

**CS FOR SENATE BILL NO. 10(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

**BY THE SENATE JUDICIARY COMMITTEE**

**Offered: 2/14/06**

**Referred: Finance**

**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(d) is amended to read:

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

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

13 (2) revoke the person's driver's license for **a period of not less than**  
14 six months **but not to exceed one year;**

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

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

4 \* **Sec. 2.** AS 28.15.185(a) is amended to read:

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

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

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

18 \* **Sec. 3.** AS 28.15.185(b) is amended to read:

19 (b) The court shall impose the revocation for an offense described in (a) of this  
20 section as follows:

21 (1) **except as provided in AS 04.16.050(d),** for a first conviction or  
22 adjudication **when the conviction or adjudication is for a misdemeanor or**  
23 **violation of an ordinance with substantially similar elements,** the revocation may  
24 be for a period not to exceed 90 days;

25 (2) for a second or subsequent conviction or adjudication **when the**  
26 **second or subsequent conviction or adjudication is for a misdemeanor or**  
27 **violation of an ordinance with substantially similar elements,** the revocation may  
28 be for a period not to exceed one year;

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

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

6           \* **Sec. 4.** AS 28.15.201(a) is amended to read:

7                   (a) A court of competent jurisdiction revoking a person's driver's license,  
 8                   privilege to drive, or privilege to obtain a license under AS 28.15.181(b) **or**  
 9                   **28.15.185(a)** may, **if the person is at least 16 years of age and** for good cause,  
 10                   impose limitations upon the driver's license of a person that will enable the person to  
 11                   earn a livelihood without excessive risk or danger to the public. **The court may also**  
 12                   **impose limitations on the driver's license of a person who is under 18 years of age**  
 13                   **that will enable the person to satisfy conditions of probation without excessive**  
 14                   **risk or danger to the public.** A limitation may not be placed upon a driver's license  
 15                   until after a review has been made of the person's driving record and other relevant  
 16                   information, and a limitation may not be imposed when a statute specifically prohibits  
 17                   the limitation of a license for a violation of its provisions.

18           \* **Sec. 5.** AS 34.50.020(a) is amended to read:

19                   (a) Except as provided under [(d) AND] (e) of this section, a person,  
 20                   **including a governmental** [MUNICIPAL CORPORATION, ASSOCIATION,  
 21                   VILLAGE, SCHOOL DISTRICT, OR RELIGIOUS OR CHARITABLE]  
 22                   organization, [INCORPORATED OR UNINCORPORATED,] may recover damages  
 23                   in a civil action [IN AN AMOUNT NOT TO EXCEED \$15,000] and court costs from  
 24                   [EITHER PARENT OR BOTH PARENTS OF] an unemancipated minor [UNDER  
 25                   THE AGE OF 18 YEARS] who, as a result of a knowing or intentional act, **damages**  
 26                   **or** destroys real or personal property belonging to the person. **If the minor has a**  
 27                   **parent, damages and court costs may also be recovered from either parent or**  
 28                   **both parents** [, MUNICIPAL CORPORATION, ASSOCIATION, VILLAGE,  
 29                   SCHOOL DISTRICT, OR RELIGIOUS OR CHARITABLE ORGANIZATION].  
 30                   However, for purposes of this subsection, recovery **of that portion of** [IN] damages  
 31                   **for which parents are liable** shall be apportioned by the court between the parents

1 without regard to legal custody but with due consideration for the actual care and  
 2 custody of the minor provided by the parents. **The parent or parents are liable for**  
 3 **that portion of damages that exceed \$5,000, adjusted under this subsection.**  
 4 **However, the total amount of parental liability for damages under this subsection**  
 5 **may not exceed \$15,000, adjusted under this subsection. The minor is liable for**  
 6 **that portion of the total damages for which the parent or parents are not liable. If**  
 7 **the unemancipated minor does not have a parent, the minor is not liable for that**  
 8 **portion of damages that exceeds \$5,000, adjusted under this subsection. However,**  
 9 **the total amount of damages for which the minor is not liable may not exceed**  
 10 **\$15,000, adjusted under this subsection. Monetary amounts in this subsection**  
 11 **shall be adjusted according to and to the extent of changes in the Consumer Price**  
 12 **Index for all urban consumers for the Anchorage metropolitan area compiled by**  
 13 **the Bureau of Labor Statistics, United States Department of Labor (the index).**  
 14 **The index for January of 2006 is the reference base index.**

15 \* **Sec. 6.** AS 34.50.020(b) is repealed and reenacted to read:

16 (b) The state is liable, to the same extent a parent is liable under (a) of this  
 17 section, for an act of an unemancipated minor committed while in the legal custody of  
 18 the state, except that the state is not liable if the act is committed while the minor has  
 19 run away from state custody, is missing from state custody, or has been placed by the  
 20 state into the physical custody of a parent of the minor. If the minor has been placed  
 21 by the state into the physical custody of a parent, the parent is liable under (a) of this  
 22 section for an act committed during that placement. To the extent that the state is  
 23 liable under this subsection, a parent is not liable under (a) of this section.

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

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

30 (h) A court may modify the payment schedule set under (g) of this section if  
 31 the court determines that a change in the circumstances of a party to the original action

1 requires the modification. If a party to the original action opposes the modification of  
 2 the payment schedule and the modification is granted, the court shall enter on the  
 3 record its reasons for the modification.

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

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

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

9 (2) court ordered restitution under AS 12.55.045 - 12.55.051,  
 10 12.55.100, or AS 47.12.120(b)(4) **or (5)**;

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

12 (4) court ordered fines;

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

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

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

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

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

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

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

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

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

1 (3) **for a crime against a person,** must include notice that informal  
 2 action to adjust a matter is not successfully completed unless, among other factors that  
 3 the department or the entity selected by it considers, as to the victim of the act of the  
 4 minor that is the basis of the delinquency allegation, the minor pays restitution in the  
 5 amount set by the department or the entity selected by it or agrees as a term or  
 6 condition set by the department or the entity selected by it to pay the restitution;

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

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

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

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

29 (c) An informal action subject to (b)(6) of this section must include restitution  
 30 for damages resulting from the act of the minor that is the basis of the delinquency  
 31 allegation, including restitution to the victim unless the restitution is expressly waived

1 by the victim. In determining the amount of restitution, the department or the entity  
2 selected by it may not consider the ability to pay of the minor or a parent of the minor.  
3 In determining the amount and method of payment of restitution, the department or the  
4 entity selected by it shall take into account the

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

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

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

11 (d) In an informal action subject to (b)(6) of this section, if the minor was in  
12 the legal custody of the minor's parent or parents when the act of the minor that is the  
13 basis of the delinquency allegation was committed, the minor's parent or parents are  
14 responsible for that portion of the restitution that exceeds \$5,000, as adjusted under  
15 this subsection. However, the total amount of parental responsibility for restitution  
16 under this subsection may not exceed \$15,000, as adjusted under this subsection. If the  
17 minor has two parents, that portion of the amount for which the parents are liable shall  
18 be apportioned between the parents without regard to legal custody but with due  
19 consideration for the actual care and custody of the minor provided by each parent.  
20 The minor is responsible for that portion of the total restitution for which the parent or  
21 parents are not responsible under this subsection. If the minor does not have a parent,  
22 the minor is not responsible for that portion of restitution that exceeds \$5,000, adjusted  
23 under this subsection. However, the total amount of restitution for which the minor is  
24 not responsible may not exceed \$15,000, adjusted under this subsection. Monetary  
25 amounts in this subsection shall be adjusted according to and to the extent of changes  
26 in the Consumer Price Index for all urban consumers for the Anchorage metropolitan  
27 area compiled by the Bureau of Labor Statistics, United States Department of Labor  
28 (the index). The index for January of 2006 is the reference base index. The state is  
29 responsible for restitution, to the same extent a parent with legal custody is responsible  
30 for restitution under this subsection, for an act of a minor committed while in the legal  
31 custody of the state, except that the state is not responsible if the act is committed

1 while the minor has run away from state custody, is missing from state custody, or has  
2 been placed by the state into the physical custody of a parent of the minor. If the minor  
3 has been placed by the state into the physical custody of a parent, the parent is  
4 responsible for restitution for an act committed during that placement to the same  
5 extent as a parent with legal custody.

6 (e) In an informal action subject to (b)(6) of this section, the department or the  
7 entity selected by it shall set a payment schedule for each individual responsible for  
8 restitution that is fair and takes into account each individual's ability to make  
9 payments. The schedule must provide for payments adequate to fulfill the total  
10 restitution amount before the minor reaches 18 years of age. The department or the  
11 entity selected by it may modify the payment schedule if it determines that a change in  
12 the circumstances of an individual responsible for the restitution requires the  
13 modification. The department or the entity selected by it may require an individual  
14 who is responsible for restitution to agree to apply for one or more permanent fund  
15 dividends.

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

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

26 (1) from a legal guardian other than a parent;

27 (2) except as provided in (d) of this section, from a person, other than  
28 the minor's parent, with temporary or permanent legal custody of the minor when the  
29 minor committed the act that is the basis of the delinquency allegation; or

30 (3) from an adoptive parent of the minor as a hard-to-place child if, at  
31 the time the minor committed the act that is the basis of the delinquency allegation, the

1 adoptive parent was receiving financial assistance from the state as a result of the  
2 adoption; in this paragraph, "hard-to-place child" has the meaning given in  
3 AS 25.23.240.

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

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

7 (1) order the minor committed to the department for a period of time  
8 not to exceed two years or in any event extend past the day the minor becomes 19  
9 years of age, except that the department may petition for and the court may grant in a  
10 hearing (A) two-year extensions of commitment that do not extend beyond the minor's  
11 19th birthday if the extension is in the best interests of the minor and the public; and  
12 (B) an additional one-year period of supervision past age 19 if continued supervision  
13 is in the best interests of the person and the person consents to it; the department shall  
14 place the minor in the juvenile facility that the department considers appropriate and  
15 that may include a juvenile correctional school, juvenile work camp, treatment facility,  
16 detention home, or detention facility; the minor may be released from placement or  
17 detention and placed on probation on order of the court and may also be released by  
18 the department, in its discretion, under AS 47.12.260;

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

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

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

31 (3) order the minor committed to the custody of the department and

1 placed on probation, to be supervised by the department and released to the minor's  
2 parents, guardian, other suitable person, or suitable nondetention setting such as with a  
3 relative or in a foster home or residential child care facility, whichever the department  
4 considers appropriate to implement the treatment plan of the predisposition report; if  
5 the court orders the minor placed on probation, it may specify the terms and conditions  
6 of probation; the department may transfer the minor, in the minor's best interests, from  
7 one of the probationary placement settings listed in this paragraph to another, and the  
8 minor, the minor's parents or guardian, the minor's foster parent, and the minor's  
9 attorney are entitled to reasonable notice of the transfer; the probation may be for a  
10 period of time not to exceed two years and in no event to extend past the day the  
11 minor becomes 19 years of age, except that the department may petition for and the  
12 court may grant in a hearing

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

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

19 (4) **for a crime against a person**, order the minor and the minor's  
20 parent to make suitable restitution in lieu of or in addition to the court's order under  
21 (1), (2), or (3) of this subsection; under this paragraph,

22 (A) except as provided in (B) of this paragraph, the court may  
23 not refuse to make an order of restitution to benefit the victim of the act of the  
24 minor that is the basis of the delinquency adjudication; under this  
25 subparagraph, the court may require the minor to use the services of a  
26 community dispute resolution center that has been recognized by the  
27 commissioner under AS 47.12.450(b) to resolve any dispute between the minor  
28 and the victim of the minor's offense as to the amount of or manner of payment  
29 of the restitution;

30 (B) the court may not order payment of restitution by the parent  
31 of a minor who is a runaway or missing minor for an act of the minor that was

1 committed by the minor after the parent has made a report to a law  
 2 enforcement agency, as authorized by AS 47.10.141(a), that the minor has run  
 3 away or is missing; for purposes of this subparagraph, "runaway or missing  
 4 minor" means a minor who a parent reasonably believes is absent from the  
 5 minor's residence for the purpose of evading the parent or who is otherwise  
 6 missing from the minor's usual place of abode without the consent of the  
 7 parent; and

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

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

20 (A) **except as provided in (B) of this paragraph, the court**  
 21 **may not refuse to make an order of restitution to benefit the victim of the**  
 22 **act of the minor that is the basis of the delinquency adjudication; under**  
 23 **this subparagraph, the court may require the minor to use the services of**  
 24 **a community dispute resolution center that has been recognized by the**  
 25 **commissioner under AS 47.12.450(b) to resolve any dispute between the**  
 26 **minor and the victim of the minor's offense as to the amount of or manner**  
 27 **of payment of the restitution;**

28 (B) **the court may not order payment of restitution**

29 (i) **by the parent of a minor who is a runaway or**  
 30 **missing minor for an act of the minor that was committed by the**  
 31 **minor after the parent has made a report to a law enforcement**

1 agency, as authorized by AS 47.10.141(a), that the minor has run  
2 away or is missing; for purposes of this sub-subparagraph,  
3 "runaway or missing minor" means a minor who a parent  
4 reasonably believes is absent from the minor's residence for the  
5 purpose of evading the parent or who is otherwise missing from the  
6 minor's usual place of abode without the consent of the parent;

7 (ii) by a legal guardian other than a parent;

8 (iii) except as provided in (m) of this section, by a  
9 person, other than the minor's parent, with temporary or  
10 permanent legal custody of the minor when the minor committed  
11 the offense; or

12 (iv) by an adoptive parent of the minor as a hard-to-  
13 place child if, at the time the minor committed the offense, the  
14 adoptive parent was receiving financial assistance from the state as  
15 a result of the adoption; in this sub-subparagraph, "hard-to-place  
16 child" has the meaning given in AS 25.23.240; and

17 (C) at the request of the department, the Department of  
18 Law, the victims' advocate, or, on its own motion, the court shall, at any  
19 time, order the minor and the minor's parent, if applicable, to submit  
20 financial information on a form approved by the Alaska Court System to  
21 the court, the department, and the Department of Law for the purpose of  
22 establishing the amount of restitution or enforcing an order of restitution  
23 under AS 47.12.170; the form must include a warning that submission of  
24 incomplete or inaccurate information is punishable as unsworn  
25 falsification under AS 11.56.210;

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

31 (7) [(6)] in addition to an order under (1) - (6) [(1) - (5)] of this

1 subsection, order the minor to perform community service; for purposes of this  
2 paragraph, "community service" includes work

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

4 (B) that, on the recommendation of the city council or  
5 traditional village council, would benefit persons within the city or village who  
6 are elderly or disabled; or

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

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

11 (k) A court that adjudicates a delinquent minor for repeat minor consuming or  
12 in possession or control under AS 04.16.050(c) or for habitual minor consuming or in  
13 possession or control under AS 04.16.050(d) shall revoke the minor's driver's license  
14 or permit, privilege to drive, or privilege to obtain a license as provided in  
15 AS 04.16.050(c) or (d). A court that adjudicates a delinquent minor for another [AN]  
16 offense [INVOLVING A CONTROLLED SUBSTANCE UNDER AS 11.71 OR  
17 INVOLVING A FIREARM UNDER AS 11] shall revoke the minor's driver's license  
18 or permit, privilege to drive, or privilege to obtain a license as provided in  
19 AS 28.15.185.

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

21 (l) Other than for a crime against a person, a court that adjudicates a  
22 delinquent minor must include restitution for damages resulting from the offense,  
23 including restitution to the victim unless the restitution is expressly waived by the  
24 victim. In determining the amount of restitution, the court may not consider the ability  
25 to pay of the minor or a parent of the minor. In determining the amount and method of  
26 payment of restitution, the court shall take into account the

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

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

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

3                   (m) If the minor was in the legal custody of the minor's parent or parents when  
4 the offense was committed by the minor, the minor's parent or parents are responsible  
5 for that portion of the restitution ordered under (l) of this section that exceeds \$5,000,  
6 as adjusted under this subsection. However, the total amount of parental responsibility  
7 for restitution under this subsection may not exceed \$15,000, as adjusted under this  
8 subsection. If the minor has two parents, that portion of the amount for which the  
9 parents are liable shall be apportioned by the court between the parents without regard  
10 to legal custody but with due consideration for the actual care and custody of the  
11 minor provided by each of the parents. The minor is responsible for that portion of the  
12 total restitution for which the parent or parents are not responsible under this  
13 subsection. If the minor does not have a parent, the minor is not responsible for that  
14 portion of restitution that exceeds \$5,000, adjusted under this subsection. However,  
15 the total amount of restitution for which the minor is not responsible may not exceed  
16 \$15,000, adjusted under this subsection. Monetary amounts in this subsection shall be  
17 adjusted according to and to the extent of changes in the Consumer Price Index for all  
18 urban consumers for the Anchorage metropolitan area compiled by the Bureau of  
19 Labor Statistics, United States Department of Labor (the index). The index for January  
20 of 2006 is the reference base index. The state is responsible for restitution, to the same  
21 extent a parent with legal custody is responsible for restitution under this subsection,  
22 for an act of a minor committed while in the legal custody of the state, except that the  
23 state is not responsible if the act is committed while the minor has run away from state  
24 custody, is missing from state custody, or has been placed by the state into the  
25 physical custody of a parent of the minor. If the minor has been placed by the state  
26 into the physical custody of a parent, the parent is responsible for restitution for an act  
27 committed during that placement to the same extent as a parent with legal custody.

28                   (n) The court shall set a payment schedule for each individual responsible for  
29 restitution under (l) and (m) of this section that is fair and takes into account each  
30 individual's ability to make payments. The schedule must separately address payments  
31 the minor may have to make after reaching 18 years of age. The court may modify the

1 payment schedule if it determines that a change in the circumstances of an individual  
 2 responsible for the restitution requires the modification. The court may require an  
 3 individual who is responsible for restitution to agree to apply for one or more  
 4 permanent fund dividends.

5 \* **Sec. 14.** AS 47.12.140 is amended to read:

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

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

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

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

14 (C) the age of the minor;

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

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

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

23 (G) the interest of the public in securing the minor's  
 24 rehabilitation; and

25 (H) the ability of the state to take custody of and to care for the  
 26 minor; and

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

1 \* **Sec. 15.** AS 47.12.300(a) is amended to read:

2 (a) The court shall make and keep records of all cases brought before it.  
3 **Notwithstanding other provisions of this section, the amount of unpaid restitution**  
4 **ordered under AS 47.12.120(b) owed by an individual 18 years of age or older,**  
5 **together with the identity of the individual, is a public record.**

6 \* **Sec. 16.** AS 47.12.300(e) is amended to read:

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

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

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

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

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

31 \* **Sec. 17.** AS 47.12.315(e) is amended to read:

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

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

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

11 \* **Sec. 18.** AS 47.12.450(b) is amended to read:

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

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

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

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

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

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

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

30 (7) for communicating to the agency making a referral under  
 31 AS 47.12.040(a)(1)(A) or the court making a referral under AS 47.12.120(b)(4)(A) or

1           (5)(A), as appropriate, the following:

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

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

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

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

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

16       \* **Sec. 19.** AS 34.50.020(d) is repealed.

17       \* **Sec. 20.** The uncodified law of the State of Alaska is amended by adding a new section to  
18       read:

19           INDIRECT COURT RULE AMENDMENT. AS 34.50.020(h), as added by sec. 7 of  
20       this Act, amends Rule 60, Alaska Rules of Civil Procedure, relating to modifications of  
21       payment schedules set in actions involving liability for the knowing or intentional acts of  
22       unemancipated minors.

23       \* **Sec. 21.** The uncodified law of the State of Alaska is amended by adding a new section to  
24       read:

25           SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the application  
26       of it to any person or circumstance, is held invalid, the remainder of this Act and the  
27       application to other persons or circumstances are not affected.