

CS FOR SENATE BILL NO. 10(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 4/13/05

Referred: Judiciary

Sponsor(s): SENATORS GUESS AND DYSON, Ellis, Bunde

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to civil liability for damage to or destruction of property by minors;**
2 **relating to court revocation of a minor's privilege to drive; relating to restitution for**
3 **certain acts of minors; and amending Rule 60, Alaska Rules of Civil Procedure."**

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

5 * **Section 1.** AS 04.16.050(c) is amended to read:

6 (c) A person is guilty of repeat minor consuming or in possession or control if
7 the person was placed on probation under (b) of this section or has been previously
8 convicted, and the person violates (a) of this section. Upon conviction in the district
9 court, the court shall

10 (1) impose a fine of \$1,000 and require at least 48 hours of community
11 work;

12 (2) revoke the person's driver's license for three months **unless**
13 **AS 28.15.185(b)(2) applies;**

14 (3) take possession of the person's driver's license; and

1 (4) suspend up to \$500 of the fine and place the person on probation
2 under (e) of this section.

3 * **Sec. 2.** AS 04.16.050(d) is amended to read:

4 (d) A person is guilty of habitual minor consuming or in possession or control
5 if the person was placed on probation under (c) of this section, or has been previously
6 convicted twice, and the person violates (a) of this section. Habitual minor consuming
7 or in possession or control is a class B misdemeanor. Upon conviction, the court may
8 impose an appropriate period of imprisonment and fine and place the person on
9 probation under (e) of this section and shall

10 (1) impose at least 96 hours of community work;

11 (2) revoke the person's driver's license for six months **unless**
12 **AS 28.15.185(b)(2) applies**;

13 (3) within five working days, notify the agency responsible for the
14 administration of motor vehicle laws of the revocation; and

15 (4) take possession of the person's driver's license.

16 * **Sec. 3.** AS 28.15.185(a) is amended to read:

17 (a) A person is subject to revocation, under (b) of this section, of the person's
18 driver's license or permit, privilege to drive, or privilege to obtain a license if the
19 person

20 (1) is at least 13 years of age but not yet 21 years of age and is
21 convicted of or is adjudicated a delinquent minor by a court for misconduct involving
22 a controlled substance under AS 11.71 or **violation of** a municipal ordinance with
23 substantially similar elements; or

24 (2) is at least 13 years of age but not yet 18 years of age and is
25 convicted of or is adjudicated a delinquent minor by a court for **a misdemeanor,**
26 **felony,** [AN OFFENSE INVOLVING THE ILLEGAL USE OR POSSESSION OF A
27 FIREARM THAT IS PUNISHABLE UNDER AS 11] or **violation of** a municipal
28 ordinance with **elements that are** substantially similar **to those of a misdemeanor or**
29 **felony** [ELEMENTS].

30 * **Sec. 4.** AS 28.15.185(b) is amended to read:

31 (b) The court shall impose the revocation for an offense described in (a) of this

1 section as follows:

2 (1) except as provided in AS 04.16.050(c) and (d), for a first
3 conviction or adjudication when the conviction or adjudication is for a
4 misdemeanor or violation of an ordinance with substantially similar elements, the
5 revocation may be for a period not to exceed 90 days;

6 (2) for a second or subsequent conviction or adjudication when the
7 second or subsequent conviction or adjudication is for a misdemeanor or
8 violation of an ordinance with substantially similar elements, the revocation may
9 be for a period not to exceed one year;

10 (3) for a first conviction or adjudication when the conviction or
11 adjudication is for a felony or violation of an ordinance with substantially similar
12 elements, the revocation may be for a period not to exceed 180 days;

13 (4) for a second or subsequent conviction or adjudication when the
14 second or subsequent conviction or adjudication is for a felony or violation of an
15 ordinance with substantially similar elements, the revocation may be for a period
16 not to exceed two years or until the person reaches 18 years of age, whichever is
17 longer.

18 * **Sec. 5.** AS 28.15.201(a) is amended to read:

19 (a) A court of competent jurisdiction revoking a person's driver's license,
20 privilege to drive, or privilege to obtain a license under AS 28.15.181(b) or
21 28.15.185(a) may, if the person is at least 16 years of age and for good cause,
22 impose limitations upon the driver's license of a person that will enable the person to
23 earn a livelihood without excessive risk or danger to the public. A limitation may not
24 be placed upon a driver's license until after a review has been made of the person's
25 driving record and other relevant information, and a limitation may not be imposed
26 when a statute specifically prohibits the limitation of a license for a violation of its
27 provisions.

28 * **Sec. 6.** AS 34.50.020(a) is amended to read:

29 (a) Except as provided under [(d) AND] (e) of this section, a person,
30 including a governmental [MUNICIPAL CORPORATION, ASSOCIATION,
31 VILLAGE, SCHOOL DISTRICT, OR RELIGIOUS OR CHARITABLE]

1 organization, [INCORPORATED OR UNINCORPORATED,] may recover damages
 2 in a civil action [IN AN AMOUNT NOT TO EXCEED \$15,000] and court costs from
 3 either parent or both parents of **a child, and from the child,** [AN
 4 UNEMANCIPATED MINOR UNDER THE AGE OF 18 YEARS] who, as a result of
 5 a knowing or intentional act, **damages or** destroys real or personal property belonging
 6 to the person [, MUNICIPAL CORPORATION, ASSOCIATION, VILLAGE,
 7 SCHOOL DISTRICT, OR RELIGIOUS OR CHARITABLE ORGANIZATION].
 8 However, for purposes of this subsection, recovery in damages shall be apportioned by
 9 the court between the parents without regard to legal custody but with due
 10 consideration for the actual care and custody of the minor provided by the parents.
 11 **The child is not liable, but the parent or parents are liable for that portion of**
 12 **damages that exceed \$5,000, adjusted under this subsection. However, the total**
 13 **amount of parental liability for damages under this subsection may not exceed**
 14 **\$15,000, adjusted under this subsection. The child is liable for that portion of the**
 15 **total damages that the parent or parents are not liable for. Monetary amounts in**
 16 **this subsection shall be adjusted according to and to the extent of changes in the**
 17 **Consumer Price Index for all urban consumers for the Anchorage metropolitan**
 18 **area compiled by the Bureau of Labor Statistics, United States Department of**
 19 **Labor (the index). The index for January of 2005 is the reference base index.**

20 * **Sec. 7.** AS 34.50.020 is amended by adding new subsections to read:

21 (g) The court may order an individual who is liable for damages under (a) of
 22 this section to apply for one or more permanent fund dividends. The court shall set a
 23 payment schedule for each individual liable for damages that is fair and takes into
 24 account each individual's ability to make payments. The schedule must separately
 25 address payments the child may have to make after reaching 18 years of age.

26 (h) A court may modify the payment schedule set under (g) of this section if
 27 the court determines that a change in the circumstances of a party to the original action
 28 requires the modification. If a party to the original action opposes the modification of
 29 the payment schedule and the modification is granted, the court shall enter on the
 30 record its reasons for the modification.

31 * **Sec. 8.** AS 43.23.065(b) is amended to read:

1 (b) An exemption is not available under this section for permanent fund
2 dividends taken to satisfy

3 (1) child support obligations required by court order or decision of the
4 child support services agency under AS 25.27.140 - 25.27.220;

5 (2) court ordered restitution under AS 12.55.045 - 12.55.051,
6 12.55.100, or AS 47.12.120(b)(4) **or (5)**;

7 (3) claims on defaulted education loans under AS 43.23.067;

8 (4) court ordered fines;

9 (5) writs of execution under AS 09.35 of a judgment that is entered

10 (A) against a minor in a civil action to recover damages and
11 court costs;

12 (B) under AS 34.50.020 against **an individual for damages**
13 **resulting from a knowing or intentional act** [THE PARENT, PARENTS,
14 OR LEGAL GUARDIAN] of an unemancipated minor;

15 (6) a debt owed by an eligible individual to an agency of the state,
16 including the University of Alaska, unless the debt is contested and an appeal is
17 pending, or the time limit for filing an appeal has not expired;

18 (7) a debt owed to a person for a program for the rehabilitation of
19 perpetrators of domestic violence required under AS 12.55.101, AS 18.66.100(c)(15),
20 AS 25.20.061(3), or AS 33.16.150(f)(2).

21 * **Sec. 9.** AS 47.12.060(b) is amended to read:

22 (b) When the department or the entity selected by it decides to make an
23 informal adjustment of a matter under (a)(2) of this section, that informal adjustment

24 (1) must be made with the agreement or consent of the minor and the
25 minor's parents or guardian to the terms and conditions of the adjustment;

26 (2) must give the minor's foster parent an opportunity to be heard
27 before the informal adjustment is made;

28 (3) **for a crime against a person**, must include notice that informal
29 action to adjust a matter is not successfully completed unless, among other factors that
30 the department or the entity selected by it considers, as to the victim of the act of the
31 minor that is the basis of the delinquency allegation, the minor pays restitution in the

1 amount set by the department or the entity selected by it or agrees as a term or
2 condition set by the department or the entity selected by it to pay the restitution;

3 (4) for a violation of habitual minor consuming or in possession or
4 control under AS 04.16.050(d), must include an agreement that the minor perform 96
5 hours of community work, provide that the minor's driver's license or permit, privilege
6 to drive, or privilege to obtain a license be revoked for six months **unless**
7 **AS 28.15.185(b)(2) applies**, and provide that the driver's license or permit, privilege
8 to drive, or privilege to obtain a license be revoked for an additional six months if the
9 informal adjustment is not successful because the minor has failed to perform
10 community work as ordered, or has failed to submit to evaluation or successfully
11 complete the education or treatment recommended; the department or an entity
12 selected by the department shall notify the agency responsible for issuing driver's
13 licenses of an informal adjustment under this paragraph or of an unsuccessful
14 adjustment described in this paragraph;

15 (5) of an offense described in **AS 28.15.185(a)** [AS 28.15.185(a)(1)]
16 must include an agreement that the minor's driver's license or permit, privilege to
17 drive, or privilege to obtain a license be revoked as provided in AS 28.15.185(b); the
18 department or an entity selected by the department shall notify the agency responsible
19 for issuing driver's licenses of an informal adjustment under this paragraph;

20 **(6) for a matter not subject to (3) of this subsection, must provide**
21 **notice that informal action to adjust the matter is not successfully completed**
22 **unless, among other factors that the department or entity selected by it considers,**
23 **restitution is paid as required under (c) - (g) of this section.**

24 * **Sec. 10.** AS 47.12.060 is amended by adding new subsections to read:

25 (c) An informal action subject to (b)(6) of this section must include restitution
26 for damages resulting from the act of the minor that is the basis of the delinquency
27 allegation, including restitution to the victim and to any person who is or will be
28 providing counseling, medical care, or shelter to the victim, unless the restitution is
29 expressly waived by the person entitled to receive it. When supported with credible
30 evidence, unless expressly waived, the restitution shall include compensation to a
31 nonprofit organization for the value of labor or goods provided by volunteers of the

1 organization if the labor or goods were necessary to alleviate or mitigate the effects of
 2 the minor's act. In determining the amount of restitution, the department may not
 3 consider the ability to pay of the minor or a parent of the minor. In determining the
 4 amount and method of payment of restitution or compensation, the department shall
 5 take into account the

6 (1) public policy that favors requiring compensation for damages and
 7 injury that results from criminal acts;

8 (2) financial burden placed on the victim and those who provide
 9 services to the victim and other persons injured by the criminal conduct of the minor;

10 (3) amount and type of restitution that has already been made for the
 11 act that is the basis of the delinquency allegation.

12 (d) In an informal action subject to (b)(6) of this section, if the minor was in
 13 the legal custody of the minor's parent or parents when the act of the minor that is the
 14 basis of the delinquency allegation was committed, the minor is not responsible, but
 15 the minor's parent or parents are responsible, for that portion of the restitution that
 16 exceeds \$5,000, as adjusted under this subsection. However, the total amount of
 17 parental responsibility for restitution under this subsection may not exceed \$15,000, as
 18 adjusted under this subsection. The minor is responsible for that portion of the total
 19 restitution that the parent or parents are not responsible for under this subsection.
 20 Monetary amounts in this subsection shall be adjusted according to and to the extent
 21 of changes in the Consumer Price Index for all urban consumers for the Anchorage
 22 metropolitan area compiled by the Bureau of Labor Statistics, United States
 23 Department of Labor (the index). The index for January of 2005 is the reference base
 24 index.

25 (e) In an informal action subject to (b)(6) of this section, the department shall
 26 set a payment schedule for each individual responsible for restitution that is fair and
 27 takes into account each individual's ability to make payments. The schedule must
 28 separately address payments the minor may have to make after reaching 18 years of
 29 age. The department may modify the payment schedule if it determines that a change
 30 in the circumstances of an individual responsible for the restitution requires the
 31 modification. The department may require an individual who is responsible for

1 restitution to agree to apply for one or more permanent fund dividends.

2 (f) In an informal action subject to (b)(6) of this section, a parent is not
3 responsible for restitution required as a result of the acts of a runaway or missing
4 minor that are committed after a parent of the minor has made a report to a law
5 enforcement agency, as authorized by AS 47.10.141(a), that the minor has run away or
6 is missing. In this subsection, "runaway or missing minor" means a minor who a
7 parent reasonably believes is absent from the minor's residence for the purpose of
8 evading a parent or who is otherwise missing from the minor's usual place of abode
9 without the consent of a parent.

10 (g) In an informal action subject to (b)(6) of this section, the recovery of
11 restitution payments is not authorized from

12 (1) a legal guardian other than a parent;

13 (2) a person, other than the minor's parent, with temporary or
14 permanent legal custody of the minor when the minor committed the act that is the
15 basis of the delinquency allegation; or

16 (3) an adoptive parent of the minor as a hard-to-place child if, at the
17 time the minor committed the act that is the basis of the delinquency allegation, the
18 adoptive parent was receiving financial assistance from the state as a result of the
19 adoption; in this paragraph, "hard-to-place child" has the meaning given in
20 AS 25.23.240.

21 * **Sec. 11.** AS 47.12.120(b) is amended to read:

22 (b) If the minor is not subject to (j) of this section and the court finds that the
23 minor is delinquent, it shall

24 (1) order the minor committed to the department for a period of time
25 not to exceed two years or in any event extend past the day the minor becomes 19
26 years of age, except that the department may petition for and the court may grant in a
27 hearing (A) two-year extensions of commitment that do not extend beyond the minor's
28 19th birthday if the extension is in the best interests of the minor and the public; and
29 (B) an additional one-year period of supervision past age 19 if continued supervision
30 is in the best interests of the person and the person consents to it; the department shall
31 place the minor in the juvenile facility that the department considers appropriate and

1 that may include a juvenile correctional school, juvenile work camp, treatment facility,
2 detention home, or detention facility; the minor may be released from placement or
3 detention and placed on probation on order of the court and may also be released by
4 the department, in its discretion, under AS 47.12.260;

5 (2) order the minor placed on probation, to be supervised by the
6 department, and released to the minor's parents, guardian, or a suitable person; if the
7 court orders the minor placed on probation, it may specify the terms and conditions of
8 probation; the probation may be for a period of time not to exceed two years and in no
9 event to extend past the day the minor becomes 19 years of age, except that the
10 department may petition for and the court may grant in a hearing

11 (A) two-year extensions of supervision that do not extend
12 beyond the minor's 19th birthday if the extension is in the best interests of the
13 minor and the public; and

14 (B) an additional one-year period of supervision past age 19 if
15 the continued supervision is in the best interests of the person and the person
16 consents to it;

17 (3) order the minor committed to the custody of the department and
18 placed on probation, to be supervised by the department and released to the minor's
19 parents, guardian, other suitable person, or suitable nondetention setting such as with a
20 relative or in a foster home or residential child care facility, whichever the department
21 considers appropriate to implement the treatment plan of the predisposition report; if
22 the court orders the minor placed on probation, it may specify the terms and conditions
23 of probation; the department may transfer the minor, in the minor's best interests, from
24 one of the probationary placement settings listed in this paragraph to another, and the
25 minor, the minor's parents or guardian, the minor's foster parent, and the minor's
26 attorney are entitled to reasonable notice of the transfer; the probation may be for a
27 period of time not to exceed two years and in no event to extend past the day the
28 minor becomes 19 years of age, except that the department may petition for and the
29 court may grant in a hearing

30 (A) two-year extensions of commitment that do not extend
31 beyond the minor's 19th birthday if the extension is in the best interests of the

1 minor and the public; and

2 (B) an additional one-year period of supervision past age 19 if
3 the continued supervision is in the best interests of the person and the person
4 consents to it;

5 (4) **for a crime against a person**, order the minor and the minor's
6 parent to make suitable restitution in lieu of or in addition to the court's order under
7 (1), (2), or (3) of this subsection; under this paragraph,

8 (A) except as provided in (B) of this paragraph, the court may
9 not refuse to make an order of restitution to benefit the victim of the act of the
10 minor that is the basis of the delinquency adjudication; under this
11 subparagraph, the court may require the minor to use the services of a
12 community dispute resolution center that has been recognized by the
13 commissioner under AS 47.12.450(b) to resolve any dispute between the minor
14 and the victim of the minor's offense as to the amount of or manner of payment
15 of the restitution;

16 (B) the court may not order payment of restitution by the parent
17 of a minor who is a runaway or missing minor for an act of the minor that was
18 committed by the minor after the parent has made a report to a law
19 enforcement agency, as authorized by AS 47.10.141(a), that the minor has run
20 away or is missing; for purposes of this subparagraph, "runaway or missing
21 minor" means a minor who a parent reasonably believes is absent from the
22 minor's residence for the purpose of evading the parent or who is otherwise
23 missing from the minor's usual place of abode without the consent of the
24 parent; and

25 (C) at the request of the department, the Department of Law,
26 the victims' advocate, or on its own motion, the court shall, at any time, order
27 the minor and the minor's parent, if applicable, to submit financial information
28 on a form approved by the Alaska Court System to the court, the department,
29 and the Department of Law for the purpose of establishing the amount of
30 restitution or enforcing an order of restitution under AS 47.12.170; the form
31 must include a warning that submission of incomplete or inaccurate

1 information is punishable as unsworn falsification under AS 11.56.210;

2 (5) for a matter not covered in (4) of this subsection, order the
 3 minor and the minor's parent to make suitable restitution as provided in (l) - (n)
 4 of this section in lieu of or in addition to the court's order under (1), (2), or (3) of
 5 this subsection; under this paragraph,

6 (A) except as provided in (B) of this paragraph, the court
 7 may not refuse to make an order of restitution to benefit the victim of the
 8 act of the minor that is the basis of the delinquency adjudication; under
 9 this subparagraph, the court may require the minor to use the services of
 10 a community dispute resolution center that has been recognized by the
 11 commissioner under AS 47.12.450(b) to resolve any dispute between the
 12 minor and the victim of the minor's offense as to the amount of or manner
 13 of payment of the restitution;

14 (B) the court may not order payment of restitution by

15 (i) the parent of a minor who is a runaway or
 16 missing minor for an act of the minor that was committed by the
 17 minor after the parent has made a report to a law enforcement
 18 agency, as authorized by AS 47.10.141(a), that the minor has run
 19 away or is missing; for purposes of this subparagraph, "runaway
 20 or missing minor" means a minor who a parent reasonably believes
 21 is absent from the minor's residence for the purpose of evading the
 22 parent or who is otherwise missing from the minor's usual place of
 23 abode without the consent of the parent;

24 (ii) a legal guardian other than a parent;

25 (iii) a person, other than the minor's parent, with
 26 temporary or permanent legal custody of the minor when the
 27 minor committed the offense; or

28 (iv) an adoptive parent of the minor as a hard-to-
 29 place child if, at the time the minor committed the offense, the
 30 adoptive parent was receiving financial assistance from the state as
 31 a result of the adoption; in this paragraph, "hard-to-place child"

1 has the meaning given in AS 25.23.240; and

2 (C) at the request of the department, the Department of
 3 Law, the victims' advocate, or on its own motion, the court shall, at any
 4 time, order the minor and the minor's parent, if applicable, to submit
 5 financial information on a form approved by the Alaska Court System to
 6 the court, the department, and the Department of Law for the purpose of
 7 establishing the amount of restitution or enforcing an order of restitution
 8 under AS 47.12.170; the form must include a warning that submission of
 9 incomplete or inaccurate information is punishable as unsworn
 10 falsification under AS 11.56.210;

11 (6) order the minor committed to the department for placement in an
 12 adventure-based education program established under AS 47.21.020 with conditions
 13 the court considers appropriate concerning release upon satisfactory completion of the
 14 program or commitment under (1) of this subsection if the program is not satisfactorily
 15 completed;

16 (7) [(6)] in addition to an order under (1) - (6) [(1) - (5)] of this
 17 subsection, order the minor to perform community service; for purposes of this
 18 paragraph, "community service" includes work

19 (A) on a project identified in AS 33.30.901; or

20 (B) that, on the recommendation of the city council or
 21 traditional village council, would benefit persons within the city or village who
 22 are elderly or disabled; or

23 (8) [(7)] in addition to an order under (1) - (7) [(1) - (6)] of this
 24 subsection, order the minor's parent or guardian to comply with orders made under
 25 AS 47.12.155, including participation in treatment under AS 47.12.155(b)(1).

26 * **Sec. 12.** AS 47.12.120(k) is amended to read:

27 (k) A court that adjudicates a delinquent minor for repeat minor consuming or
 28 in possession or control under AS 04.16.050(c) or for habitual minor consuming or in
 29 possession or control under AS 04.16.050(d) shall revoke the minor's driver's license
 30 or permit, privilege to drive, or privilege to obtain a license as provided in
 31 AS 04.16.050(c) or (d). A court that adjudicates a delinquent minor for **another** [AN]

1 offense [INVOLVING A CONTROLLED SUBSTANCE UNDER AS 11.71 OR
 2 INVOLVING A FIREARM UNDER AS 11] shall revoke the minor's driver's license
 3 or permit, privilege to drive, or privilege to obtain a license as provided in
 4 AS 28.15.185.

5 * **Sec. 13.** AS 47.12.120 is amended by adding new subsections to read:

6 (l) Other than for a crime against a person, a court that adjudicates a
 7 delinquent minor must include restitution for damages resulting from the offense,
 8 including restitution to the victim and to any person who is or will be providing
 9 counseling, medical care, or shelter to the victim, unless the restitution is expressly
 10 waived by the person entitled to receive it. When supported with credible evidence,
 11 unless expressly waived, the restitution shall include compensation to a nonprofit
 12 organization for the value of labor or goods provided by volunteers of the organization
 13 if the labor or goods were necessary to alleviate or mitigate the effects of the minor's
 14 offense. In determining the amount of restitution, the court shall take into account the

15 (1) public policy that favors requiring compensation for damages and
 16 injury that results from criminal acts; and

17 (2) financial burden placed on the victim and those who provide
 18 services to the victim and other persons injured by the criminal conduct of the minor;

19 (3) amount and type of restitution that has already been made for the
 20 offense.

21 (m) If the minor was in the legal custody of the minor's parent or parents when
 22 the offense was committed by the minor, the minor is not responsible, but the minor's
 23 parent or parents are responsible, for that portion of the restitution ordered under (l) of
 24 this section that exceeds \$5,000, as adjusted under this subsection. However, the total
 25 amount of parental responsibility for restitution under this subsection may not exceed
 26 \$15,000, as adjusted under this subsection. The minor is responsible for that portion
 27 of the total restitution that the parent or parents are not responsible for under this
 28 subsection. Monetary amounts in this subsection shall be adjusted according to and to
 29 the extent of changes in the Consumer Price Index for all urban consumers for the
 30 Anchorage metropolitan area compiled by the Bureau of Labor Statistics, United
 31 States Department of Labor (the index). The index for January of 2005 is the

1 reference base index.

2 (n) The court shall set a payment schedule for each individual responsible for
3 restitution under (l) and (m) of this section that is fair and takes into account each
4 individual's ability to make payments. The schedule must separately address
5 payments the minor may have to make after reaching 18 years of age. The court may
6 modify the payment schedule if it determines that a change in the circumstances of an
7 individual responsible for the restitution requires the modification. The court may
8 require an individual who is responsible for restitution to agree to apply for one or
9 more permanent fund dividends.

10 * **Sec. 14.** AS 47.12.140 is amended to read:

11 **Sec. 47.12.140. Court dispositional order.** In making its dispositional order
12 under AS 47.12.120(b)(1) - (3) and (6) [(5)] and (j), the court shall

13 (1) consider both the best interests of the minor and the interests of the
14 public, and, in doing so, the court shall take into account

15 (A) the seriousness of the minor's delinquent act and the
16 attitude of the minor and the minor's parents toward that act;

17 (B) the minor's culpability as indicated by the circumstances of
18 the particular case;

19 (C) the age of the minor;

20 (D) the minor's prior criminal or juvenile record and the
21 success or failure of any previous orders, dispositions, or placements imposed
22 on the minor;

23 (E) the effect of the dispositional order to be imposed in
24 deterring the minor from committing other delinquent acts;

25 (F) the need to commit the minor to the department's custody or
26 to detain the minor in an institution or other suitable place in order to prevent
27 further harm to the public;

28 (G) the interest of the public in securing the minor's
29 rehabilitation; and

30 (H) the ability of the state to take custody of and to care for the
31 minor; and

1 (2) order the least restrictive alternative disposition for the minor; for
 2 purposes of this paragraph, the "least restrictive alternative disposition" means that
 3 disposition that is no more restrictive than is, in the judgment of the court, most
 4 conducive to the minor's rehabilitation taking into consideration the interests of the
 5 public.

6
 7 * **Sec. 15.** AS 47.12.300(e) is amended to read:

8 (e) The court's official records prepared under this chapter and not made
 9 public under this section are confidential and may be inspected only with the court's
 10 permission and only by persons having a legitimate interest in them. A foster parent is
 11 considered to have a legitimate interest in those portions of the court's official records
 12 relating to a child who is already placed with the foster parent or who is recommended
 13 for placement with the foster parent. A person with a legitimate interest in the
 14 inspection of a confidential record maintained by the court also includes a victim who
 15 suffered physical injury or whose real or personal property was damaged as a result of
 16 an offense that was the basis of an adjudication or modification of disposition. If the
 17 victim knows the identity of the minor, identifies the minor or the offense to the court,
 18 and certifies that the information is being sought to consider or support a civil action
 19 against the minor or against the **minor and the** minor's parents [OR GUARDIAN]
 20 under AS 34.50.020, the court shall, subject to AS 12.61.110 and 12.61.140, allow the
 21 victim to inspect and use the following records and information in connection with the
 22 civil action:

23 (1) a petition filed under AS 47.12.040(a) seeking to have the court
 24 declare the minor a delinquent;

25 (2) a petition filed under AS 47.12.120 seeking to have the court
 26 modify or revoke the minor's probation;

27 (3) a petition filed under AS 47.12.100 requesting the court to find that
 28 a minor is not amenable to treatment under this chapter and that results in closure of a
 29 case under AS 47.12.100(a); and

30 (4) a court judgment or order entered under this chapter that disposes
 31 of a petition identified in (1) - (3) of this subsection.

1 * **Sec. 16.** AS 47.12.315(e) is amended to read:

2 (e) The department or an agency may not release information about a minor
3 under this section if the offense allegedly committed by the minor on which the
4 information is based occurred before January 1, 1998. The authority to release
5 information under this section is limited to five years from the date the department or
6 other agency is first required or authorized to make the disclosure. However, the
7 limitation of this section does not apply if the department or other agency determines
8 that, during the five-year period, the minor

9 (1) has knowingly failed to make all restitution payments required of
10 the minor by AS 47.12.060(b) or 47.12.120(b)(4) or (5); or

11 (2) has committed a crime punishable as a felony.

12 * **Sec. 17.** AS 47.12.450(b) is amended to read:

13 (b) The commissioner may recognize an entity organized for the purpose of
14 providing community mediation services as a community dispute resolution center to
15 serve as a center to resolve disputes between minors and victims. Before extending
16 recognition under this subsection, the commissioner shall determine that the bylaws of
17 the entity set out standards and procedures

18 (1) for filing requests for dispute resolution services with the center
19 and for scheduling mediation sessions participated in by the parties to the dispute;

20 (2) to ensure that each dispute mediated meets the criteria for
21 appropriateness for mediation and for rejecting disputes that do not meet the criteria;

22 (3) for giving notice of time, place, and nature of the mediation session
23 to the parties, and for conducting mediation sessions that comply with the provisions
24 of this section;

25 (4) to ensure that participation by all parties is voluntary;

26 (5) for obtaining referrals from public and private bodies;

27 (6) for providing mediators who, during the dispute resolution process,
28 may not make decisions or determinations of the issues involved, but who shall
29 facilitate negotiations by the participants themselves to achieve a voluntary resolution
30 of the issues;

31 (7) for communicating to the agency making a referral under

1 AS 47.12.040(a)(1)(A) or the court making a referral under AS 47.12.120(b)(4)(A) **or**
 2 **(5)(A)**, as appropriate, the following:

3 (A) notice that the minor and victim have been unable to enter
 4 into a written agreement under (d)(2) of this section or that the minor or victim
 5 has withdrawn from mediation as authorized by (f) of this section;

6 (B) notice that the minor and victim have entered into a written
 7 agreement under (d)(2) of this section; the center shall transmit a copy of the
 8 agreement to the agency or the court, as appropriate;

9 (C) notice that the minor has failed to perform fully the minor's
 10 obligations under the written agreement under (d)(2) of this section;

11 (D) notice that the minor has successfully completed all that is
 12 required of the minor under the provisions of the written agreement under
 13 (d)(2) of this section; and

14 (8) for informing and educating the community about the community
 15 dispute resolution center and encouraging the use of the center's services in
 16 appropriate cases.

17 * **Sec. 18.** AS 34.50.020(d) is repealed.

18 * **Sec. 19.** The uncodified law of the State of Alaska is amended by adding a new section to
 19 read:

20 **INDIRECT COURT RULE AMENDMENT.** AS 35.50.020(h), as added by sec. 7 of
 21 this Act, amends Rule 60, Alaska Rules of Civil Procedure, relating to modifications of
 22 payment schedules set in actions involving liability for the knowing or intentional acts of
 23 unemancipated minors.