

Introduced: 2/16/83  
Referred: Judiciary

1 IN THE SENATE

BY RODEY AND RAY

2

SENATE BILL NO. 127

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST 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  
9 read:

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

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

16 (2) order that the defendant be transferred to an adult  
17 correctional facility when the defendant reaches 18 years of age if  
18 more than one year then remains of the defendant's term of imprison-  
19 ment.

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

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

1 charitable organization.

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

3 (c) For the purposes of this section a minor is considered  
4 emancipated and a parent or legal guardian or person having legal  
5 custody is not liable for property damage caused by the minor if the  
6 court determines that

7 (1) the disabilities of minority have been removed under  
8 AS 09.55.590;

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

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

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

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

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

26 (a) Whenever a person informs the court of the facts which bring  
27 a minor within this chapter, the court shall appoint a competent  
28 person or agency to make a preliminary inquiry and report for the  
29 information of the court to determine whether the interests of the

1 public or of the minor require that further action be taken. Upon the  
2 receipt of the report, the court may informally adjust or dispose of  
3 the matter without a hearing, or it may authorize the person having  
4 knowledge of the facts of the case to file with the court a petition  
5 setting out the facts. Where the court informally adjusts or disposes  
6 of the matter, the minor may not be detained or taken into the custody  
7 of the court, and the matter shall be closed by the court upon adjust-  
8 ment or disposition. Upon request of the victim or the victim's  
9 parent or guardian, the court shall disclose to the victim of the  
10 minor or to the victim's parent or guardian the manner in which it  
11 informally adjusted or disposed of the matter. The court may not  
12 disclose the identity of the minor.

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

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

17 (1) that the minor was 16 years of age or older at the time  
18 of the offense and that there is probable cause to believe that the  
19 minor has committed an unclassified felony or a class A felony; how-  
20 ever, the court may retain jurisdiction if the court finds by a pre-  
21 ponderance of the evidence that the interests of justice would be best  
22 served if the minor is not prosecuted as an adult; or

23 (2) that the minor is not amenable to treatment under this  
24 chapter and there is probable cause to believe that the minor is  
25 delinquent.

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

27 (d) A minor is not amenable to treatment under AS 47.10.060(a)-  
28 (2) if the minor probably cannot be rehabilitated by treatment under  
29 this chapter before reaching 20 years of age. In determining whether

1 a minor is amenable to treatment, the court shall consider

2 (1) the criminal and personal history of the minor and the  
3 likelihood of rehabilitation;

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

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

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

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

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

12 (1) the criminal and personal history of the minor and the  
13 likelihood of rehabilitation;

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

16 (3) the need to confine the minor to prevent further harm  
17 to the public;

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

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

23 (6) the best interest of the minor.

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

25 (a) The court, at the conclusion of the hearing, or thereafter  
26 as the circumstances of the case may require, shall find and enter a  
27 judgment that the minor is or is not a delinquent or a child in need  
28 of aid. The court shall disclose the results of the hearing in accor-  
29 dance with AS 47.10.020(a).

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

2 (d) The provisions of this section prohibiting disclosure of  
3 information relating to a minor do not apply to a disclosure to a  
4 victim or the victim's parent or guardian under AS 47.10.020(a),  
5 47.10.080(a), and 47.10.140(d).

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

7 (d) If the court finds that probable cause exists, it shall  
8 determine whether the minor should be detained pending the hearing on  
9 the petition or released. It may either order the minor held in  
10 detention or order the minor [HIM] to be released to the custody of a  
11 suitable person pending the hearing on the petition. If the court  
12 finds no probable cause, it shall order the minor released and close  
13 the case. The court shall disclose the results of the hearing in  
14 accordance with AS 47.10.020(a).