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FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to financial responsibility for acts of minors and..."
Sponsor: Rep. Ulmer
Requestor: HESS Judiciary

Agency Affected: Department of Corrections
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Susan E. Knighton, Director Phone: 465-3376
Division: Administrative Services Date: 4-25-88
Approved by Commissioner: Susan Humphrey Barnett Date: 4-25-88
Agency: Department of Corrections

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

STATE OF ALASKA THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

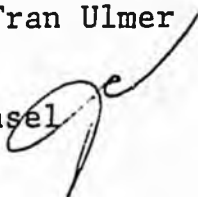
LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 18, 1988

SUBJECT: HB 499, sectional analysis

TO: Representative Fran Ulmer

FROM: Jack Chenoweth
Legislative Counsel 

You have requested a sectional analysis of HB 499.

HB 499 adds to or amends provisions of AS 47.10, the statutory provisions defining delinquent minors and children in need of aid. The chapter sets out proceedings relating to minors applicable to those minors who meet the criteria established for these two categories. The changes made in this bill generally relate to

(1) assigning financial responsibility for the acts of a minor to a responsible parent or guardian, to a maximum of \$2000; and

(2) directing a responsible parent or guardian to supervise community service that the court may order as a condition of disposition of a petition relating to a delinquent minor.

AS 47.10.030 defines essential due process requirements by which the court obtains jurisdiction over persons having custody or control of a minor through the issuance of a summons, and provides notice to those persons "adequate to give actual notice of the proceedings and the possibility of termination of parental rights and responsibilities." Section 1 amends AS 47.10.030(a) by requiring that the summons, in addition to other content specifically required, advise the parent or guardian to whom it is issued that the parent or guardian may be required to supervise the minor's community service if ordered as a condition in an order finding that the minor is delinquent, and may be required to pay restitution for the act of a minor, not to exceed \$2000, in an order finding that the minor is delinquent.

Representative Fran Ulmer
Page 2
February 18, 1988

AS 47.10.080(b) sets out in detail the content of the order that a court may make in a judgment that the minor is delinquent. Under current law (AS 47.10.080(b)(4)), the court may order the minor to make "suitable restitution." The first amendment in section 2 authorizes the court to order the parent or guardian of a minor who is not capable of making complete restitution to discharge the restitution obligation in an amount not to exceed \$2000. The second addition to section 2 adds to the content of the order the court may make the option of a minor performing community work service, and authorizes the court to order the minor's parent or guardian to supervise that service and to report compliance.

The addition of a new subsection to AS 47.10.080 by bill section 3 specifies exceptions to the restitution order authorized by AS 47.10.080(b)(4). That order is made inapplicable to parents or guardians of a minor who lives apart from the parent or guardian and who is capable of self-support and management of personal affairs. That order is also made inapplicable as to a state agency or person, or an institution, for the act of an unemancipated minor in their custody.

JBC:gc
WKG1:092

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF LAW

CRIMINAL DIVISION/FIRST JUDICIAL DISTRICT
OFFICE OF THE DISTRICT ATTORNEY

REPLY TO:

POUCH KA
JUNEAU, ALASKA 99811
PHONE: (907) 465-3620

415 MAIN STREET, RM. 304
KETCHIKAN, ALASKA 99901
PHONE: (907) 225-6128

P.O. BOX 1630
SITKA, ALASKA 99835
PHONE: (907) 747-5851

*Bill Requested
from district
3/11/87*

March 2, 1987

RECEIVED MAR 4 1987

The Honorable Fran Ulmer
House of Representatives
P.O. Box V
Juneau, Alaska 99811

Dear Fran:

In your letter of February 9, 1987, you asked me if HB 106 would be an appropriate vehicle for attaching an amendment requiring parental responsibility for acts by juveniles. I don't believe I have either the expertise or the knowledge to suggest what an appropriate vehicle would be. Obviously you're the expert in this area. However, I have given some thought to a proposed amendment and suggest the attached language for your consideration. I hope it is clear that when I was speaking the other night in regard to parental responsibility, I was expressing my opinion and a philosophy as to how I have the Juneau District Attorney's Office handle juvenile cases. However, the governor, to my knowledge, has not expressed an opinion regarding the scope of parental responsibility and my proposed language should not be considered an executive recommendation but rather a response to your request for language for an amendment to a bill.

In preparing the language which I have attached to this letter, three existing statutes may be of interest to you because they require parental responsibility in specific areas of the law. AS 47.10.120 requires parents to reimburse the state when a child is declared a delinquent or a child in need of aid. AS 47.10.120 reads:

- (a) When a child in need of aid or a delinquent minor is committed under this chapter, the court shall, after giving the parent or legal guardian a reasonable opportunity to be heard, adjudge that

the parent or guardian pay to the department in a manner the court directs, a sum that is based on the fee schedule adapted under AS 44.022 to cover in full or in part the maintenance of the child or minor.

(b) If a parent wilfully fails or refuses to pay the sum fixed, the parent may be proceeded against as provided by law in cases of family desertion and nonsupport.

(c) The sum collected from a parent under this section shall be directly credited to the general fund of the state.

(d) . . .

AS 47.10.080(i) gives not only to the minor, but also to the parent, the right to appeal an adjudication. AS 47.10.080(i) reads:

(i) A minor, the minor's parents or guardian acting on the minor's behalf, or the department may appeal a judgment or order, or the stay, modification, setting aside, revocation, or enlargement of a judgment or order issued by the court under this chapter.

Finally, AS 34.50.020(a) allows a person to recover damages against parents of a delinquent in an amount not to exceed \$2,000 in a civil action. This statute reads:

(a) A person, municipal corporation, association, village, school district or religious or charitable organization, incorporated or unincorporated, may recover damages in a civil action in an amount not to exceed \$2,000 and court costs, from either parent or both parents or the legal guardian or person having the legal custody of an unemancipated minor under the age of 18, who maliciously or wilfully destroys real or personal property belonging to the person, municipal corporation, association, village, school district or religious or charitable organization.

Representative Ulmer
March 2, 1987
Page 3

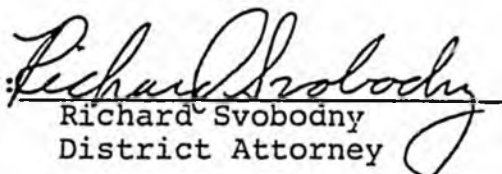
(b) A state agency or its agents, including a person working in or responsible for the operation of a foster, receiving or detention home, or children's institution, is not liable for the acts of unemancipated minors in its charge or custody.

This statute is limited to the destruction of property and does not allow for a civil judgment to reimburse a victim for things like hospital bills and lost wages.

I hope this information has been of some aid to you.

Sincerely,

GRACE BERG SCHAIBLE
ATTORNEY GENERAL

By: 
Richard Svobodny
District Attorney

AS 47.10.030(a) is amended to add a new subsection which reads:

(4) State that the parent or guardian may be ordered to supervise community work service and be required to pay restitution to a victim in an amount not to exceed \$5,000.

AS 47.10.080(b)(4) is repealed and reenacted to read:

(4) Order the minor; -

(i) to make suitable restitution in lieu of or in addition to the court's order under (1), (2) or (3) of this section, or

(ii) upon a showing that the minor is not capable of making restitution, order the parent or parents or guardian of the minor to make suitable restitution in an amount not to exceed \$5,000.

AS 47.10.080(b) is amended to add a new section, which reads:

(6) Order the minor to perform community service in lieu of or in addition to the court's order under (1), (2), (3), (4) or (5) of this subsection. In addition to ordering community work service, the court may order the parent, parents or guardian of the minor who is ordered to perform community work service, to supervise the community work service and report to the court or department on the minor's compliance with the order of community work service.

MEMORANDUM

State of Alaska

TO: Representative Fran Ulmer
House of Representatives

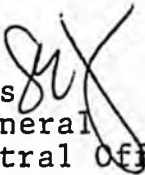
DATE: February 16, 1988

FILE NO:

TELEPHONE NO: 465-3428

FROM:

SUBJECT: Bill relating to
responsibility
for acts of minors

Stephanie E. Joannides 
Assistant Attorney General
Criminal Division Central Office

HB 499
—

Thank you for this opportunity to comment on your proposed bill which relates to parents' responsibility for acts of minors. Overall, there appear to be no legal problems except in one area. Page 3, line 20 of the bill proposes that if a minor is not capable of making complete restitution that the minor's parent or guardian be required to make restitution in an amount not to exceed \$5000. Though I do not have a great deal of expertise in this area, AS 34.50.020 is worthy of comparison. In that statute, a parent may only be held liable in an amount not to exceed \$2,000 for acts of a child who maliciously or willfully destroys any real or personal property. See, AS 34.50.020(a). Some research should be done to determine if the \$5000 amount in your bill should be modified to conform to the \$2000 limit in already existing law, or if the \$2000 amount should be raised for consistency.

I assume that through the proposed bill, you do not in any way wish to impose liability on any state agency that is a "guardian" to a child. See, proposed bill, page 3, line 21. I suggest that language be added to that portion of the bill to specifically exclude state agencies from any liability for restitution payments.

MEMORANDUM

State of Alaska

TO: The Honorable Fran Ulmer
House of Representatives

DATE: March 23, 1987

FILE NO:

TELEPHONE NO:

FROM: Richard Svobodny
District Attorney
Juneau

SUBJECT: Comments on bill
relating to
responsibility for
acts of minors

I believe the bill will give the court an additional tool to aid in directing children to live in our community as good citizens and at the same time will aid victims of juvenile crimes. I have spoken to Assistant Attorneys General Gayle Horetski and Elizabeth Shaw about the bill. Gayle believes there may be some difficulty in ordering parents to do an affirmative act like pay restitution; however, Elizabeth Shaw says that courts do enter such orders in child in need of aid cases now and that this bill will give the court authority in juvenile delinquency proceedings.

RECEIVED - 3 23 1987

STATE OF ALASKA
THE LEGISLATURE

POLCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

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May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H HESS

4-28-88

8:30 a.m.