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1 IN THE SENATE

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2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 685

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to unlawful conduct of minors."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 12.55.015 is amended by adding a new subsection to read:

9 (d) If the court sentences a defendant to a term of imprisonment
10 and the defendant is a minor over whom children's court jurisdiction is
11 waived under AS 47.10.060, the court shall

12 (1) order that the defendant be confined in an institution
13 designated by the Department of Health and Social Services for offenders
14 under 18 years of age; and

15 (2) order that the defendant be transferred to an adult
16 correctional facility when the defendant reaches 19 years of age if more
17 than one year then remains of the defendant's term of imprisonment.

18 * Sec. 2. AS 47.10.020(a) is amended to read:

19 (a) Whenever a person informs the court of the facts which bring a
20 minor within this chapter, the court shall appoint a competent person or
21 agency to make a preliminary inquiry and report for the information of
22 the court to determine whether the interests of the public or of the
23 minor require that further action be taken. Upon the receipt of the
24 report, the court may informally adjust or dispose of the matter without
25 a hearing, or it may authorize the person having knowledge of the facts
26 of the case to file with the court a petition setting out the facts.
27 Where the court informally adjusts or disposes of the matter, the minor
28 may not be detained or taken into the custody of the court, and the
29 matter shall be closed by the court upon adjustment or disposition.

1 The court shall disclose to the victim, if any, of the minor the manner
2 in which it informally adjusted or disposed of the matter. The victim's
3 parents, guardian, and other immediate family members are entitled to
4 receive the same information from the court.

5 * Sec. 3. AS 47.10.060(a) is repealed and reenacted to read:

6 (a) The court shall order a case closed and, subject to the pro-
7 visions of AS 12.55.015(d), the minor may be prosecuted as if he were an
8 adult if the court finds at a hearing on a petition

9 (1) that the minor was 16 years of age or older at the time
10 of the offense and that there is probable cause to believe that the
11 minor has committed an unclassified felony or a class A felony; or

12 (2) that the minor is not amenable to treatment under this
13 chapter and there is probable cause to believe that the minor is delin-
14 quent.

15 * Sec. 4. AS 47.10.060 is amended by adding a new subsection to read:

16 (f) If a case is closed under (a)(1) of this section, the minor
17 may petition the court within 10 days to reopen the case. The case
18 shall be reopened if the court finds by a preponderance of the evidence
19 that the interests of justice would be best served if the minor is not
20 prosecuted as an adult. In making this finding, the court shall con-
21 sider

22 (1) the criminal and personal history of the minor and the
23 likelihood of his rehabilitation;

24 (2) the seriousness of the minor's present offense in rela-
25 tion to other offenses committed by the minor;

26 (3) the need to confine the minor to prevent further harm to
27 the public;

28 (4) the circumstances of the offense and the extent to which
29 the offense harmed a victim or endangered the public safety or order;

1 (5) the effect of prosecuting the minor as an adult in deter-
2 ring the minor or other minors from future criminal conduct.

3 * Sec. 5. AS 47.10.080(a) is amended to read:

4 (a) The court, at the conclusion of the hearing, or thereafter as
5 the circumstances of the case may require, shall find and enter a judg-
6 ment that the minor is or is not a delinquent or a child in need of aid.
7 The court shall disclose the results of the hearing to the victim, if
8 any, of the minor. The victim's parents, guardian, and other immediate
9 family members are entitled to receive the same information from the
10 court.

11 * Sec. 6. AS 47.10.090 is amended by adding a new subsection to read:

12 (d) The provisions of this section prohibiting disclosure of
13 information relating to a minor do not apply to a disclosure to a victim
14 and his family under AS 47.10.020(a), AS 47.10.080(a), and AS 47.10.-
15 140(d).

16 * Sec. 7. AS 47.10.140(d) is amended to read:

17 (d) If the court finds that probable cause exists, it shall deter-
18 mine whether the minor should be detained pending the hearing on the
19 petition or released. It may either order the minor held in detention
20 or order him to be released to the custody of a suitable person pending
21 the hearing on the petition. If the court finds no probable cause, it
22 shall order the minor released and close the case. The court shall dis-
23 close the results of the hearing to the victim, if any, of the minor.
24 The victim's parents, guardian, and other immediate family members are
25 entitled to receive the same information from the court.

26 * Sec. 8. AS 34.50.020(a) is amended to read:

27 (a) Except as provided in (e) of this section, a [A] person,
28 municipal corporation, association, village, school district or religious
29 or charitable organization, incorporated or unincorporated, may recover

1 damages in a civil action in an amount not to exceed \$5,000 [\$2,000] and
2 court costs, from either parent or both parents or the legal guardian or
3 person having the legal custody of an unemancipated minor under the age
4 of 18 years, who maliciously or wilfully destroys real or personal
5 property belonging to the person, municipal corporation, association,
6 village, school district or religious or charitable organization.

7 * Sec. 9. AS 34.50.020 is amended by adding new subsections to read:

8 (c) For the purposes of this section a minor is considered emanci-
9 pated and a parent or legal guardian or person having legal custody is
10 not liable for property damage caused by the minor if the court deter-
11 mines that

12 (1) the disabilities of minority have been removed under
13 AS 09.55.590;

14 (2) the minor is a resident of the state, is at least 16
15 years of age, is living separate and apart from his parents or legal
16 guardian or person having legal custody, and is capable of self-support
17 and of managing his own financial affairs; or

18 (3) the minor is living separate and apart from his parents
19 or legal guardian or person having legal custody and engages in conduct
20 that results in a judgment under AS 47.10.080(a) that he is a delinquent
21 minor and that also is the basis for a civil action for damages to
22 property under this section.

23 (d) If the court determines that a minor is emancipated under (c)
24 of this section, the minor may be sued in a civil action for injuries
25 caused by the minor as if the minor were an adult.

26 (e) The provisions of (a) of this section do not apply to destruc-
27 tion of property by an unemancipated minor under the age of 18 years
28 who maliciously or wilfully destroys property at the time he is a ward
29 of the state under AS 47.10.080(f).