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Offered: 4/30/82
Referred: Finance

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 685 (State Affairs)

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 18 years of age if more
17 than one year then remains of the defendant's term of imprisonment.

18 * Sec. 2. AS 34.50.020(a) is amended to read:

19 (a) Except as provided in (e) of this section, a [A] person, muni-
20 cipal corporation, association, village, school district or religious or
21 charitable organization, incorporated or unincorporated, may recover
22 damages in a civil action in an amount not to exceed \$5,000 [\$2,000] and
23 court costs, from either parent or both parents or the legal guardian or
24 person having the legal custody of an unemancipated minor under the age
25 of 18 years, who maliciously or wilfully destroys real or personal
26 property belonging to the person, municipal corporation, association,
27 village, school district or religious or charitable organization.

28 * Sec. 3. AS 34.50.020 is amended by adding new subsections to read:

29 (c) For the purposes of this section a minor is considered emanci-

1 pated and a parent or legal guardian or person having legal custody is
2 not liable for property damage caused by the minor if the court deter-
3 mines that

4 (1) the disabilities of minority have been removed under
5 AS 09.55.590;

6 (2) the minor is a resident of the state, is at least 16 years
7 of age, is living separate and apart from the minor's parents or legal
8 guardian or person having legal custody, and is capable of self-support
9 and of managing personal financial affairs; or

10 (3) the minor is living separate and apart from the minor's
11 parents or legal guardian or person having legal custody and engages in
12 conduct that results in a judgment under AS 47.10.080(a) that the minor
13 is a delinquent minor and that also is the basis for a civil action for
14 damages to property under this section.

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

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

22 * Sec. 4. AS 47.10.020(a) is amended to read:

23 (a) Whenever a person informs the court of the facts which bring a
24 minor within this chapter, the court shall appoint a competent person or
25 agency to make a preliminary inquiry and report for the information of
26 the court to determine whether the interests of the public or of the
27 minor require that further action be taken. Upon the receipt of the
28 report, the court may informally adjust or dispose of the matter without
29 a hearing, or it may authorize the person having knowledge of the facts

1 of the case to file with the court a petition setting out the facts.
2 Where the court informally adjusts or disposes of the matter, the minor
3 may not be detained or taken into the custody of the court, and the
4 matter shall be closed by the court upon adjustment or disposition.
5 Upon request of the victim or the victim's parent or guardian, the court
6 shall disclose to the victim of the minor or to the victim's parent or
7 guardian the manner in which it informally adjusted or disposed of the
8 matter. The court may not disclose the identity of the minor.

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

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

13 (1) that the minor was 16 years of age or older at the time
14 of the offense and that there is probable cause to believe that the
15 minor has committed an unclassified felony or a class A felony; however,
16 the court may retain jurisdiction if the court finds by a preponderance
17 of the evidence that the interests of justice would be best served if
18 the minor is not prosecuted as an adult; or

19 (2) that the minor is not amenable to treatment under this
20 chapter and there is probable cause to believe that the minor is delin-
21 quent.

22 * Sec. 6. AS 47.10.060(d) is repealed and reenacted to read:

23 (d) A minor is not amenable to treatment under AS 47.10.060(a)(2)
24 if the minor probably cannot be rehabilitated by treatment under this
25 chapter before reaching 20 years of age. In determining whether a minor
26 is amenable to treatment, the court shall consider

27 (1) the criminal and personal history of the minor and the
28 likelihood of rehabilitation;

29 (2) the seriousness of the minor's present offense in rela-

1 tion to other offenses committed by the minor;

2 (3) the probable cause of the minor's delinquent behavior;

3 (4) the facilities available to the division of youth and
4 adult authority for treating the minor.

5 * Sec. 7. AS 47.10.060 is amended by adding a new subsection to read:

6 (f) At a hearing on a petition under (a)(1) of this section, the
7 court shall consider

8 (1) the criminal and personal history of the minor and the
9 likelihood of rehabilitation;

10 (2) the seriousness of the minor's present offense in relation
11 to other offenses committed by the minor;

12 (3) the need to confine the minor to prevent further harm to
13 the public;

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

16 (5) the effect of prosecuting the minor as an adult in
17 deterring the minor or other minors from future criminal conduct;

18 (6) the best interest of the minor.

19 * Sec. 8. AS 47.10.080(a) is amended to read:

20 (a) The court, at the conclusion of the hearing, or thereafter as
21 the circumstances of the case may require, shall find and enter a judg-
22 ment that the minor is or is not a delinquent or a child in need of aid.
23 The court shall disclose the results of the hearing in accordance with
24 AS 47.10.020(a).

25 * Sec. 9. AS 47.10.090 is amended by adding a new subsection to read:

26 (d) The provisions of this section prohibiting disclosure of
27 information relating to a minor do not apply to a disclosure to a victim
28 or the victim's parent or guardian under AS 47.10.020(a), 47.10.080(a),
29 and 47.10.140(d).

1 * Sec. 10. AS 47.10.140(d) is amended to read:

2 (d) If the court finds that probable cause exists, it shall deter-
3 mine whether the minor should be detained pending the hearing on the
4 petition or released. It may either order the minor held in detention
5 or order the minor [HIM] to be released to the custody of a suitable
6 person pending the hearing on the petition. If the court finds no prob-
7 able cause, it shall order the minor released and close the case.
8 The court shall disclose the results of the hearing in accordance with
9 AS 47.10.020(a).

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