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1 IN THE SENATE

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SENATE BILL NO. 264

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to unlawful conduct of minors; and
7 amending Rule 24 of the Alaska Rules of Children's
8 Procedure."

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

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

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

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

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

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

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

1 real or personal property belonging to the person, municipal corpora-
2 tion, association, village, school district or religious or charitable
3 organization.

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

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

9 (1) the disabilities of minority have been removed under
10 AS 09.55.590;

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

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

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

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

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

28 (a) Whenever a person informs the court of the facts which bring
29 a minor within this chapter, the court shall appoint a competent

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

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

16 (a) The court shall order a case closed and, subject to the
17 provisions of AS 12.55.015(e), the minor may be prosecuted as if the
18 minor were an adult if the court finds at a hearing on a petition

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

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

25 * Sec. 6. AS 47.10.060 is amended by adding a new subsection to read:

26 (f) If a case is closed under (a)(1) of this section, the minor
27 may petition the court within 10 days to reopen the case. The case
28 shall be reopened if the court finds by a preponderance of the evi-
29 dence that the interests of justice would be best served if the minor

1 is not prosecuted as an adult. In making this finding, the court
2 shall consider

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

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

7 (3) the need to confine the minor to prevent further harm
8 to the public;

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

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

14 (6) the best interest of the minor.

15 * Sec. 7. AS 47.10.080(a) is amended to read:

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

21 * Sec. 8. AS 47.10.090 is amended by adding a new subsection to read:

22 (d) The provisions of this section prohibiting disclosure of
23 information relating to a minor do not apply to a disclosure to a
24 victim or the victim's parent or guardian under AS 47.10.020(a),
25 47.10.080(a), and 47.10.140(d).

26 * Sec. 9. AS 47.10 is amended by adding a new section to read:

27 Sec. 47.10.125. FINGERPRINTING OF MINORS. (a) A law enforce-
28 ment agency or the Department of Health and Social Services may fin-
29 gerprint a minor only

- 1 (1) in accordance with a search warrant;
- 2 (2) when the minor is being prosecuted as an adult under
3 AS 47.10.060(a);
- 4 (3) when the minor is in custody for an offense that if
5 committed by an adult would constitute a felony and the custodial
6 agency secures the fingerprints to further the investigation of the
7 offense;
- 8 (4) when the minor is adjudicated a delinquent for the
9 commission of an offense that if committed by an adult would consti-
10 tute a felony;
- 11 (5) upon consent of both the minor and a parent or legal
12 guardian of the minor who have been advised that the fingerprints
13 cannot be taken without their consent; or
- 14 (6) by order of the court.
- 15 (b) Fingerprints of a minor shall be kept separate from those of
16 adults, shall be kept within the state rather than at a federal cen-
17 tral depository, and shall be made available only to the following
18 upon request:
- 19 (1) public agencies for use in the investigation and prose-
20 cution of criminal offenses for which the fingerprinted minor is a
21 suspect;
- 22 (2) the minor when named in a juvenile court or adult court
23 proceeding or the minor's attorney.
- 24 (c) Fingerprints of a minor taken under this section shall be
25 destroyed by the authority charged with their maintenance
- 26 (1) when the minor is adjudicated for the offense regarding
27 which the minor's fingerprints were taken and found not to be within
28 the jurisdiction of the court for the offense; or
- 29 (2) when the minor is not adjudicated for the offense

1 regarding which the minor's fingerprints were taken within two years
2 of the date the fingerprints were taken.

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

4 (d) If the court finds that probable cause exists, it shall
5 determine whether the minor should be detained pending the hearing on
6 the petition or released. It may either order the minor held in
7 detention or released to the custody of a suitable person pending the
8 hearing on the petition. If the court finds no probable cause, it
9 shall order the minor released and close the case. The court shall
10 disclose the results of the hearing in accordance with AS 47.10.-
11 020(a).

12 * Sec. 11. Rule 24, Alaska Rules of Children's Procedure, is amended to
13 read:

14 No child shall be [FINGERPRINTED OR] photographed while in
15 custody except with the consent of the children's court upon good
16 cause shown. Such cause exists where the child is in custody for a
17 serious offense against persons or property or where identification of
18 the child appears necessary for the safety of the child or others.

19 * Sec. 12. Section 11 amends Rule 24 of the Alaska Rules of Children's
20 Procedure by deleting the reference to fingerprints.

21 * Sec. 13. Rule 24, Alaska Rules of Children's Procedure, is amended by
22 adding a new subsection to read:

23 (b) A child may not be fingerprinted while in custody except in
24 accordance with AS 47.10.125.

25 * Sec. 14. Section 13 amends Rule 24 of the Alaska Rules of Children's
26 Procedure by incorporating the statutory requirements for obtaining finger-
27 prints from a child in custody.