

SENATE CS FOR CS FOR SS FOR HOUSE BILL NO. 58(RLS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE

Offered: 4/16/97

Referred: Calendar

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, 26, 41, 49,**
3 **58, 68, 72.1, 82, and 95, Alaska Rules of Civil Procedure; amending Rules 1 and**
4 **4, District Court Rules of Civil Procedure; amending Rule 702, Alaska Rules of**
5 **Evidence; and amending Rule 511, Alaska Rules of Appellate Procedure."**

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 emergency room physicians who are acting as
15 independent contractors; to this extent, this Act is intended to overrule *Jackson v. Powers*, 743
16 P.2d 1376 (Alaska 1987);

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

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

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

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

30 (11) ensure that this Act does not apply to or in any way have an effect on
31 existing litigation or a civil cause of action that accrues before the effective date of this Act;

1 it is the specific intent of the legislature that this Act not apply to or in any way have an
 2 effect on In Re Exxon Valdez, A89-0095 Civ. (D.Alaska) or any other federal admiralty action
 3 now or in the future.

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

5 (h) After the payment of all other claims, including interest at the rate **of 10.5**
 6 **percent a year** [ESTABLISHED UNDER AS 09.30.070], the department shall pay
 7 claims that are otherwise valid but that were not filed within the time prescribed.

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

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

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

13 **Sec. 09.10.053. Contract actions to be brought in three years.** Unless the
 14 action is commenced within three years, a person may not bring an action upon a
 15 contract or liability, express or implied, except as provided in AS 09.10.040, the
 16 provisions of this section may be waived by contract, or as otherwise provided by law.

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

18 **Sec. 09.10.055. Statute of repose of 10 years.** (a) Notwithstanding the
 19 disability of minority described under AS 09.10.140(a), a person may not bring an
 20 action for personal injury, death, or property damage unless commenced within 10
 21 years of the earlier of the date of

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

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

31 (b) This section does not apply if

- 1 (1) the personal injury, death, or property damage resulted from
 2 (A) prolonged exposure to hazardous waste;
 3 (B) an intentional act or gross negligence;
 4 (C) fraud or misrepresentation;
 5 (D) breach of an express warranty or guarantee; or
 6 (E) a defective product; in this subparagraph, "product" means
 7 an object that has intrinsic value, is capable of delivery as an assembled whole
 8 or as a component part, and is introduced into trade or commerce;
- 9 (2) the facts that would give notice of a potential cause of action are
 10 intentionally concealed;
- 11 (3) a shorter period of time for bringing the action is imposed under
 12 another provision of law;
- 13 (4) the provisions of this section are waived by contract; or
- 14 (5) the facts that would give notice of a potential cause of action of a
 15 minor are not discoverable in the exercise of reasonable care by the minor's parent or
 16 guardian.
- 17 (c) The limitation imposed under (a) of this section is tolled during any period
 18 in which there exists the undiscovered presence of a foreign body that has no
 19 therapeutic or diagnostic purpose or effect in the body of the injured person and the
 20 action is based on the presence of the foreign body.

21 * **Sec. 6.** AS 09.10.070(a) is amended to read:

22 (a) **Except as otherwise provided by law, a** [A] person may not bring an
 23 action (1) for libel, slander, assault, battery, seduction, **or** false imprisonment, **(2)**
 24 [OR] for **personal** [ANY] injury **or death**, [TO THE PERSON] or **injury to the** rights
 25 of another not arising on contract and not specifically provided otherwise; **(3) for**
 26 **taking, detaining, or injuring personal property, including an action for its**
 27 **specific recovery;** **(4)** [(2)] upon a statute for a forfeiture or penalty to the state; or
 28 **(5)** [(3)] upon a liability created by statute, other than a penalty or forfeiture; unless
 29 the action is commenced within two years **of the accrual of the cause of action.**

30 * **Sec. 7.** AS 09.10.140(a) is amended to read:

31 (a) **Except as provided under (c) of this section, if** [IF] a person entitled to

bring an action mentioned in this chapter is at the time the cause of action accrues either (1) under the age of majority, or (2) incompetent by reason of mental illness or mental disability, the time of a disability identified in (1) or (2) of this subsection is not a part of the time limit for the commencement of the action. Except as provided in (b) of this section, the period within which the action may be brought is not extended in any case longer than two years after the disability ceases.

* **Sec. 8.** AS 09.10.140 is amended by adding a new subsection to read:

(c) In an action for personal injury of a person who was under the age of eight years at the time of the injury, the time period before the person's eighth birthday is not a part of the time limit imposed under AS 09.10.070(a) for commencing the civil action.

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

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

(b) Except as provided under (c) of this section, the damages awarded by a court or a jury under (a) of this section for all claims, including a loss of consortium claim, arising out of a single injury or death may not exceed \$500,000 or the injured person's life expectancy in years multiplied by \$10,000, whichever is greater.

(c) In an action for personal injury, the damages awarded by a court or jury that are described under (b) of this section may not exceed \$1,500,000 or the person's life expectancy in years multiplied by \$30,000, whichever is greater, when the injured person, as a result of the injury,

(1) has lost, or has lost the functional use of, one or more limbs;

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

(3) has third degree burns over one-half or more of the claimant's body;

or

(4) is totally blind or totally deaf.

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

3 * **Sec. 10.** AS 09.17.020 is repealed and reenacted to read:

4 **Sec. 09.17.020. Punitive damages.** (a) In an action in which a claim of
5 punitive damages is presented to the fact finder, the fact finder shall determine,
6 concurrently with all other issues presented, whether punitive damages shall be allowed
7 by using the standards set out in (b) of this section. If punitive damages are allowed,
8 a separate proceeding under (c) of this section shall be conducted before the same fact
9 finder to determine the amount of punitive damages to be awarded.

10 (b) The fact finder may make an award of punitive damages only if the
11 plaintiff proves by clear and convincing evidence that the defendant's conduct

12 (1) was outrageous, including acts done with malice or bad motives;

13 or

14 (2) evidenced reckless indifference to the interest of another person.

15 (c) At the separate proceeding to determine the amount of punitive damages
16 to be awarded, the fact finder may consider

17 (1) the likelihood at the time of the conduct that serious harm would
18 arise from the defendant's conduct;

19 (2) the degree of the defendant's awareness of the likelihood described
20 in (1) of this subsection;

21 (3) the amount of financial gain the defendant gained or expected to
22 gain as a result of the defendant's conduct;

23 (4) the duration of the conduct and any intentional concealment of the
24 conduct;

25 (5) the attitude and conduct of the defendant upon discovery of the
26 conduct;

27 (6) the financial condition of the defendant; and

28 (7) the total deterrence of other damages and punishment imposed on
29 the defendant as a result of the conduct, including compensatory and punitive damages
30 awards to persons in situations similar to those of the plaintiff and the severity of the
31 criminal penalties to which the defendant has been or may be subjected.

1 (d) At the conclusion of the separate proceeding under (c) of this section, the
2 fact finder shall determine the amount of punitive damages to be awarded, and the
3 court shall enter judgment for that amount.

4 (e) Unless that evidence is relevant to another issue in the case, discovery of
5 evidence that is relevant to the amount of punitive damages to be determined under
6 (c)(3) or (6) of this section may not be conducted until after the fact finder has
7 determined that an award of punitive damages is allowed under (a) and (b) of this
8 section. The court may issue orders as necessary, including directing the parties to
9 have the information relevant to the amount of punitive damages to be determined
10 under (c)(3) or (6) of this section available for production immediately at the close of
11 the initial trial in order to minimize the delay between the initial trial and the separate
12 proceeding to determine the amount of punitive damages.

13 (f) Except as provided in (g) and (h) of this section, an award of punitive
14 damages may not exceed the greater of

15 (1) three times the amount of compensatory damages awarded to the
16 plaintiff in the action; or

17 (2) the sum of \$500,000.

18 (g) The amount of punitive damages awarded by a court or jury under (a) of
19 this section may not exceed four times the amount of compensatory damages awarded
20 or \$3,000,000, whichever amount is greater, if

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

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

28 (h) Notwithstanding any other provision of law, in an action against an
29 employer to recover damages for an unlawful employment practice prohibited by
30 AS 18.80.220, the amount of punitive damages awarded by the court or jury may not
31 exceed

- 1 (1) \$50,000 if the employer has less than 15 employees in this state;
 2 (2) \$100,000 if the employer has 15 or more but less than 100
 3 employees in this state;
 4 (3) \$300,000 if the employer has 100 or more but less than 200
 5 employees in this state;
 6 (4) \$400,000 if the employer has 200 or more but less than 500
 7 employees in this state; and
 8 (5) \$500,000 if the employer has 500 or more employees in this state.

9 (i) Subsection (h) of this section may not be construed to allow an award of
 10 punitive damages against the state or a person immune under another provision of law.
 11 In (h) of this section, "employees" means persons employed in each of 20 or more
 12 calendar weeks in the current or preceding calendar year.

13 (j) If a person receives an award of punitive damages, the court shall require
 14 that 50 percent of the award be deposited into the general fund of the state. This
 15 subsection does not grant the state the right to file or join a civil action to recover
 16 punitive damages.

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

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

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

25 (2) the percentage of the total fault [OF ALL OF THE PARTIES TO
 26 EACH CLAIM] that is allocated to each claimant, defendant, third-party defendant,
 27 [AND] person who has been released from liability, **or other person responsible for**
 28 **the damages unless the person was identified as a potentially responsible person,**
 29 **the person is not a person protected from a civil action under AS 09.10.055, and**
 30 **the parties had a sufficient opportunity to join that person in the action but chose**
 31 **not to; in this paragraph, "sufficient opportunity to join" means the person is**

- 1 **(A) within the jurisdiction of the court;**
 2 **(B) not precluded from being joined by law or court rule;**
 3 **and**
 4 **(C) reasonably locatable** [UNDER AS 09.16.040].

5 * **Sec. 12.** AS 09.17.080(b) is amended to read:

6 (b) In determining the percentages of fault, the trier of fact shall consider both
 7 the nature of the conduct of each **person** [PARTY] at fault, and the extent of the
 8 causal relation between the conduct and the damages claimed. [THE TRIER OF
 9 FACT MAY DETERMINE THAT TWO OR MORE PERSONS ARE TO BE
 10 TREATED AS A SINGLE PARTY IF THEIR CONDUCT WAS A CAUSE OF THE
 11 DAMAGES CLAIMED AND THE SEPARATE ACT OR OMISSION OF EACH
 12 PERSON CANNOT BE DISTINGUISHED.]

13 * **Sec. 13.** AS 09.17.080(c) is amended to read:

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

25 * **Sec. 14.** AS 09.17.900 is amended to read:

26 **Sec. 09.17.900. Definition.** In this chapter, "fault" includes acts or omissions
 27 that are in any measure negligent, [OR] reckless, **or intentional** toward the person or
 28 property of the actor or others, or that subject a person to strict tort liability. The term
 29 also includes breach of warranty, unreasonable assumption of risk not constituting an
 30 enforceable express consent, misuse of a product for which the defendant otherwise
 31 would be liable, and unreasonable failure to avoid an injury or to mitigate damages.

1 Legal requirements of causal relation apply both to fault as the basis for liability and
2 to contributory fault.

3 * **Sec. 15.** AS 09.20 is amended by adding a new section to read:

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

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

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

11 (3) certified by a board recognized by the state as having acknowledged
12 expertise and training directly related to the particular field or matter at issue.

13 (b) The provisions of (a) of this section do not apply if the state has not
14 recognized a board that has certified the witness in the particular field or matter at
15 issue.

16 * **Sec. 16.** AS 09.30.065 is amended to read:

17 **Sec. 09.30.065. Offers of judgment.** At any time more than 10 days before
18 the trial begins, either the party making a claim or the party defending against a claim
19 may serve upon the adverse party an offer to allow judgment to be entered in complete
20 satisfaction of the claim for the money or property or to the effect specified in the
21 offer, with costs then accrued. If within 10 days after the service of the offer the
22 adverse party serves written notice that the offer is accepted, either party may then file
23 the offer and notice of acceptance together with proof of service, and the clerk shall
24 enter judgment. An offer not accepted within 10 days is considered withdrawn, and
25 evidence of that offer is not admissible except in a proceeding to determine the form
26 of judgment after verdict. If the judgment finally entered on the claim as to which an
27 offer has been made under this section is **at least five percent less** [NOT MORE]
28 favorable to the offeree than the offer, **or if there are multiple defendants at least**
29 **10 percent less favorable to the offeree than the offer, the offeree, whether the**
30 **party making the claim or defending against the claim, shall pay all costs as**
31 **allowed under the Alaska Rules of Civil Procedure and shall pay reasonable**

1 actual attorney fees incurred by the offeror from the date the offer was made,
 2 [THE INTEREST AWARDED UNDER AS 09.30.070 AND ACCRUED UP TO THE
 3 DATE JUDGMENT IS ENTERED SHALL BE ADJUSTED] as follows:

4 (1) if the offer was served no later than 60 days after both parties
 5 made the disclosures required by the Alaska Rules of Civil Procedure the offeree
 6 shall pay 75 percent of the offeror's reasonable actual attorney fees [OFFEREE
 7 IS THE PARTY MAKING THE CLAIM, THE INTEREST RATE SHALL BE
 8 REDUCED BY FIVE PERCENT A YEAR];

9 (2) if the offer was served more than 60 days after both parties
 10 made the disclosures required by the Alaska Rules of Civil Procedure but more
 11 than 90 days before the trial began, the offeree shall pay 50 percent of the
 12 offeror's reasonable actual attorney fees;

13 (3) if the offer was served 90 days or less but more than 10 days
 14 before the trial began, the offeree shall pay 30 percent of the offeror's reasonable
 15 actual attorney fees [OFFEREE IS THE PARTY DEFENDING AGAINST THE
 16 CLAIM, THE INTEREST RATE SHALL BE INCREASED BY FIVE PERCENT A
 17 YEAR].

18 * **Sec. 17.** AS 09.30.065 is amended by adding a new subsection to read:

19 (b) If an offeror receives costs and reasonable actual attorney fees under (a)
 20 of this section, that offeror shall be considered the prevailing party for purposes of an
 21 award of attorney fees under the Alaska Rules of Civil Procedure. Notwithstanding
 22 (a) of this section, if the amount awarded an offeror for attorney fees under the Alaska
 23 Rules of Civil Procedure is greater than a party would receive under (a) of this section,
 24 the offeree shall pay to the offeror attorney fees specified under the Alaska Rules of
 25 Civil Procedure and is not required to pay reasonable actual attorney fees under (a) of
 26 this section. A party who receives attorney fees under this section may not also
 27 receive attorney fees under the Alaska Rules of Civil Procedure.

28 * **Sec. 18.** AS 09.30.070(a) is amended to read:

29 (a) Notwithstanding AS 45.45.010, the [THE] rate of interest on judgments
 30 and decrees for the payment of money, including prejudgment interest, is three
 31 percentage points above the 12th Federal Reserve District discount rate in effect

1 on January 2 of the year in which the judgment or decree is entered [10.5
2 PERCENT A YEAR], except that a judgment or decree founded on a contract in
3 writing, providing for the payment of interest until paid at a specified rate not
4 exceeding the legal rate of interest for that type of contract, bears interest at the rate
5 specified in the contract if the interest rate is set out in the judgment or decree.

6 * **Sec. 19.** AS 09.30.070 is amended by adding a new subsection to read:

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

9 * **Sec. 20.** AS 09.50.280 is amended to read:

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

14 * **Sec. 21.** AS 09.55.440(a) is amended to read:

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

25 * **Sec. 22.** AS 09.55.536(a) is amended to read:

26 (a) In an action for damages due to personal injury or death based upon the
27 provision of professional services by a health care provider, **including a person**
28 **providing services on behalf of a governmental entity**, when the parties have not
29 agreed to arbitration of the claim under AS 09.55.535, the court shall appoint within
30 20 days after filing of answer to a summons and complaint a three-person expert
31 advisory panel unless the court decides that an expert advisory opinion is not necessary

1 for a decision in the case. When the action is filed, the court shall, by order,
 2 determine the professions or specialties to be represented on the expert advisory panel,
 3 giving the parties the opportunity to object or make suggestions.

4 * **Sec. 23.** AS 09.55.536(c) is amended to read:

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

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

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

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

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

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

22 (6) What specifically caused the medical injury?

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

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

27 * **Sec. 24.** AS 09.55.536(f) is amended to read:

28 (f) Discovery may not be undertaken in a case until the report of the expert
 29 advisory panel is received **or 60 days after selection of the panel, whichever occurs**
 30 **first.** However, the court may relax this prohibition upon a showing of good cause by
 31 any party. If the panel has not completed its report within the 30-day period

1 prescribed in (c) of this section, the court may, upon application, grant **the panel** [IT]
 2 an additional 30 days.

3 * **Sec. 25.** AS 09.55.536 is amended by adding a new subsection to read:

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

7 * **Sec. 26.** AS 09.55.560(1) is amended to read:

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

23 * **Sec. 27.** AS 09.55.560 is amended by adding new paragraphs to read:

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

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

30 * **Sec. 28.** AS 09.60 is amended by adding a new section to read:

31 **Sec. 09.60.080. Contingent fee agreements.** If an attorney contracts for or

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

6 * **Sec. 29.** AS 09.65 is amended by adding a new section to read:

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

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

15 * **Sec. 30.** AS 09.65 is amended by adding a new section to read:

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

29 Notice of Limited Liability

30 The following emergency room physicians are independent
 31 contractors and are not employees of the hospital:

1 (List specific emergency room physicians)

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

4 (c) A hospital is not immune from liability under (a) of this section for an act
5 or omission of an emergency room physician who is an independent contractor unless
6 the emergency room physician has liability insurance coverage in the amount of at
7 least \$500,000 for each incident and \$1,500,000 for all incidents in a year, and the
8 coverage is in effect and applicable to those health care services offered by the
9 emergency room physician that the hospital is required to provide by law or by
10 accreditation requirements.

11 (d) In this section,

12 (1) "emergency room physician" means a physician who does not have
13 an ongoing physician-patient relationship with the emergency room patient and who
14 provides emergency health 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. 31.** 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 party defending against the claim proves by clear and convincing
29 evidence that the felony substantially contributed to the personal injury or death;

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

1 convicted and the party defending against the claim proves by clear and convincing
2 evidence

3 (A) the felonious conduct; and

4 (B) that the felonious conduct substantially contributed to the
5 personal injury or death;

6 (3) fleeing after the commission, by that person, of conduct that would
7 constitute an unclassified felony, a class A felony, or a class B felony or being
8 apprehended for conduct that would constitute an unclassified felony, a class A felony,
9 or a class B felony if the party defending against the claim proves by clear and
10 convincing evidence

11 (A) the felonious conduct; and

12 (B) that the conduct during the flight or apprehension
13 substantially contributed to the injury or death;

14 (4) operating a vehicle, aircraft, or watercraft while under the influence
15 of intoxicating liquor or any controlled substance in violation of AS 28.35.030, was
16 convicted, including conviction based on a guilty plea or plea of nolo contendere, and
17 the party defending against the claim proves by clear and convincing evidence that the
18 conduct substantially contributed to the personal injury or death; or

19 (5) engaged in conduct that would constitute a violation of
20 AS 28.35.030 for which the person was not convicted if the party defending against
21 the claim proves by clear and convincing evidence

22 (A) the violation of AS 28.35.030; and

23 (B) that the conduct substantially contributed to the personal
24 injury or death.

25 * **Sec. 32.** AS 09.68 is amended by adding a new section to read:

26 **Sec. 09.68.130. Collection of settlement information.** (a) Except as
27 provided in (c) of this section, the Alaska Judicial Council shall collect and evaluate
28 information relating to the compromise or other resolution of all civil litigation. The
29 information shall be collected on a form developed by the council for that purpose and
30 must include

31 (1) the case name and file number;

- 1 (2) a general description of the claims being settled;
- 2 (3) if the case is resolved by way of settlement,
- 3 (A) the gross dollar amount of the settlement;
- 4 (B) to whom the settlement was paid;
- 5 (C) the dollar amount of advanced costs and attorney fees that
- 6 were deducted from the gross dollar amount of the settlement before
- 7 disbursement to the claimant;
- 8 (D) the net amount actually disbursed to the claimant;
- 9 (E) the total costs and attorney fees paid by or owed by all
- 10 parties; and
- 11 (F) any nonmonetary terms, including whether the attorney fees
- 12 incurred by the claimant were based on a contingent fee agreement or upon an
- 13 hourly rate; if a contingent fee was paid, the percentage of the total settlement
- 14 represented by the fee must be included; or, if an hourly rate, the hourly rate
- 15 paid;
- 16 (4) if the case is resolved by dismissal, summary judgment, trial, or
- 17 otherwise,
- 18 (A) the gross dollar amount of the judgment;
- 19 (B) the amount of attorney fees awarded and to which party;
- 20 (C) the amount of costs awarded and to which party;
- 21 (D) the net amount, after deduction of (B) and (C) of this
- 22 paragraph, for which the prevailing party has judgment;
- 23 (E) the dollar amount of advanced costs and attorney fees that
- 24 were deducted from the gross dollar amount of the judgment before distribution
- 25 to the claimant;
- 26 (F) the total costs and attorney fees paid by defending parties;
- 27 and
- 28 (G) any nonmonetary terms, including whether the attorney fees
- 29 incurred by the claimant were based on a contingent fee agreement or upon an
- 30 hourly rate; if a contingent fee was paid, the percentage of the total settlement
- 31 represented by the fee must be included; or, if an hourly rate, the hourly rate

1 paid.

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

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

8 (1) divorce and dissolution;

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

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

12 (4) domestic violence protective orders under AS 18.66.100 -
13 18.66.180;

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

15 (6) small claims under AS 22.15.040.

16 * **Sec. 33.** AS 21.06 is amended by adding a new section to read:

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

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

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

30 (d) Beginning June 1, 2000, the information compiled under (a) of this section
31 shall be reported annually to the governor and the judiciary committees of both houses

1 of the legislature.

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

5 * **Sec. 34.** AS 21.89.100(d) is amended to read:

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

21 * **Sec. 35.** AS 21.89.100 is amended by adding a new subsection to read:

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

27 * **Sec. 36.** AS 23.30.015(g) is amended to read:

28 (g) If the employee or the employee's representative recovers damages from
29 the third person, the employee or representative shall promptly pay to the employer the
30 total amounts paid by the employer under **(e)(1)(A) - (C)** [(e)(1)(A), (B), AND (C)]
31 of this section [,] insofar as the recovery is sufficient after deducting all litigation costs

1 and expenses. Any excess recovery by the employee or representative shall be
 2 credited against any amount payable by the employer thereafter. **If the employer is**
 3 **allocated a percentage of fault under AS 09.17.080, the amount due the employer**
 4 **under this subsection shall be reduced by an amount equal to the employer's**
 5 **equitable share of damages assessed under AS 09.17.080(c).**

6 * **Sec. 37.** AS 44.77.015(a) is amended to read:

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

14 * **Sec. 38.** Rule 16.1(c), Alaska Rules of Civil Procedure, is amended to read:

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

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

1 trial calendar;

2 (8) That the parties have complied with [PARAGRAPH] (k) of this
3 rule.

4 * **Sec. 39.** Rule 16.1(n), Alaska Rules of Civil Procedure, is repealed and reenacted to read:

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

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

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

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

24 (4) whether a scheduling conference is unnecessary;

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

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

30 * **Sec. 40.** Rule 26, Alaska Rules of Civil Procedure, is amended by adding a new
31 subsection to read:

1 (g) **Limited Discovery; Expedited Calendaring.** In a civil action for personal
 2 injury or property damage involving less than \$100,000 in claims the parties shall limit
 3 discovery to that allowed under Rule 1(a)(1), District Court Rules, and shall avail
 4 themselves of the expedited calendaring procedures allowed under Rule 4, District
 5 Court Rules.

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

8 (3) **Settlement Information.** If a voluntary dismissal under this rule
 9 is the result of compromise or other settlement of the parties, the parties shall submit
 10 to the Alaska Judicial Council the information required under AS 09.68.130. A notice
 11 of dismissal made under (1)[a] of this subsection must be accompanied by a
 12 certification signed by or on behalf of the plaintiff that the information required under
 13 AS 09.68.130 has been submitted to the Alaska Judicial Council. A stipulation of
 14 dismissal made under (1)[b] of this subsection must be accompanied by a certification
 15 signed by or on behalf of all parties who have appeared in the action. The
 16 requirements of this paragraph do not apply to the types of cases listed in
 17 AS 09.68.130(c).

18 * **Sec. 42.** Rule 72.1(g), Alaska Rules of Civil Procedure, is amended to read:

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

23 * **Sec. 43.** Rule 95(b), Alaska Rules of Civil Procedure, is amended to read:

24 (b) In addition to its authority under (a) of this rule and its power to punish
 25 for contempt, a court may, after reasonable notice and an opportunity to show cause
 26 to the contrary, and after hearing by the court, if requested, impose a fine not to
 27 exceed **\$50,000.00** [\$1,000.00] against any attorney who practices before it for failure
 28 to comply with these rules or any rules promulgated by the supreme court.

29 * **Sec. 44.** Rule 95, Alaska Rules of Civil Procedure, is amended by adding a new
 30 subsection to read:

31 (c) If the trier of fact determines that a party to a civil action involving

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

7 * **Sec. 45.** Rule 1(a)(1), District Court Rules of Civil Procedure, is amended to read:

8 (1) The procedure in civil actions and proceedings before district judges
9 and magistrates shall be governed by the rules governing the procedure in the superior
10 court to the extent that such rules are applicable. **However, in a civil action for**
11 **personal injury or property damage, unless otherwise agreed by all parties or**
12 **permitted by order of the court in exceptional cases and for good cause shown,**
13 **discovery shall be limited to the disclosures required under Civil Rule 26(a) and**
14 **to the taking by each party of the deposition of one or more opposing parties and**
15 **of one additional person who is not a party.**

16 * **Sec. 46.** Rule 4, District Court Rules of Civil Procedure, is amended by adding a new
17 subsection to read:

18 (b) In a civil action for personal injury or property damage, unless otherwise
19 permitted by order of the court in exceptional cases and for good cause shown, all
20 parties shall file a memorandum to set the case for trial, as set out in Civil Rule 40(b),
21 no later than 180 days after service of the complaint on all parties to the case. The
22 memorandum shall contain a certification that each party has exchanged the
23 information described in Rule 26(a), Alaska Rules of Civil Procedure, and may state
24 their separate positions if they do not agree concerning information or estimates to be
25 provided in the memorandum. After the court satisfies itself that the information
26 described in Rule 26(a), Alaska Rules of Civil Procedure, has been disclosed, the court
27 shall set the case for trial as soon as practicable, but no sooner than 30 days after the
28 court makes the determination regarding disclosure.

29 * **Sec. 47.** Rule 511, Alaska Rules of Appellate Procedure, is amended by adding a new
30 subsection to read:

31 (e) **Settlement Information.** If a dismissal under (a) or (b) of this rule is the

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

10 * **Sec. 48.** Rule 16.1(k)(4), Alaska Rules of Civil Procedure, is repealed.

11 * **Sec. 49.** AS 09.17.020(e), as enacted in sec. 10 of this Act, has the effect of amending
12 Rule 26, Alaska Rules of Civil Procedure, by limiting discovery in certain actions.

13 * **Sec. 50.** AS 09.17.020(j), as enacted by sec. 10 of this Act, has the effect of amending
14 Rule 58, Alaska Rules of Civil Procedure, by requiring the court to require that a certain
15 percentage of an award of punitive damages be deposited into the general fund.

16 * **Sec. 51.** AS 09.17.080(a), as amended by sec. 11 of this Act, has the effect of amending
17 Rule 49, Alaska Rules of Civil Procedure, by requiring the jury to answer the special
18 interrogatory listed in AS 09.17.080(a)(2) regarding the percentages of fault to be allocated
19 among the claimants, defendants, third-party defendants, persons who have been released from
20 liability, or other person who is potentially responsible for the damages.

21 * **Sec. 52.** AS 09.20.185, enacted by sec. 15 of this Act, has the effect of amending
22 Rule 702, Alaska Rules of Evidence, by requiring certain qualifications from a person
23 testifying as an expert witness.

24 * **Sec. 53.** AS 09.30.065, as amended by secs. 16 and 17 of this Act, has the effect of
25 amending Rules 68 and 82, Alaska Rules of Civil Procedure, by requiring the offeree to pay
26 costs and reasonable actual attorney fees on a sliding scale of percentages in certain cases, by
27 eliminating provisions relating to interest and by changing provisions related to attorney fee
28 awards.

29 * **Sec. 54.** AS 09.30.070(c), added by sec. 19 of this Act, has the effect of amending
30 Rule 58, Alaska Rules of Civil Procedure, by providing that prejudgment interest may not be
31 awarded for future economic or noneconomic damages or punitive damages.

1 * **Sec. 55.** ALTERNATIVE DISPUTE RESOLUTION. (a) It is the intent of this
2 legislation to create an alternative dispute resolution procedure within the existing civil
3 litigation system in order to promote the timely, inexpensive, and efficient resolution of civil
4 disputes. It is also the intent of this legislation that the Alaska Supreme Court implement the
5 alternative dispute resolution procedure not later than July 1, 1998.

6 (b) The Alaska Judicial Council shall consult with the Alaska Dispute Settlement
7 Association, review court sanctioned alternative dispute resolution programs in other states and
8 in the federal court system, and shall confer with and obtain the approval of the Alaska Court
9 System regarding the establishment of a program for alternative dispute resolution within the
10 Alaska Court System. The Alaska Judicial Council shall submit a proposed statute or rule
11 change, or both, and a report to the legislature by December 31, 1997. The proposed statute
12 or rule change and report must include specific types of programs, specific types of cases
13 within each program that are amenable to alternative dispute resolution, the cost to the parties
14 and to the Alaska Court System under these programs, and the qualifications of the neutral
15 parties, including nonlawyers, who will provide dispute resolution services under the program.
16 The work required under this section shall be completed for the amount of money appearing
17 on the fiscal note submitted by the Alaska Court System dated March 17, 1997.

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

20 * **Sec. 56.** APPLICABILITY. This Act applies to all causes of action accruing on or after
21 the effective date of this Act.

22 * **Sec. 57.** SEVERABILITY. Under AS 01.10.030, if any provision of this Act or the
23 application of a provision of this Act to any person or circumstance is held invalid, the
24 remainder of this Act and the application to other persons shall not be affected.