

**HOUSE BILL NO. 432**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**EIGHTEENTH LEGISLATURE - SECOND SESSION**

**BY REPRESENTATIVE B.DAVIS**

**Introduced: 2/2/94**

**Referred: Health, Education & Social Services, Judiciary**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act establishing a cause of action for damages for failure to exercise  
2 visitation rights with a child."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 \* Section 1. AS 25.24 is amended by adding a new section to read:

5           Sec. 25.20.150. **ACTION FOR FAILURE TO EXERCISE VISITATION**  
6 **WITH A MINOR CHILD.** (a) When a court order is specific as to when a person is  
7 entitled to have visitation with a minor child, and the person fails, wilfully and without  
8 just excuse, to exercise visitation with the child in substantial conformance with the  
9 court order, the child's custodian has a cause of action against the person for damages.

10           (b) The amount of damages recoverable under this section is \$200 for each  
11 failure of the person with visitation rights, wilfully and without just excuse, to exercise  
12 visitation with the child for substantially the length of time and substantially in the  
13 same manner as specified in the court order. This amount may not be increased or  
14 decreased once liability has been established. The person with visitation rights is not

1 liable for more than one failure in respect to what is, under the court order, a single  
2 continuous period of visitation. The prevailing party in an action commenced under  
3 this section is entitled to recover a reasonable attorney fee.

4 (c) In this section,

5 (1) "court order" means a decree, judgment, or order issued by a court  
6 of competent jurisdiction;

7 (2) "custodian" means a natural person who has been awarded physical  
8 custody, either temporary or permanent, of a minor child;

9 (3) "just excuse" includes illness of the adult or the child that makes  
10 it dangerous to the health of the child for visitation to take place in conformance with  
11 the court order; "just excuse" does not include the wish of the child not to have  
12 visitation with the person entitled to it;

13 (4) "visitation rights" means the right to temporary physical custody or  
14 contact with a child, including the right to shared physical custody rather than  
15 visitation.

16 \* Sec. 2. This Act applies to a failure to exercise visitation rights that occurs on or after  
17 the effective date of this Act.