

SENATE BILL NO. 42

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY SENATOR DYSON

Introduced: 1/16/07

Referred: Judiciary, State Affairs, Finance

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 09.65.255(a) is amended to read:

5 (a) Except as provided under [(d) AND] (e) of this section, a person,
6 **including a governmental** [MUNICIPAL CORPORATION, ASSOCIATION,
7 VILLAGE, SCHOOL DISTRICT, OR RELIGIOUS OR CHARITABLE]
8 organization, [INCORPORATED OR UNINCORPORATED,] may recover damages
9 in a civil action [IN AN AMOUNT NOT TO EXCEED \$15,000] and court costs from
10 [EITHER PARENT OR BOTH PARENTS OF] an unemancipated minor [UNDER
11 THE AGE OF 18 YEARS] who, as a result of a knowing or intentional act, **damages**
12 **or** destroys real or personal property belonging to the person. **If the minor has a**
13 **parent, damages and court costs may also be recovered from either parent or**
14 **both parents** [, MUNICIPAL CORPORATION, ASSOCIATION, VILLAGE,
15 SCHOOL DISTRICT, OR RELIGIOUS OR CHARITABLE ORGANIZATION].
16 However, for purposes of this subsection, recovery **of that portion of** [IN] damages
17 **for which parents are liable** shall be apportioned by the court between the parents
18 without regard to legal custody but with due consideration for the actual care and
19 custody of the minor provided by the parents. **The parent or parents are liable for**
20 **that portion of damages that exceed \$5,000, adjusted under this subsection.**
21 **However, the total amount of parental liability for damages under this subsection**
22 **may not exceed \$15,000, adjusted under this subsection. The minor is liable for**
23 **that portion of the total damages for which the parent or parents are not liable. If**
24 **the unemancipated minor does not have a parent, the minor is not liable for that**
25 **portion of damages that exceeds \$5,000, adjusted under this subsection. However,**
26 **the total amount of damages for which the minor is not liable may not exceed**
27 **\$15,000, adjusted under this subsection. Monetary amounts in this subsection**
28 **shall be adjusted according to and to the extent of changes in the Consumer Price**
29 **Index for all urban consumers for the Anchorage metropolitan area compiled by**
30 **the Bureau of Labor Statistics, United States Department of Labor (the index).**
31 **The index for January of 2007 is the reference base index.**

1 * **Sec. 3.** AS 09.65.255(b) is repealed and reenacted to read:

2 (b) The state is liable, to the same extent a parent is liable under (a) of this
3 section, for an act of an unemancipated minor committed while in the legal custody of
4 the state, except that the state is not liable if the act is committed while the minor has
5 run away from state custody, is missing from state custody, or has been placed by the
6 state into the physical custody of a parent of the minor. If the minor has been placed
7 by the state into the physical custody of a parent, the parent is liable under (a) of this
8 section for an act committed during that placement. To the extent that the state is
9 liable under this subsection, a parent is not liable under (a) of this section.

10 * **Sec. 4.** AS 09.65.255 is amended by adding new subsections to read:

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

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

21 * **Sec. 5.** AS 28.15.185(a) is amended to read:

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

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

29 (2) is at least 13 years of age but not yet 18 years of age and is
30 convicted of or is adjudicated a delinquent minor by a court for **a misdemeanor,**
31 **felony,** [AN OFFENSE INVOLVING THE ILLEGAL USE OR POSSESSION OF A

1 FIREARM THAT IS PUNISHABLE UNDER AS 11] or **violation of** a municipal
 2 ordinance with **elements that are** substantially similar **to those of a misdemeanor or**
 3 **felony** [ELEMENTS].

4 * **Sec. 6.** AS 28.15.185(b) is amended to read:

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

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

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

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

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

23 * **Sec. 7.** AS 28.15.201(a) is amended to read:

24 (a) A court of competent jurisdiction revoking a person's driver's license,
 25 privilege to drive, or privilege to obtain a license under AS 28.15.181(b) **or**
 26 **28.15.185(a)** may, **if the person is at least 16 years of age and** for good cause,
 27 impose limitations upon the driver's license of a person that will enable the person to
 28 earn a livelihood without excessive risk or danger to the public. **The court may also**
 29 **impose limitations on the driver's license of a person who is under 18 years of age**
 30 **that will enable the person to satisfy conditions of probation without excessive**
 31 **risk or danger to the public.** A limitation may not be placed upon a driver's license

1 until after a review has been made of the person's driving record and other relevant
 2 information, and a limitation may not be imposed when a statute specifically prohibits
 3 the limitation of a license for a violation of its provisions.

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 09.65.255 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 2007 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 in the second degree under
 16 AS 11.56.210;

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

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

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

30 **(i) by the parent of a minor who is a runaway or**
 31 **missing minor for an act of the minor that was committed by the**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 and

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

4 (m) If the minor was in the legal custody of the minor's parent or parents when
5 the offense was committed by the minor, the minor's parent or parents are responsible
6 for that portion of the restitution ordered under (l) of this section that exceeds \$5,000,
7 as adjusted under this subsection. However, the total amount of parental responsibility
8 for restitution under this subsection may not exceed \$15,000, as adjusted under this
9 subsection. If the minor has two parents, that portion of the amount for which the
10 parents are liable shall be apportioned by the court between the parents without regard
11 to legal custody but with due consideration for the actual care and custody of the
12 minor provided by each of the parents. The minor is responsible for that portion of the
13 total restitution for which the parent or parents are not responsible under this
14 subsection. If the minor does not have a parent, the minor is not responsible for that
15 portion of restitution that exceeds \$5,000, adjusted under this subsection. However,
16 the total amount of restitution for which the minor is not responsible may not exceed
17 \$15,000, adjusted under this subsection. Monetary amounts in this subsection shall be
18 adjusted according to and to the extent of changes in the Consumer Price Index for all
19 urban consumers for the Anchorage metropolitan area compiled by the Bureau of
20 Labor Statistics, United States Department of Labor (the index). The index for January
21 of 2007 is the reference base index. The state is responsible for restitution, to the same
22 extent a parent with legal custody is responsible for restitution under this subsection,
23 for an act of a minor committed while in the legal custody of the state, except that the
24 state is not responsible if the act is committed while the minor has run away from state
25 custody, is missing from state custody, or has been placed by the state into the
26 physical custody of a parent of the minor. If the minor has been placed by the state
27 into the physical custody of a parent, the parent is responsible for restitution for an act
28 committed during that placement to the same extent as a parent with legal custody.

29 (n) The court shall set a payment schedule for each individual responsible for
30 restitution under (l) and (m) of this section that is fair and takes into account each
31 individual's ability to make payments. The schedule must separately address payments

1 the minor may have to make after reaching 18 years of age. The court may modify the
 2 payment schedule if it determines that a change in the circumstances of an individual
 3 responsible for the restitution requires the modification. The court may require an
 4 individual who is responsible for restitution to agree to apply for one or more
 5 permanent fund dividends.

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

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

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

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

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

15 (C) the age of the minor;

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

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

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

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

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

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

1 public.

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

3 (a) The court shall make and keep records of all cases brought before it.

4 **Notwithstanding other provisions of this section, the amount of unpaid restitution**
 5 **ordered under AS 47.12.120(b) owed by an individual 18 years of age or older,**
 6 **together with the identity of the individual, is a public record.**

7 * **Sec. 16.** 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 09.65.255, 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. 17.** 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. 18.** 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. 19.** AS 09.65.255(d) is repealed.

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

20 **INDIRECT COURT RULE AMENDMENT.** AS 09.65.255(h), added by sec. 4 of this
 21 Act, amends Rule 60, Alaska Rules of Civil Procedure, relating to modifications of payment
 22 schedules set in actions involving liability for the knowing or intentional acts of
 23 unemancipated minors.

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

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