized insurer that is rated by two nationally recognized independent
 26 rating agencies to be in the two highest categories of quality and financial
 27 soundness. The injured party shall determine whether a structured settlement or
 28 an annuity is the source of the periodic payments. The injured party may not be
 29 required to accept a structured settlement or annuity from the defendant's or
 30 other party's insurer or from any affiliated companies of the insurer.

31 * Sec. 14. AS 09.17.040(f) is amended to read:

1 (f) A judgment ordering payment of future damages **for personal injury or**
 2 **death** by periodic payment shall specify the recipient, the dollar amount of the
 3 payments, **including any increases in future payments for anticipated inflation**, the
 4 interval between payments, and the number of payments or the period of time over
 5 which payments shall be made. Payments may be modified only in the event of the
 6 death of the judgment creditor, in which case payments may not be reduced or
 7 terminated, but shall be paid to persons to whom the judgment creditor owed a duty
 8 of support, as provided by law, immediately before death. In the event the judgment
 9 creditor owed no duty of support to dependents at the time of the judgment creditor's
 10 death, the money remaining shall be distributed in accordance with a will of the
 11 deceased judgment creditor accepted into probate or under the intestate laws of the
 12 state if the deceased had no will. **In this subsection, "inflation" means the change**
 13 **in the consumer price index for United States city average, all urban consumers,**
 14 **all items indices, compiled by the Bureau of Labor Statistics, United States**
 15 **Department of Labor.**

16 * **Sec. 15.** AS 09.17.070 is repealed and reenacted to read:

17 **Sec. 09.17.070. Collateral benefits.** (a) A claimant in an action for personal
 18 injury or death may only recover damages that exceed amounts received by the
 19 claimant, or that with reasonable probability will be received in the future by the
 20 claimant, as compensation for the injuries from collateral sources, whether private,
 21 group, or governmental, and whether contributory or noncontributory, except when

22 (1) the collateral source is a federally funded program that by law must
 23 seek subrogation;

24 (2) the collateral source has a right of subrogation under federal law;

25 (3) the collateral source is the payment of a dependent child's medical
 26 bills by the injured child's parent that does not result from insurance coverage;

27 (4) the benefit consists of death benefits paid under life insurance; or

28 (5) the benefit consists of workers' compensation benefits received
 29 under AS 23.30.

30 (b) A person defending a claim may introduce into evidence at trial an amount
 31 paid or payable as a benefit to the claimant as a result of the personal injury or death

1 under 42 U.S.C. 301 - 1397 (Social Security Act); a federal disability act; health,
 2 sickness, disability, accident, or income-disability insurance; insurance that provides
 3 health benefits or income-disability coverage; and a contract or agreement of a group,
 4 organization, partnership, or corporation, or other collateral source, to provide, pay for,
 5 or reimburse the cost of medical, hospital, dental, or other health care services,
 6 disability, or lost wages. However, evidence of a collateral source described under
 7 (a)(1) - (5) of this section may not be introduced into evidence at trial. If a person
 8 defending a claim elects to introduce evidence described in this subsection, the
 9 claimant may introduce evidence of the amount that the claimant has paid or
 10 contributed to secure the claimant's right to the collateral benefit, including the cost
 11 to the claimant resulting from depleted or exhausted coverage.

12 (c) A person who provides a collateral benefit admissible under (b) of this
 13 section may not recover an amount against the claimant as reimbursement for those
 14 benefits and may not be subrogated to the rights of a claimant against a person
 15 defending a claim.

16 * **Sec. 16.** AS 09.17.080(a) is amended to read:

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

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

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

30 * **Sec. 17.** AS 09.17.080(b) is amended to read:

31 (b) In determining the percentages of fault, the trier of fact shall consider both

1 the nature of the conduct of each **person** [PARTY] at fault, and the extent of the
 2 causal relation between the conduct and the damages claimed. [THE TRIER OF
 3 FACT MAY DETERMINE THAT TWO OR MORE PERSONS ARE TO BE
 4 TREATED AS A SINGLE PARTY IF THEIR CONDUCT WAS A CAUSE OF THE
 5 DAMAGES CLAIMED AND THE SEPARATE ACT OR OMISSION OF EACH
 6 PERSON CANNOT BE DISTINGUISHED.]

7 * **Sec. 18.** AS 09.17.080(c) is amended to read:

8 (c) The court shall determine the award of damages to each claimant in
 9 accordance with the findings [, SUBJECT TO A REDUCTION UNDER
 10 AS 09.16.040,] and enter judgment against each party liable. The court also shall
 11 determine and state in the judgment each party's equitable share of the obligation to
 12 each claimant in accordance with the respective percentages of fault **as determined**
 13 **under (a) of this section. Except as provided under AS 23.30.015(g), an**
 14 **assessment of a percentage of fault against a person who is not a party may only**
 15 **be used as a measure for accurately determining the percentages of fault of a**
 16 **named party. Assessment of a percentage of fault against a person who is not a**
 17 **party does not subject that person to civil liability in that action and may not be**
 18 **used as evidence of civil liability in another action.**

19 * **Sec. 19.** AS 09.17.900 is amended to read:

20 **Sec. 09.17.900. Definition.** In this chapter, "fault" includes acts or omissions
 21 that are in any measure negligent, [OR] reckless, **or intentional** toward the person or
 22 property of the actor or others, or that subject a person to strict tort liability. The term
 23 also includes breach of warranty, unreasonable assumption of risk not constituting an
 24 enforceable express consent, misuse of a product for which the defendant otherwise
 25 would be liable, and unreasonable failure to avoid an injury or to mitigate damages.
 26 Legal requirements of causal relation apply both to fault as the basis for liability and
 27 to contributory fault.

28 * **Sec. 20.** AS 09.20 is amended by adding a new section to read:

29 **Sec. 09.20.185. Expert witness qualification.** (a) In an action based on
 30 professional negligence, a person may not testify as an expert witness on the issue of
 31 the appropriate standard of care unless the witness is

1 (1) a professional who is licensed in this state or in another state or
2 country;

3 (2) trained and experienced in the same discipline or school of practice
4 as the defendant or in an area directly related to a matter at issue; and

5 (3) certified by a board recognized by the state as having acknowledged
6 expertise and training directly related to the particular field or matter at issue; however,
7 this paragraph does not apply if a board does not exist that could certify the witness
8 in the particular field or matter at issue.

9 * **Sec. 21.** AS 09.30.065 is amended to read:

10 **Sec. 09.30.065. Offers of judgment.** At any time more than 10 days before
11 the trial begins, either the party making a claim or the party defending against a claim
12 may serve upon the adverse party an offer to allow judgment to be entered in complete
13 satisfaction of the claim for the money or property or to the effect specified in the
14 offer, with costs then accrued. If within 10 days after the service of the offer the
15 adverse party serves written notice that the offer is accepted, either party may then file
16 the offer and notice of acceptance together with proof of service, and the clerk shall
17 enter judgment. An offer not accepted within 10 days is considered withdrawn, and
18 evidence of that offer is not admissible except in a proceeding to determine the form
19 of judgment after verdict. If the judgment finally entered on the claim as to which an
20 offer has been made under this section is **at least five percent, less** [NOT MORE]
21 **favorable to the offeree than the offer, the offeree, whether the party making the**
22 **claim or defending against the claim, shall pay all costs as allowed under the**
23 **Alaska Rules of Civil Procedure and shall pay reasonable actual attorney fees**
24 **incurred by the offeror from the date the offer was made,** [THE INTEREST
25 AWARDED UNDER AS 09.30.070 AND ACCRUED UP TO THE DATE
26 JUDGMENT IS ENTERED SHALL BE ADJUSTED] as follows:

27 (1) if the **offer was served no later than 60 days after both parties**
28 **made the disclosures required by the Alaska Rules of Civil Procedure the offeree**
29 **shall pay 100 percent of the offeror's reasonable actual attorney fees** [OFFEREE
30 IS THE PARTY MAKING THE CLAIM, THE INTEREST RATE SHALL BE
31 REDUCED BY FIVE PERCENT A YEAR];

1 (2) if the offer was served more than 60 days after both parties
 2 made the disclosures required by the Alaska Rules of Civil Procedure but more
 3 than 90 days before the trial began, the offeree shall pay 75 percent of the
 4 offeror's reasonable actual attorney fees;

5 (3) if the offer was served 90 days or less but more than 10 days
 6 before the trial began, the offeree shall pay 50 percent of the offeror's reasonable
 7 actual attorney fees [OFFEREE IS THE PARTY DEFENDING AGAINST THE
 8 CLAIM, THE INTEREST RATE SHALL BE INCREASED BY FIVE PERCENT A
 9 YEAR].

10 * **Sec. 22.** AS 09.30.065 is amended by adding new subsections to read:

11 (b) If an offeror receives costs and reasonable actual attorney fees under (a)
 12 of this section, that offeror shall be considered the prevailing party for purposes of an
 13 award of attorney fees under the Alaska Rules of Civil Procedure. Notwithstanding
 14 (a) of this section, if the amount awarded an offeror for attorney fees under the Alaska
 15 Rules of Civil Procedure is greater than a party would receive under (a) of this section,
 16 the offeree shall pay to the offeror attorney fees specified under the Alaska Rules of
 17 Civil Procedure and is not required to pay reasonable actual attorney fees under (a) of
 18 this section. A party who receives attorney fees under this section may not also
 19 receive attorney fees under the Alaska Rules of Civil Procedure.

20 (c) If an offeror makes more than one offer of judgment, the last offer served
 21 on the adverse party shall be considered to be a revocation of any prior offer of
 22 judgment.

23 * **Sec. 23.** AS 09.30.070(a) is amended to read:

24 (a) **Notwithstanding AS 45.45.010, the** [THE] rate of interest on judgments
 25 and decrees for the payment of money, **including prejudgment interest, is three**
 26 **percentage points above the 12th Federal Reserve District discount rate in effect**
 27 **on January 2 of the year in which the judgment or decree is entered** [10.5
 28 PERCENT A YEAR], except that a judgment or decree founded on a contract in
 29 writing, providing for the payment of interest until paid at a specified rate not
 30 exceeding the legal rate of interest for that type of contract, bears interest at the rate
 31 specified in the contract if the interest rate is set out in the judgment or decree.

1 * **Sec. 24.** AS 09.30.070 is amended by adding a new subsection to read:

2 (c) Prejudgment interest may not be awarded for future economic damages,
3 future noneconomic damages, or punitive damages.

4 * **Sec. 25.** AS 09.50.280 is amended to read:

5 **Sec. 09.50.280. Judgment for plaintiff; punitive damages.** If judgment is
6 rendered for the plaintiff, it shall be for the legal amount found due from the state with
7 [LEGAL] interest **as provided under AS 09.30.070** [FROM THE DATE IT BECAME
8 DUE] and without punitive damages.

9 * **Sec. 26.** AS 09.55.440(a) is amended to read:

10 (a) Upon the filing of the declaration of taking and the deposit with the court
11 of the amount of the estimated compensation stated in the declaration, title to the estate
12 as specified in the declaration vests in the plaintiff, and that property is condemned
13 and taken for the use of the plaintiff, and the right to just compensation for it vests in
14 the persons entitled to it. The compensation shall be ascertained and awarded in the
15 proceeding and established by judgment. The judgment must include interest at the
16 rate **of 10.5 percent a year** [SET OUT IN AS 09.30.070] on the amount finally
17 awarded **that** [WHICH] exceeds the amount paid into court under the declaration of
18 taking. The interest runs from the date title vests to the date of payment of the
19 judgment.

20 * **Sec. 27.** AS 09.55.535(k) is amended to read:

21 (k) The provisions of AS 09.43.010 - 09.43.180 (Uniform Arbitration Act)
22 apply to arbitrations under this section if they do not conflict with the provisions of
23 this section; arbitrations under this section shall be conducted in accordance with
24 procedures established by any rules of court which may be adopted and according to
25 provisions of **AS 09.55.540 - 09.55.547, 09.55.554 - 09.55.560** [AS 09.55.540 -
26 09.55.548 AND AS 09.55.554 - 09.55.560], and AS 09.65.090.

27 * **Sec. 28.** AS 09.55.536(a) is amended to read:

28 (a) In an action for damages due to personal injury or death based upon
29 the provision of professional services by a health care provider, **including a person**
30 **providing services on behalf of a governmental entity**, when the parties have not
31 agreed to arbitration of the claim under AS 09.55.535, the court shall appoint within

1 20 days after filing of answer to a summons and complaint a three-person expert
 2 advisory panel unless the court decides that an expert advisory opinion is not necessary
 3 for a decision in the case. When the action is filed, the court shall, by order,
 4 determine the professions or specialties to be represented on the expert advisory panel,
 5 giving the parties the opportunity to object or make suggestions.

6 * **Sec. 29.** AS 09.55.536(c) is amended to read:

7 (c) Not more than 30 days after selection of the panel, **the panel** [IT] shall
 8 make a written report to the parties and to the court, answering the following questions
 9 and other questions submitted to the panel by the court **in sufficient detail to explain**
 10 **the case and the reasons for the panel's answers:**

11 (1) **Why did the claimant seek** [WHAT WAS THE DISORDER FOR
 12 WHICH THE PLAINTIFF CAME TO] medical care?

13 (2) **Was a correct diagnosis made? If not, what was incorrect**
 14 **about the diagnosis** [WHAT WOULD HAVE BEEN THE PROBABLE OUTCOME
 15 WITHOUT MEDICAL CARE]?

16 (3) Was the treatment **or lack of treatment** [SELECTED] appropriate?
 17 **If not, what was inappropriate about the treatment or lack of treatment** [FOR
 18 THE CASE]?

19 (4) **Was the claimant injured during the course of evaluation or**
 20 **treatment or by failure to diagnose or treat** [DID AN INJURY ARISE FROM THE
 21 MEDICAL CARE]?

22 (5) **If the answer to question 4 is "yes," what** [WHAT] is the nature
 23 and extent of the medical injury?

24 (6) What specifically caused the medical injury?

25 (7) Was the medical injury caused by unskillful care? **Explain.**

26 (8) If a medical injury had not occurred, **what would have been the**
 27 **likely outcome of the medical case** [HOW WOULD THE PLAINTIFF'S
 28 CONDITION DIFFER FROM THE PLAINTIFF'S PRESENT CONDITION]?

29 * **Sec. 30.** AS 09.55.536(f) is amended to read:

30 (f) Discovery may not be undertaken in a case until the report of the expert
 31 advisory panel is received **or 60 days after selection of the panel, whichever occurs**

1 **first.** However, the court may relax this prohibition upon a showing of good cause by
 2 any party. If the panel has not completed its report within the 30-day period
 3 prescribed in (c) of this section, the court may, upon application, grant **the panel** [IT]
 4 an additional 30 days.

5 * **Sec. 31.** AS 09.55.536 is amended by adding a new subsection to read:

6 (i) This section applies regardless of whether a party in the action or the health
 7 care provider whose professional services are the subject of the action is a
 8 governmental entity or in the public or private sector.

9 * **Sec. 32.** AS 09.55.560(1) is amended to read:

10 (1) "health care provider" means an acupuncturist licensed under
 11 AS 08.06; an audiologist licensed under AS 08.11; a chiropractor licensed under
 12 AS 08.20; a dental hygienist licensed under AS 08.32; a dentist licensed under
 13 AS 08.36; a nurse licensed under AS 08.68; a dispensing optician licensed under
 14 AS 08.71; a naturopath licensed under AS 08.45; an optometrist licensed under
 15 AS 08.72; a pharmacist licensed under AS 08.80; a physical therapist or occupational
 16 therapist licensed under AS 08.84; a physician licensed under AS 08.64; a podiatrist;
 17 a psychologist and a psychological associate licensed under AS 08.86; [AND] a
 18 hospital as defined in AS 18.20.130, including a governmentally owned or operated
 19 hospital; [AND] an employee of a health care provider acting within the course and
 20 scope of employment; **an ambulatory surgical facility and other organizations**
 21 **whose primary purpose is the delivery of health care, including a health**
 22 **maintenance organization, individual practice association, integrated delivery**
 23 **system, preferred provider organization or arrangement, and a physical hospital**
 24 **organization.**

25 * **Sec. 33.** AS 09.55.560 is amended by adding new paragraphs to read:

26 (4) "professional negligence" means a negligent act or omission by a
 27 health care provider in rendering professional services;

28 (5) "professional services" means service provided by a health care
 29 provider that is within the scope of services for which the health care provider is
 30 licensed and that is not prohibited under the health care provider's license or by a
 31 facility in which the health care provider practices.

1 * **Sec. 34.** AS 09.60 is amended by adding a new section to read:

2 **Sec. 09.60.080. Contingent fee agreements.** If an attorney contracts for or
3 collects a contingency fee in connection with an action for personal injury, death, or
4 property damage and the damages awarded by a court or jury include an award of
5 punitive damages, the contingent fee due the attorney shall be calculated after that
6 portion of punitive damages due the state under AS 09.17.020(d) has been deducted
7 from the total award of damages.

8 * **Sec. 35.** AS 09.65 is amended by adding a new section to read:

9 **Sec. 09.65.085. Civil liability of electric utility.** (a) A utility offering
10 electrical service to the public for compensation under a certificate of public
11 convenience and necessity issued by the Alaska Public Utilities Commission under
12 AS 42.05.221 may not be held strictly liable for property damage, death, or personal
13 injury resulting from an act or omission of the utility relating to the production or
14 delivery of electrical service.

15 (b) This section does not preclude liability for civil damages that are the result
16 of an intentional, reckless, or negligent act or omission.

17 * **Sec. 36.** AS 09.65 is amended by adding a new section to read:

18 **Sec. 09.65.096. Civil liability of hospitals for certain physicians.** (a) A
19 hospital is not liable for civil damages as a result of an act or omission by an
20 emergency room physician who is not an employee or actual agent of the hospital if
21 the hospital provides notice that the emergency room physician is an independent
22 contractor and the emergency room physician is insured as described under (c) of this
23 section. The hospital is responsible for exercising reasonable care in granting
24 privileges to practice in the hospital, for reviewing those privileges on a regular basis,
25 and for taking appropriate steps to revoke or restrict privileges in appropriate
26 circumstances. The hospital is not otherwise liable for the acts or omissions of an
27 emergency room physician who is an independent contractor. The notice required by
28 this subsection must be posted conspicuously in all admitting areas of the hospital,
29 published at least annually in a newspaper of general circulation in the area, and must
30 be in substantially the following form:

31 Notice of Limited Liability

1 The following emergency room physicians are independent
2 contractors and are not employees of the hospital:

3 (List specific emergency room physicians)

4 (b) This section does not preclude liability for civil damages that are the
5 proximate result of the hospital's negligence or intentional misconduct.

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

12 (d) In this section,

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

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

17 (3) "independent contractor" means an emergency room physician who
18 is not an employee or actual agent of the hospital in connection with the rendition of
19 the health care services.

20 * **Sec. 37.** AS 09.65.210 is repealed and reenacted to read:

21 **Sec. 09.65.210. Damages resulting from commission of a felony or while**
22 **under the influence of alcohol or drugs.** A person who suffers personal injury or
23 death or the person's personal representative under AS 09.55.570 or 09.55.580 may not
24 recover damages for the personal injury or death if the injury or death occurred while
25 the person was

26 (1) engaged in the commission of a felony, the person has been
27 convicted of the felony, including conviction based on a guilty plea or plea of nolo
28 contendere, and the felony substantially contributed to the personal injury or death;

29 (2) engaged in conduct that would constitute the commission of an
30 unclassified felony, a class A, or a class B felony for which the person was not
31 convicted and the conduct

1 (A) substantially contributed to the personal injury or death; and
 2 (B) is proven by the defendant in the civil trial by clear and
 3 convincing evidence;

4 (3) fleeing after the commission, by that person, of conduct that would
 5 constitute an unclassified felony, a class A felony, or a class B felony or being
 6 apprehended for conduct that would constitute an unclassified felony, a class A felony,
 7 or a class B felony if the conduct

8 (A) during the flight or apprehension substantially contributed
 9 to the injury or death; and

10 (B) is proven by the defendant in the civil trial by clear and
 11 convincing evidence;

12 (4) operating a vehicle, aircraft, or watercraft while under the influence
 13 of intoxicating liquor or any controlled substance in violation of AS 28.35.030, was
 14 convicted, including conviction based on a guilty plea or plea of nolo contendere, and
 15 the conduct substantially contributed to the personal injury or death; or

16 (5) engaged in conduct that would constitute a violation of
 17 AS 28.35.030 for which the person was not convicted if the conduct substantially
 18 contributed to the personal injury or death and the conduct is proven by the defendant
 19 in the civil trial by clear and convincing evidence.

20 * **Sec. 38.** AS 09.68 is amended by adding a new section to read:

21 **Sec. 09.68.130. Collection of settlement information.** (a) Except as
 22 provided in (c) of this section, the Alaska Judicial Council shall collect and evaluate
 23 information relating to the compromise or other settlement of all civil litigation. The
 24 information, including the case name and file number, a general description of the
 25 claims being settled, the dollar amount of the settlement, to whom the settlement was
 26 paid, and any nonmonetary terms, shall be collected on a form developed by the
 27 council for that purpose.

28 (b) The information received by the council under (a) of this section is
 29 confidential. This restriction does not prevent the disclosure of summaries and
 30 statistics in a manner that does not allow the identification of particular cases or
 31 parties.

1 (c) The requirements of (a) of this section do not apply to the following types
2 of cases:

3 (1) divorce and dissolution;

4 (2) adoption, custody, support, visitation, and emancipation of children;

5 (3) children-in-need-of-aid cases under AS 47.10 or delinquent minors
6 cases under 47.12;

7 (4) domestic violence protective orders under AS 18.66.100 -
8 18.66.180;

9 (5) estate, guardianship, and trust cases filed under AS 13;

10 (6) small claims under AS 22.15.040.

11 * **Sec. 39.** AS 21.06 is amended by adding a new section to read:

12 **Sec. 21.06.087. Insurance report.** (a) The director shall require reporting of
13 and shall compile information necessary to evaluate the effect of the measures enacted
14 in this Act on the availability and cost of insurance in the state.

15 (b) Information described in (a) of this section shall be provided by all insurers
16 doing business in this state in the format specified by the director and must include
17 factual information stating premiums, claims, losses, expenses, and solvency of the
18 company as a whole. Information shall be compiled by the division in a way that
19 protects the identity of individual insureds.

20 (c) The director shall adopt regulations to implement and interpret this section,
21 including requiring insurers doing business in the state to provide information
22 necessary for the division to carry out its responsibilities under (a) and (b) of this
23 section. If there are indications of market disruption, the director may waive all or
24 part of the reporting requirements in this section.

25 (d) Beginning June 1, 2000, the information compiled under (a) of this section
26 shall be reported annually to the governor and the judiciary committees of both houses
27 of the legislature.

28 (e) The division may consult with the Alaska Judicial Council when
29 determining what information to require to be reported under (a) - (c) of this section
30 and when implementing the compilation required under (a) of this section.

31 * **Sec. 40.** AS 21.89.100(d) is amended to read:

1 (d) If the insured selects independent counsel at the insurer's expense, the
 2 insurer may require that the independent counsel have at least four years of experience
 3 in civil litigation, including defense experience in the general subject area at issue in
 4 the civil action, and malpractice insurance. Unless otherwise provided in the insurance
 5 policy, the obligation of the insurer to pay the fee charged by the independent counsel
 6 is limited to the rate that is actually paid by the insurer to an attorney in the ordinary
 7 course of business in the defense of a similar civil action in the community in which
 8 the claim arose or is being defended. **In providing independent counsel, the insurer**
 9 **is not responsible for the fees and costs of defending an allegation for which**
 10 **coverage is properly denied and shall be responsible only for the fees and costs**
 11 **to defend those allegations for which the insurer either reserves its position as to**
 12 **coverage or accepts coverage. The independent counsel shall keep detailed**
 13 **records allocating fees and costs accordingly.** A dispute between the insurer and
 14 insured regarding attorney fees that is not resolved by the insurance policy or this
 15 section shall be resolved by arbitration under AS 09.43.

16 * **Sec. 41.** AS 21.89.100 is amended by adding a new subsection to read:

17 (h) When an insured is represented by independent counsel, the insurer may
 18 settle directly with the plaintiff if the settlement includes all claims based upon the
 19 allegations for which the insurer previously reserved its position as to coverage or
 20 accepted coverage, regardless of whether the settlement extinguishes all claims against
 21 the insured.

22 * **Sec. 42.** AS 23.30.015(g) is amended to read:

23 (g) If the employee or the employee's representative recovers damages from
 24 the third person, the employee or representative shall promptly pay to the employer the
 25 total amounts paid by the employer under ~~(e)(1)(A) - (C)~~ [(e)(1)(A), (B), AND (C)]
 26 of this section [,] insofar as the recovery is sufficient after deducting all litigation costs
 27 and expenses. Any excess recovery by the employee or representative shall be
 28 credited against any amount payable by the employer thereafter. **If the employer is**
 29 **allocated a percentage of fault under AS 09.17.080, the amount due the employer**
 30 **under this subsection shall be reduced by an amount equal to the employer's**
 31 **equitable share of damages assessed under AS 09.17.080(c).**

1 * **Sec. 43.** AS 44.77.015(a) is amended to read:

2 (a) For the purposes of filing claims for medical services provided under
3 AS 47.07 or AS 47.25.120 - 47.25.300, "promptly," in AS 44.77.010(a), means (1)
4 within six months after the date of service, or as provided in (b) of this section, if
5 there is no third-party claim, or (2) within 12 months after the date of service if there
6 is a third-party claim. Except as provided in (c) of this section, a claim may not be
7 paid if it is not filed promptly; an inference to the contrary may not be drawn from
8 AS 09.10.053 [AS 09.10.050], AS 09.50.250 - 09.50.300, or AS 37.25.010.

9 * **Sec. 44.** Rule 16.1(c), Alaska Rules of Civil Procedure, is amended to read:

10 (c) **Motion to Set Trial and Certificate.** Unless otherwise ordered by the
11 court, a [A] motion to set trial may not be filed until after the meeting of parties
12 under (n) of this rule has occurred and the scheduling order under Rule 16(b) has
13 been issued [105 DAYS AFTER SERVICE OF THE SUMMONS AND
14 COMPLAINT]. A party seeking to obtain a trial date must serve and file a motion to
15 set trial together with a certificate, signed by counsel, stating:

- 16 (1) That the issues in the case have actually been joined;
- 17 (2) That all parties have completed discovery or have a reasonable
18 opportunity to do so within the next 60 days;
- 19 (3) That the procedure for listing witnesses and exhibits and providing
20 exhibit copies, as set forth in [PARAGRAPH] (d) of this rule has been completed;
- 21 (4) Whether trial by jury has been timely demanded;
- 22 (5) The estimated number of days for the trial, including estimates for
23 each party's case and for jury selection;
- 24 (6) The names, addresses and telephone numbers of all attorneys and
25 pro se parties who are responsible for the conduct of the litigation;
- 26 (7) Which, if any, statute or rule entitles the case to preference on the
27 trial calendar;
- 28 (8) That the parties have complied with [PARAGRAPH] (k) of this
29 rule.

30 * **Sec. 45.** Rule 16.1(n), Alaska Rules of Civil Procedure, is repealed and reenacted to read:

31 (n) **Meeting of Parties.** Except when otherwise ordered, the parties shall, as

1 soon as practicable after the exchange of initial disclosures required under Rule
 2 26(a)(1) and in any event at least 14 days before a scheduling conference is held or
 3 a scheduling order is due under Rule 16(b), meet to discuss the nature and basis of
 4 their claims and defenses and the possibilities for a prompt settlement of the case and
 5 to develop a proposed discovery plan. The attorneys of record and all unrepresented
 6 parties that have appeared in the case are jointly responsible for arranging and being
 7 present or represented at the meeting, for attempting in good faith to agree on the
 8 proposed discovery plan, and for submitting to the court within 10 days after the
 9 meeting a written report outlining the proposed discovery plan. The proposed
 10 discovery plan shall indicate the parties' views and proposals concerning

11 (1) what changes should be made in the timing or forms of subsequent
 12 disclosures under the rules, including a statement as to when the disclosures required
 13 under Rule 26(a) were made;

14 (2) the subjects on which discovery may be needed, when discovery
 15 should be completed, and whether discovery should be conducted in phases or be
 16 limited to or focused upon particular issues;

17 (3) what changes should be made in the limitations on discovery
 18 imposed under these rules and what other limitations should be imposed;

19 (4) whether a scheduling conference is unnecessary;

20 (5) whether there will be dispositive or partially dispositive motions
 21 filed in the case and whether other deadlines should be set aside pending resolution of
 22 the dispositive or partially dispositive motions by the court; and

23 (6) any other orders that should be entered by the court under Civil
 24 Rule 16(b) and (c).

25 * **Sec. 46.** Rule 41(a), Alaska Rules of Civil Procedure, is amended by adding a new
 26 paragraph to read:

27 (3) **Settlement Information.** If a voluntary dismissal under this rule
 28 is the result of compromise or other settlement of the parties, the parties shall submit
 29 to the Alaska Judicial Council the information required under AS 09.68.130. A notice
 30 of dismissal made under (1)[a] of this subsection must be accompanied by a
 31 certification signed by or on behalf of the plaintiff that the information required under

1 AS 09.68.130 has been submitted to the Alaska Judicial Council. A stipulation of
2 dismissal made under (1)[b] of this subsection must be accompanied by a certification
3 signed by or on behalf of all parties who have appeared in the action. The
4 requirements of this paragraph do not apply to the types of cases listed in
5 AS 09.68.130(c).

6 * **Sec. 47.** Rule 72.1(g), Alaska Rules of Civil Procedure, is amended to read:

7 (g) **Discovery.** Except by leave of court, no discovery may be conducted until
8 the report of the Panel has been filed or until 60 [80] days **after selection of the Panel**
9 [HAVE ELAPSED FROM THE DATE THE CASE IS AT ISSUE], whichever is first
10 to occur, unless discovery is further stayed for good cause by order of the court.

11 * **Sec. 48.** Rule 95(b), Alaska Rules of Civil Procedure, is amended to read:

12 (b) In addition to its authority under (a) of this rule and its power to punish
13 for contempt, a court may, after reasonable notice and an opportunity to show cause
14 to the contrary, and after hearing by the court, if requested, impose a fine not to
15 exceed \$10,000.00 [\$1,000.00] against any attorney who practices before it for failure
16 to comply with these rules or any rules promulgated by the supreme court.

17 * **Sec. 49.** Rule 95, Alaska Rules of Civil Procedure, is amended by adding a new
18 subsection to read:

19 (c) If the trier of fact determines that a party to a civil action has intentionally
20 made a false statement of a material fact in connection with the prosecution or defense
21 of a civil action, the court shall enter judgment against the party making the false
22 statement on the issue to which the false statement relates. If the civil action involves
23 multiple claims and the false statement does not apply to all claims, the judgment
24 required under this subsection shall apply only to those claims to which the false
25 statement relates.

26 * **Sec. 50.** Rule 511, Alaska Rules of Appellate Procedure, is amended by adding a new
27 subsection to read:

28 (e) **Settlement Information.** If a dismissal under (a) or (b) of this rule is the
29 result of compromise or other settlement between the parties, the parties shall submit
30 to the Alaska Judicial Council the information required under AS 09.68.130. A
31 dismissal by agreement under (a) of this rule must be accompanied by a certification

1 signed by the attorneys of record for all parties that the information required under
2 AS 09.68.130 has been submitted to the Alaska Judicial Council. A dismissal by the
3 appellant or petitioner made under (b) of this rule must be accompanied by a
4 certification signed by the appellant's or petitioner's attorney of record. The
5 requirements of this subsection do not apply to the types of cases listed in
6 AS 09.68.130(c).

7 * **Sec. 51.** Rule 16.1(k)(4), Alaska Rules of Civil Procedure, is repealed.

8 * **Sec. 52.** AS 09.55.548 is repealed.

9 * **Sec. 53.** AS 09.17.020(d), as enacted by sec. 10 of this Act, has the effect of amending
10 Rule 58, Alaska Rules of Civil Procedure, by requiring the court to require that a certain
11 percentage of an award of punitive damages be deposited into the general fund.

12 * **Sec. 54.** AS 09.17.040(a), as amended by sec. 11 of this Act, has the effect of amending
13 Rule 58, Alaska Rules of Civil Procedure, by requiring the court to reduce an award of
14 damages by certain tax rates in effect on the date of injury or death if taxable.

15 * **Sec. 55.** AS 09.17.040(d), as amended by sec. 12 of this Act, has the effect of amending
16 Rule 58, Alaska Rules of Civil Procedure, by requiring that certain judgments be paid
17 periodically if requested by a party, with a lump sum payment for certain attorney fees.

18 * **Sec. 56.** AS 09.17.040(e), as amended by sec. 13 of this Act, has the effect of amending
19 Rule 58, Alaska Rules of Civil Procedure, by imposing certain requirements when a judgment
20 is paid by periodic payments.

21 * **Sec. 57.** AS 09.17.040(f), as amended by sec. 14 of this Act, has the effect of amending
22 Rule 58, Alaska Rules of Civil Procedure, by requiring that certain judgments include any
23 increases for future inflation.

24 * **Sec. 58.** AS 09.17.080(a), as amended by sec. 16 of this Act, has the effect of amending
25 Rule 49, Alaska Rules of Civil Procedure, by requiring the jury to answer the special
26 interrogatory listed in AS 09.17.080(a)(2) regarding the percentages of fault to be allocated
27 among the claimants, defendants, third-party defendants, persons who have been released from
28 liability, or other person who is responsible for the damages.

29 * **Sec. 59.** AS 09.20.185, enacted by sec. 20 of this Act, has the effect of amending
30 Rule 702, Alaska Rules of Evidence, by requiring certain qualifications from a person
31 testifying as an expert witness.

1 * **Sec. 60.** AS 09.30.065, as amended by secs. 21 and 22 of this Act, has the effect of
2 amending Rule 68, Alaska Rules of Civil Procedure, by requiring the offeree to pay costs and
3 reasonable actual attorney fees on a sliding scale of percentages in certain cases, by
4 eliminating provisions relating to interest and by providing that a subsequent offer revokes
5 prior offers.

6 * **Sec. 61.** AS 09.30.070(c), added by sec. 24 of this Act, has the effect of amending
7 Rule 58, Alaska Rules of Civil Procedure, by providing that prejudgment interest may not be
8 awarded for future economic or noneconomic damages.

9 * **Sec. 62.** ALTERNATIVE DISPUTE RESOLUTION. (a) It is the intent of this
10 legislation to create a pilot alternative dispute resolution procedure within the existing civil
11 litigation system in order to promote the timely, inexpensive, and efficient resolution of civil
12 disputes.

13 (b) The Alaska Judicial Council shall consult with the Alaska Dispute Settlement
14 Association, review court sanctioned alternative dispute resolution programs in other states and
15 in the federal court system, and make recommendations to assist the legislature and the Alaska
16 Court System in the establishment of a pilot program for alternative dispute resolution within
17 the Alaska Court System. The Alaska Judicial Council shall submit a written report to the
18 legislature and to the Alaska Supreme Court within six months after the effective date of this
19 Act. The report must include specific types of programs, specific types of cases within each
20 program that are amenable to alternative dispute resolution, the cost to the parties and to the
21 Alaska Court System under these programs, and the qualifications of the neutral parties,
22 including nonlawyers, who will provide dispute resolution services under the program.

23 (c) In this section, "alternative dispute resolution" is limited to arbitration, mediation,
24 and early neutral evaluation.

25 * **Sec. 63.** APPLICABILITY. This Act applies to all causes of action accruing on or after
26 the effective date of this Act.

27 * **Sec. 64.** SEVERABILITY. Under AS 01.10.030, if any provision of this Act or the
28 application of a provision of this Act to any person or circumstance is held invalid, the
29 remainder of this Act and the application to other persons shall not be affected.

30 * **Sec. 65.** This Act takes effect July 1, 1997.