

**HB**

**79**

# SENATE COMMITTEE REPORT

DATE: 4/16/93

FURTHER: JUDICIARY

DATE TURNED INTO OFFICE: 2/3/94

HES Committee considered CS HB 79(FIN) am

"An Act relating to recovery from a parent or legal guardian of wilful or malicious destruction of property by a minor."

and recommends:

- replace with Senate CS CSHB 79 (HES)
- or  adopt previous \_\_\_\_\_ CS \_\_\_\_\_
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

do pass

do not pass

no recommendation

individual recommendations

**NEW FISCAL NOTES**

Department	Date	Zero	Fiscal
Administration	1/28/94	✓	
Law	1/28/94	✓	
Health + Social Services	1/27/94	✓	

**PREVIOUS FISCAL NOTES**

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

**DO PASS**

Mike Miller  
Karen A. Leman  
Bob May

**OTHER RECOMMENDATIONS:**

Judith E. Salo No Rec

Mr. A. Kim No Rec  
 Chair: Signature and Recommendation

House of Representatives

Sponsor Summary  
House Bill 79

HB 79 amends AS 34.50.020 (a) by increasing the amount of money that is recoverable from parents or legal guardians by a person who has experienced wilful or malicious destruction of property by a minor. AS. 34.50.020 has been in existence since 1957 and almost every state in the nation has a similar statute. However, the recoverable amounts vary from state to state, averaging \$10, 000 - \$15,000.

HB 79 originally called for an increase in the recoverable amount from \$2000 to \$50,000, which is the maximum allowed in district court. Through the committee process, the recoverable amount was decreased to \$5000. I believe this amount should be increased to a level that would accurately reflect today's cost of living and potential cost of damages.

I urge the committee to pass HB 79 because this legislation will ensure adequate recovery for those victimized by wilful or malicious destruction of property by juveniles.

# FISCAL NOTE

**STATE OF ALASKA  
1994 LEGISLATIVE SESSION**

**BILL NO. CSHB 79 (Fin) am**

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: \*An Act relating to recovery from a parent or BRJ: Risk Management  
legal guardian Component: Risk Management  
 Sponsor: Representatives Bunde, Toohey  
 Requestor: (S) Hes COMPONENT SERIAL NO. 71

**Expenditures/Revenues (Thousands of Dollars)**

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of current year (FY94) cost: none

**POSITIONS:**

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

**ANALYSIS:** (Attach a separate page if necessary)

Prepared by: Brad Thompson, Director Phone: 465-2180  
 Division: Risk Management Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usura Date: 1/28/94  
 Agency: Administration

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FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. CSHB 79 (FIN) am

Revision Date: January 28, 1994  
Title: "...relating to recovery from a parent or legal guardian...destruction of property by a minor."  
Sponsor: Representative Bunde  
Requestor: Governor's Office

Department Affected: Department of Law  
BRU: Legal Services  
Component: Operations  
COMPONENT SERIAL NO. 0093

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING:

1002 Federal						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year (FY94) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)  
Please see the attached analysis.

Prepared by: Richard I. Pegues, Director  
Division: Administrative Services Division

Phone: 465-3672  
Date: January 28, 1994

Approved by Commissioner: Bruce M. Botelho, Attorney General  
Agency: Department of Law

Date: January 28, 1994

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FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. CSHB 79 (FIN) am

ANALYSIS CONTINUATION:

The Finance Committee Substitute for HB 79 amends AS 34.50 to provide that a person, municipal corporation, association, village, school district, or religious or charitable organization may recover damages in an amount not to exceed \$5,000, plus costs, interest and attorney fees, from either parent or both parents or the legal guardian or person having legal custody of an unemancipated minor under the age of 18 years, who maliciously or willfully destroys real or personal property belonging to the above parties seeking recovery. Currently, the maximum amount that may be recovered is \$2,000. However, the bill also provides that a parent, legal guardian, or person having the legal custody of an unemancipated minor under the age of 18 years who is a runaway minor would not be liable under the foregoing provision if the person having legal custody of the minor makes a report to a law enforcement agency, as authorized by AS 47.10.141(2), that the minor has run away or is missing. This bill deals with the recovery remedies of parties other than the state and, consequently, there will not be a fiscal impact for the Department of Law.

# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. CSHB79(FIN)am

Revision Date: 01/27/94 Dept. Affected: Health and Social Services  
 Title: An Act Relating to Recovery From a Parent or Legal Guardian of Damages by Minor BRU: Purchased Services  
 Component: Residential Child Care  
 Sponsor: Representative(s) Bunde, Toohy et al  
 Requestor: S (HES) COMPONENT SERIAL NO. 0253

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGES IN REVENUES</b>						
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**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

FULL - TIME						
PART - TIME						
TEMPORARY						

Estimate of current year (FY94) impact: 0.0

**ANALYSIS:** (Attach a separate page if necessary)

There would be no program or fiscal impact for the Department if this bill were to become law.

Prepared by: Deborah R. Wing, Director *Deborah R. Wing* Phone: 465-3191  
 Division: Division of Family & Youth Services Date: 01/26/94  
 Approved by Commissioner: Margaret R. Lowe, M.Ed., Ed.S. *Margaret R. Lowe* Date: 1-27-94  
 Agency: Department of Health & Social Services

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**DIVISION OF LEGAL SERVICES**

**LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA**

(907) 465-3867 or 465-2450  
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130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

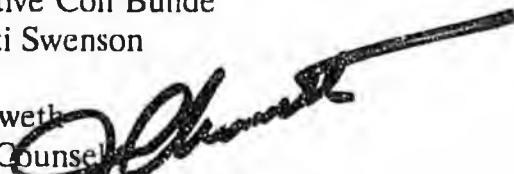
**MEMORANDUM**

January 28, 1994

**SUBJECT:** CSHB 79 (Finance) amended -- sectional analysis (Work Order No. 8-LS0437J)

**TO:** Representative Con Bunde  
ATTN: Patti Swenson

**FROM:** Jack Chenoweth  
Legislative Counsel



The measure relates to the ability of the victim of an offense involving damage to property caused by a minor to recover for the damaged property.

Bill section 1, amending AS 34.50.020(a), would raise from \$2,000 to \$5,000 the amount of damages that the owner of real or personal property may recover in a civil action from the parent, parents, legal guardian, or person having the legal custody of an unemancipated minor when the minor has maliciously or wilfully destroyed the property.

Bill section 2, adding a new subsection, subsection (c), to AS 34.50.020, would preclude liability for the payment of property damage by the parent, parents, legal guardian, or person having the legal custody of the minor if the damage occurred while the minor was a runaway or was missing. The provision supplies a definition for the term "runaway minor."

JBC:gc  
94-061.glc

**T OF TITLES**

58. Waters and Water Supply.  
59. Claims Against Public Enti-  
ties.  
Public Appendix A. Emergency and  
Temporary Acts.  
ks Acts Saved from Repeal.  
ices. Validating Acts.  
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**NEW JERSEY STATUTES  
ANNOTATED**

**Title 18A  
EDUCATION  
18A:20 to 18A:54D**

**ST. PAUL, MINN.  
WEST PUBLISHING CO.**

18A:37-2

Note 5

EDUCATION

5. Due process

Statutes relating to suspension of pupils from school must be construed to require public school officials to afford students facing disciplinary action involving possible imposition of serious sanctions, such as suspension or expulsion, the procedural due process guaranteed by Fourteenth Amendment. R.R. v. Board of Ed. of Shore Regional High School Dist., 109 N.J.Super. 337, 263 A.2d 180 (Ch. 1970).

Where public school officials have reasonable cause to believe that a student, by virtue of activities after school hours and off school property, presents a danger to himself, to others or to school property, they may temporarily suspend

the student for a short period of time pending a full hearing which will afford such student procedural due process, but they must, however, under ordinary circumstances afford the student a preliminary hearing. Id.

Due process procedural requirements for a pupil facing an expulsion or long term suspension by the board requires school authorities to give the pupil written notice of the charge, a list of witnesses to be called in support of the charge, and to advise the pupil of rights to cross-examination, to counsel, and to enter their own defense. G. F. v. Board of Education, Washington Township, 1 N.J. A.R. 55 (1979).

18A:37-2.1. Assaults by pupil upon teacher, administrator, board member or employee of board of education; suspension; expulsion proceedings

Any pupil who commits an assault, as defined pursuant to N.J.S. 2C:12-1, upon a teacher, administrator, board member or other employee of a board of education, acting in the performance of his duties and in a situation where his authority to so act is apparent, or as a result of the victim's relationship to an institution of public education of this State, shall be immediately suspended from school consistent with procedural due process pending expulsion proceedings before the local board of education. Said proceedings shall take place no later than 21 calendar days following the day on which the pupil is suspended.

L.1979, c. 189, § 2, eff. Sept. 11, 1979.

Historical Note

Title of Act:

An Act concerning education, amending N.J.S. 18A:37-2 and supplementing

chapter 37 of Title 18A of the New Jersey Statutes. L.1979, c. 189.

Library References

Schools ¶177.  
WESTLAW Topic No. 345.

C.J.S. Schools and School Districts  
§§ 503 to 505.

18A:37-3. Liability of parents or guardian of minor for damage to property

The parents or guardian of any minor who shall injure any public or nonpublic school property shall be liable for damages for the amount of injury to be collected by the board of education of the

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for a short period of time  
 full hearing which will afford  
 procedural due process, but  
 however, under ordinary cir-  
 afford the student a prelimi-  
 g. Id.

ess procedural requirements  
 facing an expulsion or long-  
 sion by the board requires  
 orities to give the pupil writ-  
 f the charge, a list of witness-  
 ed in support of the charge,  
 e the pupil of rights to cross-  
 u, to counsel, and to enter  
 fense. G. F. v. Board of  
 Washington Township, 1 N.J.  
 9).

acher, administrator,  
 yee of board of edu-  
 sion proceedings

ned pursuant to N.J.S.  
 ard member or other  
 he performance of his  
 to so act is apparent,  
 n institution of public  
 suspended from school  
 ing expulsion proceed-  
 said proceedings shall  
 following the day on

Title 18A of the New Jersey  
 979, c. 189.

ools and School Districts  
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of minor for damage

hall injure any public  
 for damages for the  
 d of education of the

district or the owner of the premises in any court of competent jurisdiction, together with costs of suit.

L.1967, c. 271, § 18A:37-3, eff. Jan. 11, 1968. Amended by L.1983, c. 302, § 1, eff. Aug. 11, 1983.

Assembly Education Committee Statement

Assembly, No. 593—L.1983, c. 302

\*\*\*\*\*

BACKGROUND:

In a recent New Jersey Supreme Court opinion, *Piscataway Township Board of Education v. Caffiero*, 86 N.J. 308 (1981), the court determined that the statute that extends liability to parents and guardians of pupils who vandalize school property, N.J.S. 18A:37-3, does not apply to pupils in nonpublic schools. Assembly Bill No. 593 proposes to amend 18A:37-3 to extend parental and guardian liability to parents and guardians of any person who destroys either public or nonpublic school property. According to the court:

"... although its language does not limit the statute strictly to the parents of public school pupils, it is clear from the position of N.J.S.A. 18A:37-3 among other statutory sections concerning public school children that the word 'pupil' has that limited meaning. The statute is not applicable to parents generally for damages caused by their children whether attending a public school or not."

Assembly Bill No. 593 proposes to amend the statute by replacing the word "pupil" with the word "minor" so that liability extends to the parent or guardian of the person committing the damage regardless of whether the person is attending school and regardless of whether it is a public or nonpublic school that is damaged.

\*\*\*\*\*

LEGISLATIVE INTENT:

In the Supreme Court decision, *Piscataway Township Board of Education v. Caffiero*, the court interpreted N.J.S. 18A:37-3 to apply only to damages resulting from the "willful and malicious acts" of students. The Assembly Education Committee agrees with the court's interpretation and finds it consistent with its own purpose and intent.

Historical Note

Source: R.S. 18:14-51.  
 Prior Laws: L.1903 (2d Sp.Sess.), c. 1, § 120, p. 46 [C.S. p. 4766, § 120].  
 The 1983 amendment substituted "minor" for "pupil"; inserted "public or nonpublic" preceding "school property"; and inserted "or the owner of the premises" following "district".

Cross References

Liability of parent or guardian for wilful destruction of property by minor, see § 2A:53A-15.

CALIFORNIA LEGISLATURE—1993-04 REGULAR SESSION

**ASSEMBLY BILL****No. 308**

Introduced by Assembly Members Andal, Agular,  
Ferguson, Hoge, Richter, and Woodruff  
(Coauthors: Senators Kopp and Russell)

February 3, 1993

An act to amend Section 1714.1 of the Civil Code, relating to liability.

## LEGISLATIVE COUNSEL'S DIGEST

AB 308, as introduced, Andal. Liability: parents.

Existing law provides that the parent or guardian of a minor shall be liable for any act of willful misconduct on the part of that minor which results in injury or death to another person, or which results in injury to the property of another, as specified. Existing law provides that the parent or guardian shall be jointly and severally liable for up to \$10,000 for each tort of the minor.

This bill would increase the maximum liability of the parent or guardian to \$25,000. In addition, the bill would provide that this amount shall be adjusted annually by the Judicial Council to reflect increases in the cost of living, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1714.1 of the Civil Code is
- 2 amended to read:
- 3 1714.1. (a) Any act of willful misconduct of a minor
- 4 which results in injury or death to another person or in
- 5 any injury to the property of another shall be imputed to
- 6 the parent or guardian having custody and control of the

AB 308

- 2 -

1 minor for all purposes of civil damages, and the parent or  
2 guardian having custody and control shall be jointly and  
3 severally liable with the minor for any damages resulting  
4 from the willful misconduct.

5 *The Subject to the provisions of subdivision (c), the*  
6 *joint and several liability of the parent or guardian having*  
7 *custody and control of a minor under this subdivision*  
8 *shall not exceed ten twenty-five thousand dollars*  
9 *~~(\$10,000)~~ (\$25,000) for each tort of the minor, and in the*  
10 *case of injury to a person, imputed liability shall be*  
11 *further limited to medical, dental and hospital expenses*  
12 *incurred by the injured person, not to exceed ten*  
13 *twenty-five thousand dollars ~~(\$10,000)~~ (\$25,000). The*  
14 *liability imposed by this section is in addition to any*  
15 *liability now imposed by law.*

16 (b) Any act of willful misconduct of a minor which  
17 results in the defacement of property of another with  
18 paint or a similar substance shall be imputed to the parent  
19 or guardian having custody and control of the minor for  
20 all purposes of civil damages, including court costs, and  
21 attorney's fees, to the prevailing party, and the parent or  
22 guardian having custody and control shall be jointly and  
23 severally liable with the minor for any damages resulting  
24 from the willful misconduct, not to exceed ten  
25 twenty-five thousand dollars ~~(\$10,000)~~ (\$25,000), except  
26 as provided in subdivision (c), for each tort of the minor.

27 (c) *The amounts listed in subdivisions (a) and (b)*  
28 *shall be adjusted annually by the Judicial Council to*  
29 *reflect any increases in the cost of living in California, as*  
30 *indicated by the annual average of the California*  
31 *Consumer Price Index. On or before July 1, 1993, and on*  
32 *or before July 1 of each year thereafter, the Judicial*  
33 *Council shall compute and publish the amounts listed in*  
34 *subdivisions (a) and (b), as adjusted according to this*  
35 *subdivision.*

O

### **Inconvenience the thieves**

The Feb. 5 Daily News article titled "Rare snowmachine stolen from racer's Hillside home" further convinces me that Anchorage is turning into a cesspool of crime. Being a victim of snowmachine thefts myself, I have to sympathize with Bill Long's recent mishap.

It is a great inconvenience to be a victim of such a crime. I experienced increased insurance premiums, a minimum waiting recovery period of 30 days before my insurance company would satisfy my claim, and the hassle of spending time and money searching for my stolen snowmachine.

In order to minimize the chance of another stolen snowmachine, I have taken several precautions that are also inconvenient but necessary. These precautions include storing my snowmachines and trailer in the garage (leaving my car outside), removing original decals and replacing them with pinstriping to make the machine easier to identify, and locking my trailer tongue with a padlock.

It is my understanding that most snowmachine thefts are committed by juveniles. Alaska law states that juveniles of 18 years or younger convicted of committing such a crime are subject only to restitution of a maximum of \$2,000, which usually fails to cover replacement costs. I say let's start making it inconvenient for the thieves instead of the victims by creating laws that can be used as a deterrent instead of an invitation for crime. Raising the penalty to the actual cost of the property stolen and making the parents monetarily responsible for crimes of their children would be a step in the right direction.

*ADN 2/15/53 - William P. Clary*

# Pranksters purloin holiday decorations

ANCHORAGE DAILY NEWS  
By DONNA FREEDMAN  
Daily News reporter  
12/17/92

More than two dozen Anchorage teen-agers took part in what police called a holiday season scavenger hunt early Wednesday, vandalizing several homes around Dimond High School before they were caught in the school parking lot.

Police found 25 juveniles at the school piling up plastic Nativity scenes, snowmen, Santa Clauses and other Christmas ornaments

lifted from area yards. City street signs, advertising banners and construction barricades were also among the stolen decorations. Other youths involved in the hunt got away, police said.

The holiday pilfering came just two days after local furniture dealer Jim Lowe was convicted of manslaughter in the shooting death of another teen involved in a scavenger hunt in May. The youth was with a group trying to steal an

advertising balloon from the roof of Lowe's downtown store.

Police did not identify the youths caught in Wednesday's scavenger hunt.

"It was reported as a theft in progress, but once the officers got out there and found cars running all over the place, it was clearly a scavenger hunt," said police spokeswoman JoAnn Brandlen. "The officers described it as a scavenger hunt, and they got the

students to say as much."

Dimond High principal Gail Opalinski disagreed, calling the event an early senior prank. She said she had talked with some students who were believed to have been involved.

"They decided they were going to decorate the high school with Christmas decorations," Opalinski said. "I would imagine some of

Please see Page B-3, PRANK

## PRANK: Teen-agers steal decorations during a holiday scav

Continued from Page B-1

them picked up street signs while they were at it."

She stressed that the hunt was not sanctioned or approved by the school district.

"We very much regret it," she said. "We're concerned about the safety of the kids, and about the property damage done. Kids this age don't always use their best judgment."

It isn't known how many homes were hit, since not all of the decorations had been claimed by late Wednesday afternoon.

For David and Carol Jensen, this was the second time their home on Greenhill Way had been vandalized this holiday season.

The Jensen yard is famous in the neighborhood for its elaborate decorations, which include a trio of penguins warming themselves by a

campfire, several snowmen and Santa Clauses, a small wooden Santa's Workshop filled with toy animals, thousands of lights, and signs with rhymes like the old Burma Shave ads.

David Jensen said a large toy soldier was stolen from the yard last week. After that, they tied all their decorations together with steel cable and installed motion detectors around the displays.

Those detectors woke them early Wednesday. The couple turned on the lights and saw teens piling into a pickup truck.

The Jensens found two plastic Santa Clauses and a homemade wooden sleigh, with electric lights, missing. They later retrieved them at Dimond High.

The youths had apparently tried to take the penguins and some gingerbread men, but "they were wired in so

well they couldn't have done it without taking a tree along with them," David Jensen said.

The vandals also destroyed strings of lights, extension cords and two handmade wooden moose. Jensen said it will cost about \$350 to fix or replace the damaged decorations.

Another Dimond area resident, Arthur Anderson, was luckier. He found a plastic candy cane and snowman

## scavenger hunt

stolen from his yard at the high school.

The theft was an inconvenience. But what chilled Anderson was that police told him it was part of a scavenger hunt.

"The Jim Lowe case just got decided. Evidently these kids aren't familiar with what's happening around town," Anderson said. "They're setting themselves up for another incident like that."

NEWS CLIPPING