

COMMITTEE REPORT  
SENATE

FURTHER:

2/10/63

Date: 1/11/63

Mr. President:

The Committee on FINANCE has had CS 1127 (362)

*to advise the power and jurisdiction of courts in the following manner:*

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title
- new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*Robert M. ...*

\_\_\_\_\_

*V. F. ...*

*...*

CHAIRMAN

Offered: 5/3/83  
Referred: Rules

Original sponsors: Rodey and Ray

1 IN THE SENATE BY THE JUDICIARY COMMITTEE  
2 CS FOR SENATE BILL NO. 127 (Judiciary)  
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 the power and jurisdiction of  
7 courts in cases involving minors."

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

9 \* Section 1. AS 12.05 is amended by adding a new section to read:

10 Sec. 12.05.020. JURISDICTION OVER CERTAIN MINORS CHARGED WITH  
11 SERIOUS FELONIES. (a) A person 16 or 17 years of age who is charged  
12 with an offense designated as an unclassified felony must be arrested  
13 and prosecuted as an adult.

14 (b) If the court has waived children's court jurisdiction over a  
15 person under the age of 18 under AS 47.10.060, that person must be  
16 prosecuted as an adult.

17 (c) Unless referred to children's court for disposition after a  
18 hearing under AS 12.55.007(b), a person who has been convicted of an  
19 offense after being prosecuted as an adult under this section must be  
20 prosecuted as an adult for any subsequent criminal offense.

21 (d) References in this section to the age of a person refers to  
22 the person's age at the time of the offense.

23 \* Sec. 2. AS 12.55 is amended by adding a new section to read:

24 Sec. 12.55.007. SENTENCING OF CERTAIN MINORS. (a) A person  
25 subject to the jurisdiction of the court under AS 12.05.020 who is  
26 convicted of the offense charged or of any lesser included offense  
27 must be sentenced under the provisions of this chapter, unless re-  
28ferred to children's court for disposition after a hearing under (b)  
29 of this section.

1 (b) A person subject to the jurisdiction of the court under  
2 AS 12.05.020 who is convicted of an offense that is not an unclassi-  
3 fied felony and that is lesser than the offense for which children's  
4 court jurisdiction was waived may petition the court to dispose of the  
5 offense under AS 47.10.080. The petitioner must file with the court  
6 notice of intent to seek disposition under AS 47.10.080 and serve the  
7 prosecutor with a copy of the notice no less than 20 days before the  
8 day set for imposition of sentence. The court shall hold a hearing on  
9 the petition. At the hearing the petitioner has the burden of estab-  
10 lishing, by a preponderance of the evidence, that there is a substan-  
11 tial likelihood that the petitioner can be successfully rehabilitated  
12 under the children's court system. In determining the likelihood of  
13 successful rehabilitation under children's court proceedings, the  
14 court shall consider the factors set out in AS 47.10.060(c) and follow  
15 the procedure established in AS 47.10.060(d).

16 \* Sec. 3. AS 12.55.125(a) is amended to read:

17 (a) Except as provided in (j) of this section, a [A] defendant  
18 convicted of murder in the first degree shall be sentenced to a defi-  
19 nite term of imprisonment of at least 20 years but not more than 99  
20 years.

21 \* Sec. 4. AS 12.55.125(b) is amended to read:

22 (b) Except as provided in (j) of this section, a [A] defendant  
23 convicted of murder in the second degree, kidnapping, or misconduct  
24 involving a controlled substance in the first degree shall be sen-  
25 tenced to a definite term of imprisonment of at least five years but  
26 not more than 99 years.

27 \* Sec. 5. AS 12.55.125(c) is amended to read:

28 (c) A defendant convicted of a class A felony may be sentenced  
29 to a definite term of imprisonment of not more than 20 years, and

1 except as provided in (j) of this section, shall be sentenced to the  
2 following presumptive terms, subject to adjustment as provided in  
3 AS 12.55.155 - 12.55.175:

4 (1) if the offense is a first felony conviction and does  
5 not involve circumstances described in (2) of this subsection, five  
6 years;

7 (2) if the offense is a first felony conviction, other than  
8 for manslaughter, and the defendant possessed a firearm, used a dan-  
9 gerous instrument, or caused serious physical injury during the com-  
10 mission of the offense, seven years;

11 (3) if the offense is a second felony conviction, 10 years;

12 (4) if the offense is a third felony conviction, 15 years.

13 \* Sec. 6. AS 12.55.125(i) is amended to read:

14 (i) A defendant convicted of sexual assault in the first degree  
15 may be sentenced to a definite term of imprisonment of not more than  
16 30 years, and, except as provided in (j) of this section, shall be  
17 sentenced to the following presumptive terms, subject to adjustment as  
18 provided in AS 12.55.155 - 12.55.175:

19 (1) if the offense is a first felony conviction and does  
20 not involve circumstances described in (2) of this subsection, eight  
21 years;

22 (2) if the offense is a first felony conviction, and the  
23 defendant possessed a firearm, used a dangerous instrument, or caused  
24 serious physical injury during the commission of the offense, 10  
25 years;

26 (3) if the offense is a second felony conviction, 15 years;

27 (4) if the offense is a third felony conviction, 25 years.

28 \* Sec. 7. AS 12.55.125 is amended by adding a new subsection to read:

29 (j) A person convicted of a first felony offense while under the

1 jurisdiction of the court under AS 12.05.020 is not subject to the  
2 mandatory minimum and presumptive sentences required for first  
3 offenders.

4 \* Sec. 8. AS 12.55.145 is amended by adding a new subsection to read:

5 (f) If a person subject to the jurisdiction of the court under  
6 AS 12.05.020 is convicted of a felony offense, the conviction is to be  
7 considered a prior conviction for presumptive sentencing purposes in  
8 subsequent offenses.

9 \* Sec. 9. AS 12.80 is amended by adding a new section to read:

10 Sec. 12.80.060. CONFINEMENT OF CERTAIN MINORS. (a) A person 16  
11 or 17 years of age who is charged with an unclassified felony, and who  
12 is held in custody, shall be confined in a facility for juvenile  
13 offenders until indicted for, held to answer following a preliminary  
14 hearing on, or charged by complaint or information following a waiver  
15 of indictment or preliminary hearing for an unclassified felony  
16 offense. Following indictment, preliminary hearing, or waiver the  
17 person, if held in custody, shall be confined in a facility for adult  
18 offenders.

19 (b) Except as provided in (a) of this section, a person under  
20 the age of 18 who has been arrested and is being held in custody for  
21 an offense which would be a criminal offense if committed by an adult  
22 shall be confined to a facility for juvenile offenders unless chil-  
23 dren's court jurisdiction over the person has been waived under  
24 AS 47.10.060, and the person has been indicted for, held to answer  
25 following a preliminary hearing on, or charged by complaint or infor-  
26 mation following a waiver of indictment or preliminary hearing for a  
27 felony offense.

28 (c) If a person under the age of 18 who is subject to the juris-  
29 diction of the court under AS 12.05.020 is confined to custody while

1       awaiting sentencing, or is sentenced to a period of incarceration upon  
2       conviction, the person must be committed to the custody of the Depart-  
3       ment of Health and Social Services for confinement in a correctional  
4       facility for adult offenders.

5       \* Sec. 10. AS 34.50.020(a) is amended to read:

6           (a) Except as provided in (e) of this section, a [A] person,  
7       municipal corporation, association, village, school district or reli-  
8       gious or charitable organization, incorporated or unincorporated, may  
9       recover damages in a civil action in an amount not to exceed \$5,000  
10      [\$2,000] and court costs, from either parent or both parents or the  
11      legal guardian or person having the legal custody of an unemancipated  
12      minor under the age of 18 years, who maliciously or wilfully destroys  
13      real or personal property belonging to the person, municipal corpo-  
14      ration, association, village, school district or religious or charita-  
15      ble organization.

16      \* Sec. 11. AS 34.50.020 is amended by adding new subsections to read:

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

21           (1) the disabilities of minority have been removed under  
22      AS 09.55.590;

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

27           (3) the minor is living separate and apart from the minor's  
28      parents or legal guardian or person having legal custody and engages  
29      in conduct that results in a judgment under AS 47.10.080(a) that the

1 minor is a delinquent minor and that also is the basis for a civil  
2 action for damages to property under this section.

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

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

10 \* Sec. 12. AS 47.10.010(a) is amended to read:

11 (a) Except as otherwise provided in this chapter and AS 12.05.-  
12 020, AS 12.55.007, and AS 12.80.060, proceedings [PROCEEDINGS] relat-  
13 ing to a minor under 18 years of age residing or found in the state  
14 are governed by this chapter [, EXCEPT AS OTHERWISE PROVIDED IN THIS  
15 CHAPTER,] when the court finds the minor

16 (1) to be a delinquent minor as a result of violating a  
17 criminal law of the state or of a municipality of the state; or

18 (2) to be a child in need of aid as a result of

19 (A) the child being habitually absent from the child's  
20 [HIS] home or refusing to accept available care, or having no  
21 parent, guardian, custodian or relative caring or willing to care  
22 for the child [HIM], including physical abandonment by

23 (i) both parents,

24 (ii) the surviving parent, or

25 (iii) one parent if the other parent's rights and  
26 responsibilities have been terminated under AS 47.10.080 or  
27 voluntarily relinquished;

28 (B) the child being in need of medical treatment to  
29 cure, alleviate, or prevent [HIS] suffering substantial physical

1 harm, or mental harm as evidenced by failure to thrive, severe  
2 anxiety, depression, withdrawal, or untoward aggressive behavior  
3 or hostility toward others, and the [HIS] parents of the child  
4 are unwilling to provide the medical treatment;

5 (C) the child having suffered substantial physical  
6 harm or if there is an imminent and substantial risk that the  
7 child will suffer such harm as a result of the actions done by or  
8 conditions created by the [HIS] parent, guardian or custodian of  
9 the child or the failure of the [HIS] parent, guardian or custo-  
10 dian of the child adequately to supervise the child [HIM];

11 (D) the child having been sexually abused either by  
12 the [HIS] parent, guardian or custodian of the child, or as a  
13 result of conditions created by the [HIS] parent, guardian or  
14 custodian of the child, or by the failure of the [HIS] parent,  
15 guardian or custodian of the child adequately to supervise the  
16 child [HIM];

17 (E) the child committing delinquent acts as a result  
18 of pressure, guidance, or approval from the [HIS] parents, guard-  
19 ian or custodian of the child; [.]

20 (F) the child having suffered substantial physical  
21 abuse or neglect as a result of conditions created by the  
22 [CHILD'S] parent, guardian or custodian of the child.

23 \* Sec. 13. AS 47.10.020(a) is amended to read:

24 (a) Whenever a person informs the court of the facts which bring  
25 a minor within this chapter, the court shall appoint a competent  
26 person or agency to make a preliminary inquiry and report for the  
27 information of the court to determine whether the interests of the  
28 public or of the minor require that further action be taken. Upon the  
29 receipt of the report, the court may informally adjust or dispose of

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

10 \* Sec. 14. AS 47.10.060 is repealed and reenacted to read:

11 Sec. 47.10.060. WAIVER OF JURISDICTION. (a) Upon motion of the  
12 prosecutor, and after a hearing, the court shall waive children's  
13 court jurisdiction over a person under the age of 18 if the court  
14 finds, based upon the preponderance of the evidence,

15 (1) that there is probable cause to believe that the person  
16 has committed an offense which would be a felony if committed by an  
17 adult; and

18 (2) that there is no substantial likelihood that the person  
19 can be successfully rehabilitated under children's court proceedings.

20 (b) For purposes of this section, "substantial likelihood of  
21 rehabilitation" means that it is highly probable that a person can be  
22 rehabilitated by treatment under this chapter before children's court  
23 jurisdiction over the person expires.

24 (c) In determining the likelihood of successful rehabilitation  
25 under children's court proceedings, the court shall consider

26 (1) the seriousness of the offense;

27 (2) whether the offense constituted a substantial danger to  
28 the public;

29 (3) whether the offense was committed in an aggressive,

1 violent, premeditated, or willful manner;

2 (4) whether the offense was against persons or against  
3 property, greater weight being given to an offense against persons,  
4 especially if personal injury resulted;

5 (5) whether the offense is a part of a repetitive pattern  
6 of delinquent acts, even though previous offenses may have been less  
7 serious;

8 (6) the age, maturity, educational background, and degree  
9 of criminal sophistication of the person;

10 (7) the success of any previous attempts to rehabilitate  
11 the person;

12 (8) whether children's court jurisdiction over the person  
13 can be retained long enough to allow for effective treatment or reha-  
14 bilitation; and

15 (9) the treatment resources available under children's  
16 court proceedings.

17 (d) The court shall determine the weight to be given to each of  
18 the factors listed in (c) of this section and shall issue a written  
19 decision. A finding that there is no substantial likelihood of suc-  
20 cessful rehabilitation of the person under children's court proceed-  
21 ings may be based on any one or a combination of the factors. If the  
22 court waives children's court jurisdiction over a person, the court  
23 shall order the children's court proceeding closed and the person must  
24 then be prosecuted as an adult.

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

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

1 accordance with AS 47.10.020(a).

2 \* Sec. 16. AS 47.10.090 is amended by adding a new subsection to read:

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

7 \* Sec. 17. AS 47.10.140(d) is amended to read:

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

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSSB 127 (Jud.)  
 Title Juris. in cases involving Minors  
 Requested by Senator Josephson Date 6/17/83

II. FISCAL DETAIL

Agency Affected Health and Social Services  
 Program Category Affected Justice  
 BRU, Program, or Subprogram(s) Affected Adult Confinement  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-			

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE 6/16/83

PREPARED BY Senator Sackett  
 AGENCY State/Senate  
 PHONE 3753

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSSB 127 (Jud.)  
 Title Juris. in cases involving Minors  
 Requested by Senator Josephson Date 6/17/83

II. FISCAL DETAIL

Agency Affected Health and Social Services  
 Program Category Affected Justice  
 BRU, Program, or Subprogram(s) Affected Adult Confinement  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>			

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE 6/16/83 PREPARED BY Senator Sackett  
 AGENCY State/Senate  
 PHONE 3753  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

## SECTIONAL ANALYSIS - CSSB 127 (FIN)

### Section 1.

A defendant minor over whom jurisdiction is waived shall be confined according to HSS rules and transferred to adult correction facility after attaining age 18 if more than one year remains in term of imprisonment.

### Section 2.

Raises recoverable damage in a civil action to \$5,000 from parents or guardian of unemancipated minor.

### Section 3.

A minor is considered emancipated when:

1. disabilities of minority removed;
2. at least 16 years old, living separate and apart from parents or guardian and is capable of self-support; and
3. the minor lives apart from parent or guardian and engages in conduct resulting in a judgment under AS47.10.080(a).

A minor who is emancipated may be sued in a civil action.

This provision does not apply to minor's criminal activity while ward of the state.

### Section 4.

The court upon request of victim should disclose the manner in which it disposed of the matter before it.

### Section 5.

Minor must be charged with a crime:

1. minor is 16 years or older and charged with being delinquent;
2. there is probable cause to believe that minor committed ... offenses; and
3. ...

### Section 6.

Minor is not amenable to treatment if minor cannot be rehabilitated before reaching age 20. Court shall consider:

1. criminal history
2. seriousness of offense
3. probable cause of behavior
4. facilities available for treatment

Section 7.

Disclosure of court determination to follow 47.10.280(a).

Section 8.

Disclosure under this section does not apply to victim.

Section 9.

Disclosure of court determination to follow 47.10.020(a).

of

12-11-01

12-11-01

12-11-01

12-11-01

12-11-01

12-11-01

12-11-01

12-11-01

12-11-01

12-11-01

12-11-01

12-11-01

12-11-01

12-11-01

12-11-01

12-11-01

12-11-01

12-11-01

12-11-01

12-11-01

12-11-01

12-11-01

12-11-01

12-11-01

CS SB 127  
SUMMARY OF FISCAL NOTES

<u>Department</u>	<u>Program</u>	<u>Date</u>	<u>FY 83</u>	<u>FY 84</u>	<u>FY 85</u>	<u>FY 86</u>	<u>FY 87</u>	<u>FY 88</u>
Public Safety	Admin/Justice	5/9/83	0	0	0	0	0	0
Health and Social Services	Justice	5/6/83	0	48.3	152.6	1196.6	<b>1262.1</b>	1337.8
	Capital		7592.0					
Administration	Public Defender	4/28/83	179.6	186.2	197.4	209.3	221.8	235.1
Public Safety	State Troopers	3/10/83	0	0	0	0	0	0
	Operating totals		179.6	234.5	350.0	1405.9	1483.9	1572.9
	Capital totals		7592.0	0	0	0	0	0
	TOTALS		7771.6	234.5	350.0	1405.9	1483.9	1572.9

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No.: CSSB 127 (Jud.)  
 Title: Juris. in cases involv. Minors  
 Sponsor: Rodey  
 Requestor: \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected: Health & Social Services  
 Program Category Affected: Justice  
 BRU, Program of Subprogram(s) Affected: Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES				856.8	908.2	962.7
200 TRAVEL				6.5	6.9	7.3
300 CONTRACTUAL		21.7	69.1	149.1	158.1	167.6
400 COMMODITIES		21.5	68.2	152.2	161.3	171.0
500 EQUIPMENT		-	-	6.0	-	-
600 LAND & STRUCTURES		7592.0	-	-	-	-
700 GRANTS, CLAIMS, ETC		5.1	15.3	26.0	27.6	29.2
TOTAL OPERATING	-0-	48.3	152.6	1196.6	1262.1	1337.8
CAPITAL	-0-	7592.0	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND		7640.33	152.6	1196.6	1262.1	1337.8
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	20	20	20
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The funding source was not identified by the sponsors of the bill.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange Phone: 465-3376  
 Division: Division of Adult Corrections Date: 04/26/83

Approved by Commissioner: J. R. P. Date: 5/6/83  
 Department: Health and Social Services

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

3/8/83

IV. ANALYSIS

A. Assumptions:

Enactment of the Bill would require the Division of Adult Corrections to accommodate an estimated fifty-two (52) full-time equivalent offenders as a result of the adjudication of minors in the sixteen (16) and seventeen (17) year old age group. There would be no impact on the Division of Family and Youth Services, as juveniles convicted and sentenced would fall within the jurisdiction of Adult Corrections. The attached matrix indicates the estimated numbers of individuals who would be convicted each year in the various criminal offense categories.

B. Program Summary:

1. In FY '84, funds would be required to begin planning and design for construction of a medium security beds. Because of the serious nature of the offenses, however, it is assumed that a significant number of the offenders would spend some time in a maximum security setting. Capital costs for medium security beds are estimated at \$146,000 per bed.

52 beds @ \$146,000 = \$7,592,000

2. Full operating costs would not occur until FY '86 in the Adult Confinement BRU. It is estimated that twenty (20) positions will be required to provide security and support for these beds: One (1) Correctional Officers III, seventeen (17) Correctional Officers II and two (2) Probation Officers II. Costs for these positions will occur in FY '86, the anticipated opening date for the new beds. Estimated costs are as follows:

100 Personal Services	\$856,800
200 Travel	6,500
300 Contractual Services	149,100
400 Commodities	152,200
500 Equipment	6,000
700 Inmate Gratuities	<u>26,000</u>

Total \$1,196,600

Operating cost for FY '84 and FY '85 are for inmate cost of food, clothing, medical, etc., for the estimated persons coming into existing facilities before the new beds can be completed.

Inflation of 6% for all expenditure object groups was assumed for FY '87 and FY '88.

There would be no resulting costs for the Division of Family and Youth Services.

C. Computation:

N/A

D. Economic Impact:

There would be a tendency to retain the effectiveness of treatment in the juvenile facilities with the older youths convicted of serious, more violent crimes being provided a continuum of security and rehabilitative program for young adult offenders within the adult correctional system.

E. Impact on Local Government:

There would be no impact.

<u>Annual Frequency of Convictions</u>	<u>Presumptive Sentence</u>	<u>Estimated Average Sent for 16 and 17 Year Olds Convicted as Adults</u>	<u>Actual Time to Serve With Credit for Good Time</u>
*Unclassified felony (automatic wavier)			
1 murder	20 years	15 years	11.25 x 1 = 11.25 years
1 sexual assault 1st (with firearm)	10 years	7 years	5.25 x 1 = 5.25 years
3 sexual assault 1st (without firearm)	8 years	5 years	3.75 x 2 = 7.50 years 1 probation
Other felonies - discretionary wavier			
3 Class A felonies (with firearms)	7 years	6 years	4.5 x 2 = 9 years 1 probation
4 Class A felonies (without firearms)	5 years	4 years	3 x 3 = 9 years 1 probation
	<u>Non-presumptive Range</u>		
6 Class B felonies	0-10 years	3 years	2.25 x 4 = 9 2 probation
2 Class C felonies	0-5 years	1 year	.75 x 1 = .75 years 1 probation
			<u>TOTAL: 51.75 man years</u>

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No.: CSSB 127 (Jud.)  
 Title: Juris. in cases involv. Minors  
 Sponsor: Rodey  
 Requestor: \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected: Health & Social Services  
 Program Category Affected: Justice  
 BRU, Program of Subprogram(s) Affected: Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES				856.8	908.2	962.7
200 TRAVEL				6.5	6.9	7.3
300 CONTRACTUAL		21.7	69.1	149.1	158.1	167.6
400 COMMODITIES		21.5	68.2	152.2	161.3	171.0
500 EQUIPMENT		-	-	6.0	-	-
600 LAND & STRUCTURES		7592.0	-	-	-	-
700 GRANTS, CLAIMS, ETC		5.1	15.3	26.0	27.6	29.2
TOTAL OPERATING	-0-	48.3	152.6	1196.6	1262.1	1337.8
CAPITAL	-0-	7592.0	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND		7640.33	152.6	1196.6	1262.1	1337.8
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	20	20	20
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The funding source was not identified by the sponsors of the bill.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange Phone: 465-3376  
 Division: Division of Adult Corrections Date: 04/26/83

Approved by Commissioner: [Signature] Date: 5/4/83  
 Department: Health and Social Services

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

3/8/83

IV. ANALYSIS

A. Assumptions:

Enactment of the Bill would require the Division of Adult Corrections to accommodate an estimated fifty-two (52) full-time equivalent offenders as a result of the adjudication of minors in the sixteen (16) and seventeen (17) year old age group. There would be no impact on the Division of Family and Youth Services, as juveniles convicted and sentenced would fall within the jurisdiction of Adult Corrections. The attached matrix indicates the estimated numbers of individuals who would be convicted each year in the various criminal offense categories.

B. Program Summary:

1. In FY '84, funds would be required to begin planning and design for construction of a medium security beds. Because of the serious nature of the offenses, however, it is assumed that a significant number of the offenders would spend some time in a maximum security setting. Capital costs for medium security beds are estimated at \$146,000 per bed.

52 beds @ \$146,000 = \$7,592,000

2. Full operating costs would not occur until FY '86 in the Adult Confinement BRU. It is estimated that twenty (20) positions will be required to provide security and support for these beds: One (1) Correctional Officers III, seventeen (17) Correctional Officers II and two (2) Probation Officers II. Costs for these positions will occur in FY '86, the anticipated opening date for the new beds. Estimated costs are as follows:

100 Personal Services	\$856,800
200 Travel	6,500
300 Contractual Services	149,100
400 Commodities	152,200
500 Equipment	6,000
700 Inmate Gratuities	<u>26,000</u>

Total \$1,196,600

Operating cost for FY '84 and FY '85 are for inmate cost of food, clothing, medical, etc., for the estimated persons coming into existing facilities before the new beds can be completed.

Inflation of 6% for all expenditure object groups was assumed for FY '87 and FY '88.

There would be no resulting costs for the Division of Family and Youth Services.

C. Computation:

N/A

D. Economic Impact:

There would be a tendency to retain the effectiveness of treatment in the juvenile facilities with the older youths convicted of serious, more violent crimes being provided a continuum of security and rehabilitative program for young adult offenders within the adult correctional system.

E. Impact on Local Government:

There would be no impact.

<u>Annual Frequency of Convictions</u>	<u>Presumptive Sentence</u>	<u>Estimated Average Sent for 16 and 17 Year Old Convicted as Adults</u>	<u>Actual Time to Serve With Credit for Good Time</u>
*Unclassified felony (automatic wavier)			
1 murder	20 years	15 years	11.25 x 1 = 11.25 years
1 sexual assult 1st (with firearm)	10 years	7 years	5.25 x 1 = 5.25 years
3 sexual assult 1st (without firearm)	8 years	5 years	3.75 x 2 - 7.50 years 1 probation
Other felonies - discretionary wavier			
3 Class A felonies (with firearms)	7 years	6 years	4.5 x 2 = 9 years 1 probation
4 Class A felonies (without firearms)	5 years	4 years	3 x 3 - 9 years 1 probation
	<u>Non-presumptive Range</u>		
6 Class B felonies	0-10 years	3 years	2.25 x 4 = 9 2 probation
2 Class C felonies	0-5 years	1 year	.75 x 1 = .75 years 1 probation
			<u>TOTAL: 51.75 man years</u>

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No.: SBI27  
 Title: "Unlawful Conduct of Minors"  
 Sponsor: Senator Rodev  
 Requestor: \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected: Dept. of Admin.  
 Program Category Affected: Public Defender  
 BRU, Program of Subprogram(s) Affected: Third District, Fourth District

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES	137.6	145.9	154.7	164.0	173.8	184.2
200 TRAVEL	10.0	10.6	11.2	11.9	12.6	13.4
300 CONTRACTUAL	25.0	26.5	28.1	29.8	31.6	33.5
400 COMMODITIES	3.0	3.2	3.4	3.6	3.8	4.0
500 EQUIPMENT	4.0					
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	179.6	186.2	197.4	209.3	221.8	235.1
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	179.6	186.2	197.4	209.3	221.8	235.1
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	2.0	2.0	2.0	2.0	2.0	2.0
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

GENERAL FUND

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Bob Stokes, Admin. Officer Phone: 279-7541  
 Division: Dana Fabe, Public Defender Date: April 14, 1983  
 Approved by Commissioner: Commissioner Lisa Rudd Date: 4/28/83  
 Department: Dept. of Administration

Distribution:

Original to Legislative Finance  
 Copy to Office of Management and Budget (for Legislature introduced bills)  
 Copy to Department (for Governor introduced bills)  
 Copy to Sponsor  
 Copy to Requestor (if different from Sponsor)

ANALYSIS- SB 127

This bill, if passed, will substantially increase the number of adult felony prosecutions of serious crimes such as murders, sexual assaults, kidnappings and other unclassified Class A felonies which are the serious offenses in the criminal code. These type of felony cases are the most time consuming of any cases handled by this agency due to their complexity and the amount of exposure to the client. Substantial expenditures for expert witnesses and psychiatric evaluations are necessary in these type of cases. Furthermore, while cases in juvenile court are often negotiated and disposed of without court appearances or trial, such serious adult felony cases require the greatest amount of attorney time. Because the majority of juvenile cases are handled in Anchorage and Fairbanks and the resulting new felony prosecutions will occur in those locations, an additional trial attorney for each location is requested.

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No.: SB127  
 Title: "Unlawful Conduct of Minors"  
 Sponsor: Senator Rodev  
 Requestor: \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected: Dept. of Admin.  
 Program Category Affected: Public Defender  
 BRU, Program of Subprogram(s) Affected: Third District, Fourth District

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
<b>OPERATING</b>						
100 PERSONAL SERVICES	137.6	145.9	154.7	164.0	173.8	184.2
200 TRAVEL	10.0	10.6	11.2	11.9	12.6	13.4
300 CONTRACTUAL	25.0	26.5	28.1	29.8	31.6	33.5
400 COMMODITIES	3.0	3.2	3.4	3.6	3.8	4.0
500 EQUIPMENT	4.0					
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
<b>TOTAL OPERATING</b>	<b>179.6</b>	<b>186.2</b>	<b>197.4</b>	<b>209.3</b>	<b>221.8</b>	<b>235.1</b>
<b>CAPITAL</b>						
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

GENERAL FUND	179.6	186.2	197.4	209.3	221.8	235.1
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	2.0	2.0	2.0	2.0	2.0	2.0
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

GENERAL FUND

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Bob Stokes, Admin. Officer Phone: 279-7541  
 Division: John Rabe, Public Defender Date: April 14, 1983  
 Approved by Commissioner: Commissioner Lisa Rudd Date: 4/28/83  
 Department: Dept. of Administration

Distribution:

Original to Legislative Finance  
 Copy to Office of Management and Budget (for Legislature introduced bills)  
 Copy to Department (for Governor introduced bills)  
 Copy to Sponsor  
 Copy to Requestor (if different from Sponsor)

3/8/83

ANALYSIS- SB 127

This bill, if passed, will substantially increase the number of adult felony prosecutions of serious crimes such as murders, sexual assaults, kidnappings and other unclassified Class A felonies which are the serious offenses in the criminal code. These type of felony cases are the most time consuming of any cases handled by this agency due to their complexity and the amount of exposure to the client. Substantial expenditures for expert witnesses and psychiatric evaluations are necessary in these type of cases. Furthermore, while cases in juvenile court are often negotiated and disposed of without court appearances or trial, such serious adult felony cases require the greatest amount of attorney time. Because the majority of juvenile cases are handled in Anchorage and Fairbanks and the resulting new felony prosecutions will occur in those locations, an additional trial attorney for each location is requested.

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: Senate Bill 127 Date on Bill: 2/16/83  
 Title: "An Act relating to unlawful conduct of minors."  
 Sponsor: Rodey  
 Requestor: \_\_\_\_\_

1. Estimated fiscal impacts on:

a. Expenditures: -

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total			-0-	-0-	-0-	-0-		

b. Revenues:

Revenue								
---------	--	--	--	--	--	--	--	--

2. Source of funds to offset fiscal impact of bill:

Not identified by sponsor.

3. Assumptions:

No fiscal impact.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Francis C. Allan *F.C.A.* Phone: 269-5691  
 Division: Alaska State Troopers Date: 3/9/83

Approved by Commissioner: *[Signature]* Date: 3/10/83  
 Department: Public Safety

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/15/83

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: Senate Bill 127 Date on Bill: 2/16/83  
Title: "An Act relating to unlawful conduct of minors."  
Sponsor: Rodey  
Requestor: \_\_\_\_\_

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total	-0-	-0-	-0-	-0-

b. Revenues:

Revenue				
---------	--	--	--	--

2. Source of funds to offset fiscal impact of bill:

Not identified by sponsor.

3. Assumptions:

No fiscal impact.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Francis C. Allan *F.C.A.* Phone: 269-5691  
Division: Alaska State Troopers Date: 3/9/83

Approved by Commissioner: *[Signature]* Date: 3/10/83  
Department: Public Safety

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

## POSITION PAPER

CS FOR SENATE BILL NO. 127

PAGE 1

"An Act relating to the power and jurisdiction of court in cases involving minors."

The Committee Substitute for Senate Bill Number 127 would accomplish five major purposes. The Act would:

1. Hold older, violent juveniles offenders accountable as adults within the adult criminal court jurisdiction.
2. Change the standard for judicially waiving serious or repeat juvenile offenders to adult jurisdiction, and define factors which the court must consider in making waiver decisions;
3. Define sentencing and confinement procedures for juveniles who are waived to adult jurisdiction;
4. Increase the civil, financial liability of parents or guardians of unemancipated minors and the liability of emancipated minors for the destructive acts committed by those youths;
5. Allow the release of information about disposition of juvenile court matters involving minors to the victims or the minors' offenses, or, in appropriate instances to the parents or guardians of the youths.

JURISDICTION OVER MINORS

CS Senate Bill 127, would accomplish a significant change in policy concerning the method of dealing with older juveniles accused of the most serious of offenses - unclassified felonies. Under the provisions of CS SB 127, sixteen and seventeen year old juveniles accused of unclassified felonies would be prosecuted under the adult criminal jurisdiction of the Superior Court precisely as would an adult. All other juveniles would be subject to juvenile jurisdiction of the Superior Court unless waived to adult jurisdiction through the judicial waiver process.

Another provision of the Bill would provide procedural protection for those youths who, though automatically waived because they were accused of an unclassified felony, were actually convicted of a lesser offense which would not make them eligible for automatic waiver. These youths

POSITION PAPER

CS FOR SENATE BILL NO. 127  
PAGE 2

could petition the court to refer them to juvenile jurisdiction for disposition. At a hearing on the matter the court would determine the likelihood of rehabilitating the youth under the juvenile system. It would be the burden of the youth to establish that he or she could be successfully rehabilitated under the juvenile justice system. Youths waived judicially could also petition for disposition within juvenile jurisdiction if convicted of an offense less serious than the charged offense which led to their waiver.

JUDICIAL WAIVER STRENGTHENED

The CS for Senate Bill 127 would strengthen the existing judicial waiver mechanism by changing the standard by which the court makes waiver decisions. Under the provisions of CS SB 127, the court would have to find only that "there is no substantial likelihood" a youth could be successfully rehabilitated within the juvenile justice system. Presently the court must find that a youth is not amenable to treatment under jurisdiction of the juvenile justice system in order to waive juvenile jurisdiction and subject the youth to prosecution under the adult system.

In addition to enacting a less difficult standard for making judicial waiver decisions, CS SB 127 would also set forth nine specific factors which the court must consider in determining the likelihood of successful rehabilitation of a youth. These factors are similar to factors which the Supreme Court determined must be considered in adult sentencing proceedings. The Court would be allowed to determine the weight to be given to each of the factors and make a determination to waive the youth to adult jurisdiction to be made based on any one, or a combination of the factors. This would make achieving a judicial waiver of a juvenile far easier to accomplish and increase the willingness of prosecutors to attempt waivers. It would also eliminate much of the criticism of the existing waiver mechanism.

This Bill would in some ways provide greater protection for those juveniles who had committed minor offenses by allowing for waiver of only those juveniles accused of having committed felonies.

SENTENCING AND CONFINEMENT PROCEDURE FOR WAIVED JUVENILE OFFENDERS

This Bill would define in a logical and fair manner the procedures concerning confinement and sentencing of juvenile offenders who were waived to the adult system.

Under provisions of this Bill juveniles waived to and convicted under adult jurisdiction would not be subject to presumptive minimum sentences. This would allow the court sufficient discretion to address

the unavoidable differences in maturity and sophistication of these juvenile offenders and the disparity in specifics of the offenses committed. Thus all relevant factors could be considered by the court in fashioning just sentences.

It would also provide adequate safeguards to preclude punitive over-charging by police or prosecutors. The Bill would provide that juveniles sixteen and seventeen years of age accused of unclassified felonies would be confined in juvenile facilities until indicted by a grand jury or other legal procedures had occurred which determined that probable cause existed that the youth had committed the crime alleged. Following the accomplishment of these due process procedures juveniles would be confined in adult facilities. This would ensure discriminatory or vindictive over-charging did not occur and that juveniles were not unnecessarily or wrongfully housed in adult facilities.

All other juveniles accused of offenses would be held in juvenile facilities unless and until children's court jurisdiction had been waived under the judicial waiver mechanism and the youth had been indicted, or, through other due process, probable cause had been found to believe they had committed the offense charged.

Juveniles who have been waived to adult criminal jurisdiction either through the automatic or judicial waiver would be confined in adult facilities while awaiting sentencing or during any period of incarceration to which they had been sentenced.

#### INCREASED FINANCIAL LIABILITY OF PARENTS AND EMANCIPATED MINORS

CS SB 127 would raise from \$2,000 to \$5,000 the amount of damages which may be recovered by victims through civil litigation against the parents or legal guardian of an unemancipated minor or against an emancipated minor who destroyed or damaged real or personal property. The Bill would relieve the parents or guardians of emancipated minors from legal responsibility for damages caused by those youths. It would also expand the definition of emancipated minor to include youths at least sixteen years of age who are living apart from their parents or guardians, and are capable of self-support.

This proposed increase in the amount of damages civilly recoverable by victims of delinquent minors represents an adjustment to a more realistic figure in existing economic circumstances. In the great majority of instances it would allow a victim to fully recover damages if the prospect of recovery through restitution is unrealistic.

RELEASE OF INFORMATION TO VICTIMS

Under this Bill the court would be required to disclose to the victim of a minor, or the victim's parents or guardian upon their request, the manner in which the court disposed of matters concerning the minor. This would alter the present law which prohibits such disclosure without specific order of the court. These provisions would clarify and make uniform disclosure of information to victims. Currently, disclosure of such information is treated variously by courts in the four judicial districts depending upon the differing circumstance of each specific case. This Bill would retain existing provisions which define the circumstances under which a juvenile offenders identity may be disclosed.

Informing victims of the outcome of court proceedings concerning delinquent minors would be an appropriate method of increasing accountability of the courts and other agencies and increasing public confidence in Alaska's institutions of justice. The prohibition against disclosing the identity of a minor, with the exceptions existing in present statute are prudent. This Bill would ensure that victims obtain sufficient information and also promotion rehabilitation of youths.

THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES STRONGLY SUPPORTS CS SB 127

The provisions contained in CS SB 127 would accomplish significant and much needed change in the method of dealing with the most pressing problems of juvenile delinquency. These provisions would adequately address the problem inherent in dealing with older violent, serious juvenile offenders by holding them accountable in the same manner as adults but allowing the court sufficient discretion to consider all relevant factors in sentencing. Such sentencing discretion would be necessary to justly address the disparity in levels of maturity and sophistication of the juveniles as well as the disparity in the specifics of the offenses committed by the juveniles. In addition, the strengthened judicial waiver would be far superior to the existing mechanism and would provide much needed definition to the judicial waiver process and satisfactory guidance to the court in making waiver determinations.

In combination these provisions - automatic and strengthened judicial waiver - would provide far greater protection for the public and also allow the juvenile justice system to focus on those youths for whom the expectation and likelihood of rehabilitation is much greater. The juvenile justice system could maintain a comprehensive approach to protecting the public and rehabilitating youths without the necessity of structuring programs to deal with those older violent or serious repeat juvenile offenders who differ significantly from the vast majority of juvenile delinquents.

POSITION PAPER

CS FOR SENATE BILL NO. 127

PAGE 5

This would focus directly on the highly publicized problem of violent juvenile offenders which is the cause of much public mispreception of juvenile crime and juvenile offenders. It should greatly increase the public's confidence in its system of justice and would increase the protection of the public.

Those provisions dealing with the release of information to victims and the amount of damages civilly recoverable by victims are also strongly supported by the Department as a means to recognize the rights and appropriate interests of victims and to increase the public's satisfaction with and confidence in its system of justice.

The Department of Health and Social Services believes that CS SB 127 represents the most comprehensive and balanced approach to dealing with the most significant and troublesome problems of the juvenile justice system. The Department strongly supports the Bill.

RECOMMENDED BY:

Michael L. Price  
Michael L. Price, Director  
Division of Family and  
Youth Services

DATE:

May 10, 1983

APPROVED BY:

Robert L. Smith  
Robert L. Smith  
Ph.D.  
Commissioner, *Advisory*

DATE:

19 May 83

Lear  
5/17/83..

Original sponsors: Rodey and Ray

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 127 (Finance)

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 is 16 years of age or older and charged  
18 with being delinquent;

19 (2) that there is probable cause to believe that the minor  
20 has committed an unclassified felony or a class A felony; and

21 (3) that the minor is not amenable to treatment under this  
22 chapter.

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

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

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

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

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

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

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

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

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

13 (d) The provisions of this section prohibiting disclosure of  
14 information relating to a minor do not apply to a disclosure to a  
15 victim or the victim's parent or guardian under AS 47.10.020(a),  
16 47.10.080(a), and 47.10.140(d).

17 \* Sec. 9. AS 47.10.140(d) is amended to read:

18 (d) If the court finds that probable cause exists, it shall  
19 determine whether the minor should be detained pending the hearing on  
20 the petition or released. It may either order the minor held in  
21 detention or order the minor [HIM] to be released to the custody of a  
22 suitable person pending the hearing on the petition. If the court  
23 finds no probable cause, it shall order the minor released and close  
24 the case. The court shall disclose the results of the hearing in  
25 accordance with AS 47.10.020(a).

Lear  
5/17/83.

Original sponsors: Rodey and Ray

1 IN THE SENATE BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 127 (Finance)

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 is 16 years of age or older and charged  
18 with being delinquent;

19 (2) that there is probable cause to believe that the minor  
20 has committed an unclassified felony or a class A felony; and

21 (3) that the minor is not amenable to treatment under this  
22 chapter.

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

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

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

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

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

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

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

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

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

13 (d) The provisions of this section prohibiting disclosure of  
14 information relating to a minor do not apply to a disclosure to a  
15 victim or the victim's parent or guardian under AS 47.10.020(a),  
16 47.10.080(a), and 47.10.140(d).

17 \* Sec. 9. AS 47.10.140(d) is amended to read:

18 (d) If the court finds that probable cause exists, it shall  
19 determine whether the minor should be detained pending the hearing on  
20 the petition or released. It may either order the minor held in  
21 detention or order the minor [MIN] to be released to the custody of a  
22 suitable person pending the hearing on the petition. If the court  
23 finds no probable cause, it shall order the minor released and close  
24 the case. The court shall disclose the results of the hearing in  
25 accordance with AS 47.10.020(a).

Lear  
5/17/83..

Original sponsors: Rodey and Ray

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 127 (Finance)

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 is 16 years of age or older and charged  
18 with being delinquent;

19 (2) that there is probable cause to believe that the minor  
20 has committed an unclassified felony or a class A felony; and

21 (3) that the minor is not amenable to treatment under this  
22 chapter.

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

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

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

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

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

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

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

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

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

13 (d) The provisions of this section prohibiting disclosure of  
14 information relating to a minor do not apply to a disclosure to a  
15 victim or the victim's parent or guardian under AS 47.10.020(a),  
16 47.10.080(a), and 47.10.140(d).

17 \* Sec. 9. AS 47.10.140(d) is amended to read:

18 (d) If the court finds that probable cause exists, it shall  
19 determine whether the minor should be detained pending the hearing on  
20 the petition or released. It may either order the minor held in  
21 detention or order the minor [HIM] to be released to the custody of a  
22 suitable person pending the hearing on the petition. If the court  
23 finds no probable cause, it shall order the minor released and close  
24 the case. The court shall disclose the results of the hearing in  
25 accordance with AS 47.10.020(a).

Lear  
5/17/83.

Original sponsors: Rodey and Ray

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 127 (Finance)

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 o  
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 is 16 years of age or older and charged  
18 with being delinquent;

19 (2) that there is probable cause to believe that the minor  
20 has committed an unclassified felony or a class A felony; and

21 (3) that the minor is not amenable to treatment under this  
22 chapter.

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

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

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

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

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

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

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

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

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

13 (d) The provisions of this section prohibiting disclosure of  
14 information relating to a minor do not apply to a disclosure to a  
15 victim or the victim's parent or guardian under AS 47.10.020(a),  
16 47.10.080(a), and 47.10.140(d).

17 \* Sec. 9. AS 47.10.140(d) is amended to read:

18 (d) If the court finds that probable cause exists, it shall  
19 determine whether the minor should be detained pending the hearing on  
20 the petition or released. It may either order the minor held in  
21 detention or order the minor [HIM] to be released to the custody of a  
22 suitable person pending the hearing on the petition. If the court  
23 finds no probable cause, it shall order the minor released and close  
24 the case. The court shall disclose the results of the hearing in  
25 accordance with AS 47.10.020(a).

Lear  
5/17/83..

Original sponsors: Rodey and Ray

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 127 (Finance)

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 is 16 years of age or older and charged  
18 with being delinquent;

19 (2) that there is probable cause to believe that the minor  
20 has committed an unclassified felony or a class A felony; and

21 (3) that the minor is not amenable to treatment under this  
22 chapter.

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

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

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

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

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

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

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

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

12 \* Sec. 8. AS 47 10.090 is amended by adding a new subsection to read:

13 (d) The provisions of this section prohibiting disclosure of  
14 information relating to a minor do not apply to a disclosure to a  
15 victim or the victim's parent or guardian under AS 47.10.020(a),  
16 47.10.080(a), and 47.10.140(d).

17 \* Sec. 9. AS 47.10.140(d) is amended to read:

18 (d) If the court finds that probable cause exists, it shall  
19 determine whether the minor should be detained pending the hearing on  
20 the petition or released. It may either order the minor held in  
21 detention or order the minor [HIM] to be released to the custody of a  
22 suitable person pending the hearing on the petition. If the court  
23 finds no probable cause, it shall order the minor released and close  
24 the case. The court shall disclose the results of the hearing in  
25 accordance with AS 47.10.020(a).

Original sponsors: Rodey and Ray

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 127 (Finance)

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 is 16 years of age or older and charged  
18 with being delinquent;

19 (2) that there is probable cause to believe that the minor  
20 has committed an unclassified felony or a class A felony; and

21 (3) that the minor is not amenable to treatment under this  
22 chapter.

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

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

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

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

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

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

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

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

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

13 (d) The provisions of this section prohibiting disclosure of  
14 information relating to a minor do not apply to a disclosure to a  
15 victim or the victim's parent or guardian under AS 47.10.020(a),  
16 47.10.080(a), and 47.10.140(d).

17 \* Sec. 9. AS 47.10.140(d) is amended to read:

18 (d) If the court finds that probable cause exists, it shall  
19 determine whether the minor should be detained pending the hearing on  
20 the petition or released. It may either order the minor held in  
21 detention or order the minor [HIM] to be released to the custody of a  
22 suitable person pending the hearing on the petition. If the court  
23 finds no probable cause, it shall order the minor released and close  
24 the case. The court shall disclose the results of the hearing in  
25 accordance with AS 47.10.020(a).

POSITION PAPER

CS FOR SENATE BILL NO. 127

PAGE 1

"An Act relating to the power and jurisdiction of court in cases involving minors."

The Committee Substitute for Senate Bill Number 127 would accomplish five major purposes. The Act would:

1. Hold older, violent juveniles offenders accountable as adults within the adult criminal court jurisdiction.
2. Change the standard for judicially waiving serious or repeat juvenile offenders to adult jurisdiction, and define factors which the court must consider in making waiver decisions;
3. Define sentencing and confinement procedures for juveniles who are waived to adult jurisdiction;
4. Increase the civil, financial liability of parents or guardians of unemancipated minors and the liability of emancipated minors for the destructive acts committed by those youths;
5. Allow the release of information about disposition of juvenile court matters involving minors to the victims of the minors' offenses, or, in appropriate instances to the parents or guardians of the youths.

JURISDICTION OVER MINORS

CS Senate Bill 127, would accomplish a significant change in policy for most serious offenses - unclassified felonies. Under the provisions of CS SB 127, sixteen and seventeen year old juveniles accused of unclassified felonies would be prosecuted under the adult criminal justice system unless waived to juvenile jurisdiction by the Superior Court unless waived to adult jurisdiction through the judicial waiver process.

Another provision of the Bill would provide procedural protection for those youths who, though automatically waived because they were accused of an unclassified felony, were actually convicted of a lesser offense which would not make them eligible for automatic waiver. These youths

POSITION PAPER

CS FOR SENATE BILL NO. 127

PAGE 2

could petition the court to refer them to juvenile jurisdiction for disposition. At a hearing on the matter the court would determine the likelihood of rehabilitating the youth under the juvenile system. It would be the burden of the youth to establish that he or she could be successfully rehabilitated under the juvenile justice system. Youths waived judicially could also petition for disposition within juvenile jurisdiction if convicted of an offense less serious than the charged offense which led to their waiver.

JUDICIAL WAIVER STRENGTHENED

The CS for Senate Bill 127 would strengthen the existing judicial waiver mechanism by changing the standard by which the court makes waiver decisions. Under the provisions of CS SB 127, the court would have to find only that "there is no substantial likelihood" a youth could be successfully rehabilitated within the juvenile justice system. Presently the court must find that a youth is not amenable to treatment under jurisdiction of the juvenile justice system in order to waive juvenile jurisdiction and subject the youth to prosecution under the adult system.

In addition to enacting a less difficult standard for making judicial waiver decisions, CS SB 127 would also set forth nine specific factors which the court must consider in determining the likelihood of successful rehabilitation of a youth. These factors are similar to factors which the Supreme Court determined must be considered in adult sentencing proceedings. The Court would be allowed to determine the weight to be given to each of the factors and make a determination to waive the youth to adult jurisdiction to be made based on any one, or a combination of the factors. This would make achieving a judicial waiver of a juvenile far easier to accomplish and increase the willingness of children of the existing waiver mechanism.

This Bill would in some ways provide greater protection for those

SENTENCING AND CONFINEMENT PROCEDURE FOR WAIVED JUVENILE OFFENDERS

This Bill would define in a logical and fair manner the procedures concerning confinement and sentencing of juvenile offenders who were waived to the adult system.

Under provisions of this Bill juveniles waived to and convicted under adult jurisdiction would not be subject to presumptive minimum sentences. This would allow the court sufficient discretion to address

the unavoidable differences in maturity and sophistication of these juvenile offenders and the disparity in specifics of the offenses committed. Thus all relevant factors could be considered by the court in fashioning just sentences.

It would also provide adequate safeguards to preclude punitive over-charging by police or prosecutors. The Bill would provide that juveniles sixteen and seventeen years of age accused of unclassified felonies would be confined in juvenile facilities until indicted by a grand jury or other legal procedures had occurred which determined that probable cause existed that the youth had committed the crime alleged. Following the accomplishment of these due process procedures juveniles would be confined in adult facilities. This would ensure discriminatory or vindictive over-charging did not occur and that juveniles were not unnecessarily or wrongfully housed in adult facilities.

All other juveniles accused of offenses would be held in juvenile facilities unless and until children's court jurisdiction had been waived under the judicial waiver mechanism and the youth had been indicted, or, through other due process, probable cause had been found to believe they had committed the offense charged.

Juveniles who have been waived to adult criminal jurisdiction either through the automatic or judicial waiver would be confined in adult facilities while awaiting sentencing or during any period of incarceration to which they had been sentenced.

INCREASED FINANCIAL LIABILITY OF PARENTS AND EMANCIPATED MINORS

CS SB 127 would raise from \$2,000 to \$5,000 the amount of damages which may be recovered by victims through civil litigation against the parents of delinquent minors. The proposed increase would relieve the parents or guardians of emancipated minors from legal responsibility for damages caused by those youths. It would also expand the amount of damages recoverable by victims of delinquent minors who are capable of self-support.

This proposed increase in the amount of damages civilly recoverable by victims of delinquent minors represents an adjustment to a more realistic figure in existing economic circumstances. In the great majority of instances it would allow a victim to fully recover damages if the prospect of recovery through restitution is unrealistic.

RELEASE OF INFORMATION TO VICTIMS

Under this Bill the court would be required to disclose to the victim of a minor, or the victim's parents or guardian upon their request, the manner in which the court disposed of matters concerning the minor. This would alter the present law which prohibits such disclosure without specific order of the court. These provisions would clarify and make uniform disclosure of information to victims. Currently, disclosure of such information is treated variously by courts in the four judicial districts depending upon the differing circumstance of each specific case. This Bill would retain existing provisions which define the circumstances under which a juvenile offenders identity may be disclosed.

Informing victims of the outcome of court proceedings concerning delinquent minors would be an appropriate method of increasing accountability of the courts and other agencies and increasing public confidence in Alaska's institutions of justice. The prohibition against disclosing the identity of a minor, with the exceptions existing in present statute are prudent. This Bill would ensure that victims obtain sufficient information and also promotion rehabilitation of youths.

THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES STRONGLY SUPPORTS CS SB 127

The provisions contained in CS SB 127 would accomplish significant and much needed change in the method of dealing with the most pressing problems of juvenile delinquency. These provisions would adequately address the problem inherent in dealing with older violent, serious juvenile offenders by holding them accountable in the same manner as adults but allowing the court sufficient discretion to consider all relevant factors in sentencing. Such sentencing discretion would be necessary to justly address the disparity in levels of maturity and sophistication of the juveniles as well as the disparity in the consequences of their actions. The provisions would be an improvement to the existing mechanism and would provide much needed definition to the judicial waiver process and satisfactory guidance to the court in making waiver decisions.

In combination these provisions - automatic and strengthened judicial waiver - would provide far greater protection for the public and also allow the juvenile justice system to focus on those youths for whom the expectation and likelihood of rehabilitation is much greater. The juvenile justice system could maintain a comprehensive approach to protecting the public and rehabilitating youths without the necessity of structuring programs to deal with those older violent or serious repeat juvenile offenders who differ significantly from the vast majority of juvenile delinquents.

This would focus directly on the highly publicized problem of violent juvenile offenders which is the cause of much public mispreception of juvenile crime and juvenile offenders. It should greatly increase the public's confidence in its system of justice and would increase the protection of the public:

Those provisions dealing with the release of information to victims and the amount of damages civilly recoverable by victims are also strongly supported by the Department as a means to recognize the rights and appropriate interests of victims and to increase the public's satisfaction with and confidence in its system of justice.

The Department of Health and Social Services believes that CS SB 127 represents the most comprehensive and balanced approach to dealing with the most significant and troublesome problems of the juvenile justice system. The Department strongly supports the Bill.

RECOMMENDED:

Michael L. Price  
Michael L. Price, Director  
Division of Family and  
Youth Services

DATE:

May 10, 1983

APPROVED BY:

Philip W. Hardie, Jr.  
Robert London Smith,  
Ph.D.  
Commissioner, Arising

DATE:

19 May 83

## SECTIONAL ANALYSIS - CSSB 127 (FIN)

### Section 1.

A defendent minor over whom jurisdiction is waived shall be confined according to HSS rules and transferred to adult correction facility after attaining age 18 if more than one year remains in term of imprisonment.

### Section 2.

Raises recoverable damage in a civil action to \$5,000 from parents or guardian of unemancipated minor.

### Section 3.

A minor is considered emancipated when:

1. disabilities of minority removed;
2. at least 16 years old, living separate and apart from parents or guardian and is capable of self-support; and
3. the minor lives apart from parent or guardian and engages in conduct resulting in a judgment under AS47.10.080(a).

A minor who is emancipated may be sued in a civil action.

This provision does not apply to minor's criminal activity while ward of the state.

### Section 4.

The court upon request of victim should disclose the manner in which it disposed of the matter before it.

### Section 5.

1. minor is 16 years or older and charged with being delinquent;
2. there is probable cause to believe that minor committed offenses and
3. court is satisfied that the minor is not amenable to treatment.

### Section 6.

Minor is not amenable to treatment if minor cannot be rehabilitated before reaching age 20. Court shall consider:

1. criminal history
2. seriousness of offense
3. probable cause of behavior
4. facilities available for treatment

Page Two

Section 7.

Disclosure of court determination to follow 47.10.280(a).

Section 8.

Disclosure under this section does not apply to victim.

Section 9.

Disclosure of court determination to follow 47.10.020(a).

CS SB 127  
SUMMARY OF FISCAL NOTES

<u>Department</u>	<u>Program</u>	<u>Date</u>	<u>FY 83</u>	<u>FY 84</u>	<u>FY 85</u>	<u>FY 86</u>	<u>FY 87</u>	<u>FY 88</u>
Public Safety	Admin/Justice	5/9/83	0	0	0	0	0	0
Health and Social Services	Justice	5/6/83	0	48.3	152.6	1196.6	<b>1262.1</b>	1337.8
	Capital		7592.0					
Administration	Public Defender	4/28/83	179.6	186.2	197.4	209.3	221.8	235.1
Public Safety	State Troopers	3/10/83	0	0	0	0	0	0
	Operating totals		179.6	234.5	350.0	1405.9	1483.9	1572.9
	Capital totals		7592.0	0	0	0	0	0
	TOTAL		7771.6	234.5	350.0	1405.9	1483.9	1572.9

Original sponsors: Rodey and Ray

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 127 (Finance)

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 ment.

19 \* Sec. 2. AS 12.55.015 is amended to read:

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

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 (c) of this section, the minor may be sued in a civil action for  
19 inju

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

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

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

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 is 16 years of age or older and charged

19 (2) that there is probable cause to believe that the minor  
20 has a mental disorder that is a danger to the minor or to others;

21 (3) that the minor is not amenable to treatment under this  
22 chapter.

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

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

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

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

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

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

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

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

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

13 (d) The provisions of this section prohibiting disclosure of  
14 information relating to a minor do not apply to a disclosure to a  
15 victim or the victim's parent or guardian under AS 47.10.020(a),  
16 47.10.080(a), and 47.10.140(d).

17 \* Sec. 9. AS 47.10.140(a) is amended to read:

18 (a) If the court finds that probable cause exists, it shall  
19 determine whether the minor should be detained pending the hearing on  
20 the petition or otherwise. It may either order the minor held in  
21 detention or order the minor [HIM] to be released to the custody of a  
22 suitable person pending the hearing on the petition. If the court  
23 finds no probable cause, it shall order the minor released and close  
24 the case. The court shall disclose the results of the hearing in  
25 accordance with AS 47.10.020(a).

POSITION PAPER

CS FOR SENATE BILL NO. 127

PAGE 1

"An Act relating to the power and jurisdiction of court in cases involving minors."

The Committee Substitute for Senate Bill Number 127 would accomplish five major purposes. The Act would:

1. Hold older, violent juveniles offenders accountable as adults within the adult criminal court jurisdiction.
2. Change the standard for judicially waiving serious or repeat juvenile offenders to adult jurisdiction, and define factors which the court must consider in making waiver decisions;
3. Define sentencing and confinement procedures for juveniles who are waived to adult jurisdiction;
4. Increase the civil, financial liability of parents or guardians of unemancipated minors and the liability of emancipated minors for the destructive acts committed by those youths;
5. Allow the release of information about disposition of juvenile court matters involving minors to the victims of the minors' offenses, or, in appropriate instances to the parents or guardians of the youths.

JURISDICTION OVER MINORS

CS Senate Bill 127, would accomplish a significant change in policy regarding the most serious of crimes - unclassified felonies. Under the provisions of CS SB 127, sixteen and seventeen year old juveniles accused of unclassified felonies would be prosecuted under the adult criminal jurisdiction of the Superior Court unless waived to adult jurisdiction through the judicial waiver process.

Another provision of the Bill would provide procedural protection for those youths who, though automatically waived because they were accused of an unclassified felony, were actually convicted of a lesser offense which would not make them eligible for automatic waiver. These youths

POSITION PAPER

CS FOR SENATE BILL NO. 127  
PAGE 2

could petition the court to refer them to juvenile jurisdiction for disposition. At a hearing on the matter the court would determine the likelihood of rehabilitating the youth under the juvenile system. It would be the burden of the youth to establish that he or she could be successfully rehabilitated under the juvenile justice system. Youths waived judicially could also petition for disposition within juvenile jurisdiction if convicted of an offense less serious than the charged offense which led to their waiver.

JUDICIAL WAIVER STRENGTHENED

The CS for Senate Bill 127 would strengthen the existing judicial waiver mechanism by changing the standard by which the court makes waiver decisions. Under the provisions of CS SB 127, the court would have to find only that "there is no substantial likelihood" a youth could be successfully rehabilitated within the juvenile justice system. Presently the court must find that a youth is not amenable to treatment under jurisdiction of the juvenile justice system in order to waive juvenile jurisdiction and subject the youth to prosecution under the adult system.

In addition to enacting a less difficult standard for making judicial waiver decisions, CS SB 127 would also set forth nine specific factors which the court must consider in determining the likelihood of successful rehabilitation of a youth. These factors are similar to factors which the Supreme Court determined must be considered in adult sentencing proceedings. The Court would be allowed to determine the weight to be given to each of the factors and make a determination to waive the youth to adult jurisdiction to be made based on any one, or a combination of the factors. This would make achieving a judicial waiver of a juvenile far easier to accomplish and increase the willingness of the court to waive the youth to the adult system.

This Bill would in some ways provide greater protection for those juveniles who are waived to the adult system.

SENTENCING AND CONFINEMENT PROCEDURE FOR WAIVED JUVENILE OFFENDERS

This Bill would define in a logical and fair manner the procedures concerning confinement and sentencing of juvenile offenders who were waived to the adult system.

Under provisions of this Bill juveniles waived to and convicted under adult jurisdiction would not be subject to presumptive minimum sentences. This would allow the court sufficient discretion to address

the unavoidable differences in maturity and sophistication of these juvenile offenders and the disparity in specifics of the offenses committed. As all relevant factors could be considered by the court in fashioning just sentences.

It would also provide adequate safeguards to preclude punitive over-charging by police or prosecutors. The Bill would provide that juveniles sixteen and seventeen years of age accused of unclassified felonies would be confined in juvenile facilities until indicted by a grand jury or other legal procedures had occurred which determined that probable cause existed that the youth had committed the crime alleged. Following the accomplishment of these due process procedures juveniles would be confined in adult facilities. This would ensure discriminatory or vindictive over-charging did not occur and that juveniles were not unnecessarily or wrongfully housed in adult facilities.

All other juveniles accused of offenses would be held in juvenile facilities unless and until children's court jurisdiction had been waived under the judicial waiver mechanism and the youth had been indicted, or, through other due process, probable cause had been found to believe they had committed the offense charged.

Juveniles who have been waived to adult criminal jurisdiction either through the automatic or judicial waiver would be confined in adult facilities while awaiting sentencing or during any period of incarceration to which they had been sentenced.

INCREASED FINANCIAL LIABILITY OF PARENTS AND EMANCIPATED MINORS

CS SB 127 would raise from \$2,000 to \$5,000 the amount of damages which may be recovered by victims through civil litigation against the parents or guardians of delinquent minors. The Bill would relieve the parents or guardians of emancipated minors from legal responsibility for damages caused by those youths. It would also expand the amount of damages recoverable by victims of delinquent minors who are capable of self-support.

This proposed increase in the amount of damages civilly recoverable by victims of delinquent minors represents an adjustment to a more realistic figure in existing economic circumstances. In the great majority of instances it would allow a victim to fully recover damages if the prospect of recovery through restitution is unrealistic.

RELEASE OF INFORMATION TO VICTIMS

Under this Bill the court would be required to disclose to the victim of a minor, or the victim's parents or guardian upon their request, the manner in which the court disposed of matters concerning the minor. This would alter the present law which prohibits such disclosure without specific order of the court. These provisions would clarify and make uniform disclosure of information to victims. Currently, disclosure of such information is treated variously by courts in the four judicial districts depending upon the differing circumstance of each specific case. This Bill would retain existing provisions which define the circumstances under which a juvenile offenders identity may be disclosed.

Informing victims of the outcome of court proceedings concerning delinquent minors would be an appropriate method of increasing accountability of the courts and other agencies and increasing public confidence in Alaska's institutions of justice. The prohibition against disclosing the identity of a minor, with the exceptions existing in present statute are prudent. This Bill would ensure that victims obtain sufficient information and also promotion rehabilitation of youths.

THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES STRONGLY SUPPORTS CS SB 127

The provisions contained in CS SB 127 would accomplish significant and much needed change in the method of dealing with the most pressing problems of juvenile delinquency. These provisions would adequately address the problem inherent in dealing with older violent, serious juvenile offenders by holding them accountable in the same manner as adults but allowing the court sufficient discretion to consider all relevant factors in sentencing. Such sentencing discretion would be necessary to justly address the disparity in levels of maturity and sophistication of the juveniles as well as the disparity in the sentencing process which would be an addition to the existing mechanism and would provide much needed definition to the judicial waiver process and satisfactory guidance to the court in making waiver

In combination these provisions - automatic and strengthened judicial waiver - would provide far greater protection for the public and also allow the juvenile justice system to focus on those youths for whom the expectation and likelihood of rehabilitation is much greater. The juvenile justice system could maintain a comprehensive approach to protecting the public and rehabilitating youths without the necessity of structuring programs to deal with those older violent or serious repeat juvenile offenders who differ significantly from the vast majority of juvenile delinquents.

POSITION PAPER

CS FOR SENATE BILL NO. 127

PAGE 5

This would focus directly on the highly publicized problem of violent juvenile offenders which is the cause of much public misperception of juvenile crime and juvenile offenders. It should greatly increase the public's confidence in its system of justice and would increase the protection of the public:

Those provisions dealing with the release of information to victims and the amount of damages civilly recoverable by victims are also strongly supported by the Department as a means to recognize the rights and appropriate interests of victims and to increase the public's satisfaction with and confidence in its system of justice.

The Department of Health and Social Services believes that CS SB 127 represents the most comprehensive and balanced approach to dealing with the most significant and troublesome problems of the juvenile justice system. The Department strongly supports the Bill.

RECOMMENDED:

Michael L. Price  
Michael L. Price, Director  
Division of Family and  
Youth Services

DATE:

May 10, 1987

APPROVED BY:

Philip W. Hardie, MD  
Robert London Smith, Jr.  
Ph.D.  
Commissioner, Ark. Dept. of  
Health and Human Resources

DATE:

197/05/87

## SECTIONAL ANALYSIS - CSSB 127 (FIN)

### Section 1.

A defendent minor over whom jurisdiction is waived shall be confined according to HSS rules and transferred to adult correction facility after attaining age 18 if more than one year remains in term of imprisonment.

### Section 2.

Raises recoverable damage in a civil action to \$5,000 from parents or guardian of unemancipated minor.

### Section 3.

A minor is considered emancipated when:

1. disabilities of minority removed;
2. at least 16 years old, living separate and apart from parents or guardian and is capable of self-support; and
3. the minor lives apart from parent or guardian and engages in conduct resulting in a judgment under AS47.10.080(a).

A minor who is emancipated may be sued in a civil action.

This provision does not apply to minor's criminal activity while ward of the state.

### Section 4.

The court upon request of victim should disclose the manner in which it disposed of the matter before it.

### Section 5.

1. minor is 16 years or older and charged with being delinquent;
2. there is probable cause to believe that minor committed ...

### Section 6.

Minor is not amenable to treatment if minor cannot be rehabilitated before reaching age 20. Court shall consider:

1. criminal history
2. seriousness of offense
3. probable cause of behavior
4. facilities available for treatment

Section 7.

Disclosure of court determination to follow 47.10.280(a).

Section 8.

Disclosure under this section does not apply to victim.

Section 9.

Disclosure of court determination to follow 47.10.020(a).

of  
74  
15 01  
11 02  
A  
=

CS SB 127  
SUMMARY OF FISCAL NOTES

<u>Department</u>	<u>Program</u>	<u>Date</u>	<u>FY 83</u>	<u>FY 84</u>	<u>FY 85</u>	<u>FY 86</u>	<u>FY 87</u>	<u>FY 88</u>
Public Safety	Admin/Justice	5/9/83	0	0	0	0	0	0
Health and Social Services	Justice	5/6/83	0	48.3	152.6	1196.6	<b>1262.1</b>	1337.8
	Capital		7592.0					
Administration	Public Defender	4/28/83	179.6	186.2	197.4	209.3	221.8	235.1
Public Safety	State Troopers	3/10/83	0	0	0	0	0	0
	Operating totals		179.6	234.5	350.0	1405.9	1483.9	1572.9
	Capital Totals		7592.0	0	0	0	0	0
	TOTALS		7771.6	234.5	350.0	1405.9	1483.9	1572.9

Original sponsors: Rodey and Ray

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 127 (Finance)

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 ment.

19 \* Sec. 2. AS 12.55.015 is amended by adding a new subsection to

20  
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

charitable organization.

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

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

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

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

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

(c) of this section, the minor may be sued in a civil action for

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

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

(a) Whenever a person informs the court of the facts which bring a minor within this chapter, the court shall appoint a competent person or agency to make a preliminary inquiry and report for the 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 is 16 years of age or older and charged

18 with

19 (2) that there is probable cause to believe that the minor

20 has

21 (3) that the minor is not amenable to treatment under this

22 chapter.

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

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

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

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

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

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

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

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

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

13 (d) The provisions of this section prohibiting disclosure of  
14 information relating to a minor do not apply to a disclosure to a  
15 victim or the victim's parent or guardian under AS 47.10.020(a),  
16 47.10.080(a), and 47.10.140(d).

17 \* Sec. 9. AS 47.10.140(d) is amended to read:

18 (d) If the court finds that probable cause exists, it shall  
19 determine whether the minor should be detained pending the hearing on  
20 the petition or released. It may either order the minor held in  
21 detention or order the minor [HIM] to be released to the custody of a  
22 suitable person pending the hearing on the petition. If the court  
23 finds no probable cause, it shall order the minor released and close  
24 the case. The court shall disclose the results of the hearing in  
25 accordance with AS 47.10.020(a).

COMMITTEE REPORT

SENATE

*Reals*

2/16/83

FURTHER:

Date: 5/2/83

Mr. President:

The Committee on Judiciary has had SB 127

An Act relating to unlawful conduct of minors.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[] replace with CS for SB 127 (Jud) [ ] same title [X] new title

and recommends \_\_\_\_\_

[ ] AND attaches a "Letter of Intent" <sup>2/10</sup> [X] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING

DO PASS

*[Signature]*

MEMBERS HAVING

OTHER RECOMMENDATIONS:

*2 Zickler - N/R*  
*2 Josephson - No Rec.*

*Bill Ray*  
CHAIRMAN  
DO PASS

COMMITTEE REPORT  
SENATE RULES COMMITTEE

5/3/83

Date 5/5/83

Mr. President:

The Committee on Rules has had SB 127

Relating to unlawful conduct of minors.

under consideration and recommends it be placed on the

5/6/83 Calendar.

- ( ) with attached amendment(s).
- (  ) *Recommend* *and CS be adapted* ; same title  
(  ) *replace with CS for SB 127 (old)* ; *new title*
- ( ) and attaches a "Letter of Intent"
- ( ) new fiscal note

MEMBERS SIGNING FOR PLACEMENT  
ON THE CALENDAR

MEMBERS HAVING OTHER  
RECOMMENDATIONS

*Jay*  
*[Signature]*  
*Bill Ray*  
*Tom Kelly*  
   
 

   
   
   
   
   
 

*Joe Lutz*  
CHAIRMAN

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No.: CS SB 127 (Jud)  
 Title: "..Unlawful conduct of minors.."  
 Sponsor: Rodey & Ray  
 Requestor: Sen. Finance

II. FISCAL DETAIL

Agency Affected: Public Safety  
 Program Category Affected: Admin/Justice  
 BRU, Program of Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CAPITAL</b>						
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Source of funds not identified by sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis No fiscal impact is anticipated.

Prepared By: Major Michael Korhonen Phone: 269-5646  
 Division: Alaska State Troopers Date: 5-9-83  
 Approved by Commissioner: R.J. Sundberg Date: 5/11/83  
 Department: Public Safety

Distribution:

Original to Legislative Finance  
 Copy to Office of Management and Budget (for Legislature introduced bills)  
 Copy to Department (for Governor introduced bills)  
 Copy to Sponsor  
 Copy to Requestor (if different from Spcnsor)

3/8/83

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No.: CS SB 127 (Jud)  
Title: "..Unlawful conduct of minors.."  
Sponsor: Rodey & Ray  
Requestor: Sen. Finance

II. FISCAL DETAIL

Agency Affected: Public Safety  
Program Category Affected: Admin/Justice  
BRU, Program of Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Source of funds not identified by sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis No fiscal impact is anticipated.

Prepared By: Major Michael Korhonen Phone: 269-5646  
Division: Alaska State Troopers Date: 5-9-83  
Approved by Commissioner: R.J. Sundberg *[Signature]* Date: 5/18/83  
Department: Public Safety

Distribution:

Original to Legislative Finance  
Copy to Office of Management and Budget (for Legislature introduced bills)  
Copy to Department (for Governor introduced bills)  
Copy to Sponsor  
Copy to Requestor (if different from Sponsor)

3/8/83

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).