

**HB**

**9**

**HFIN**

**FILE**

HOUSE COMMITTEE REPORT

(11)

Date Referred: January 30, 1995

FURTHER REFERRALS:

Date of Committee Action: 2/10/95

The FINANCE Committee considered:

HB 9

HOUSE BILL NO. 9

DAMAGE TO PROPERTY BY MINORS

"An Act relating to recovery of damages from a minor's parent or legal guardian when property is destroyed by the minor."

recommends it be replaced with the following committee substitute CS HB 9 (Fin)  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) AY Courts  fiscal note(s) \_\_\_\_\_

zero fiscal note(s) DOA  zero fiscal note(s) (2) DOA (2) HSS

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<u>Mark Hanley</u>	Hanley	X			
<u>John Multer</u>	Multer	X			
<u>Sean Pannell</u>	Pannell	X			
<u>Vic Kohring</u>	Kohring	X			
<u>Ben Grussendorf</u>	Grussendorf	X			
<u>Mike Navarre</u>	Navarre	X			
<u>Jan Brown</u>	Brown			X	
<u>Bob Kelly</u>	Kelly	X			
<u>Gene Theriault</u>	Theriault	X			

CHAIR'S SIGNATURE Mark Hanley

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB 9

Revision Date: \_\_\_\_\_ Dept. Affected: Alaska Court System  
 Title: An Act relating to recovery of damages BRU: Trial Courts  
from a minor's parent of legal guardian Components: \_\_\_\_\_  
 Sponsor: Reps. Therriault, Porter  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	*	*	*	*	*	*

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	*	*	*	*	*	*

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 95) cost: \$ None

ANALYSIS: (Attach a separate page if necessary)

\* - See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel *CSC* Phone: 264-8228  
 Agency: Alaska Court System Date: 01/27/95

Approved by: Arthur H. Snowden, II, Administrative Director *AS* *CSC*  
 Agency: Alaska Court System Date: 01/27/95

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**Alaska Court System  
Fiscal Analysis  
HB 9**

AS 34.50.020(a) provides that a person, municipal corporation, association, village, school district, or religious or charitable organization may recover damages in a civil action not to exceed \$2,000 from either parent or other person having legal custody of an unemancipated minor under the age of 18 year who maliciously or wilfully destroys real or personal property.

HB 9 makes two significant changes to this statute. First, the damage limit is raised from \$2,000 to \$10,000. Second, the requirement that a minor have acted maliciously or wilfully is eliminated, meaning that the parents or legal guardian are liable if the minor merely acted negligently.

These changes will result in an increase in case numbers and costs for several reasons. First, the bill makes parents liable not just for vandalism, but for any negligent act of their children. This will expand the field of potential cases. Second, the increase in the dollar amount which can be recovered will increase the field of potential cases. Third, the higher dollar amount means that many of these cases can now be brought in district court, rather than small claims court. This will increase court costs, because district court proceedings take more time, use more expensive district judges rather than magistrates, and give litigants the right to a jury.

Because of a lack of data, it is impossible to predict how this legislation will impact the court system. If case numbers and costs increase significantly, it will be necessary to return to the legislature at a later time for additional funding.

# FISCAL NOTE

No. 1  
 Bill Version: CSFB 9 (JUD)  
 (H) Publist Date: 1/30/95

STATE OF ALASKA  
 1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: "An Act relating to recovery of damages from a BRU: Legal Services  
minor's parents or legal guardian..." Component: Operations  
 Sponsor: Representative Therrault COMPONENT SERIAL NO. 0093  
 Requester: Representative Therrault

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

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

This bill amends AS 34.50 to provide that a person, municipal corporation, association, village, school district, or religious or charitable organization may recover damages in a civil action in an amount not to exceed \$10,000, plus court costs, 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 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 or missing 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 (a), that the minor has run away or is missing. This bill deals with the recovery of damages and, consequently, there will not be a fiscal impact for the Department of Law.

Prepared by: Richard I. Peques, Director Phone: 465-3672  
 Division: Administrative Services Division Date: 1/23/95  
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 1/23/95  
 Agency: Department of Law

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STATE OF ALASKA  
1995 LEGISLATIVE SESSION

No. 2  
- Bill Version: CSHB 9 (JUD)  
(H) Publish Date: 1/30/95

Revision Date: \_\_\_\_\_  
Title: An Act Relating to Recovery From a Parent or Legal Guardian When Property Is Destroyed By The Minor  
Sponsor: Representative(s) Theriault, Porter  
Requestor: House (JUD)

Dept. Affected: Health and Social Services  
BRU: Purchased Services  
Component: Foster Care  
COMPONENT SERIAL NO. 252  
See also (SN#): 253

Expenditures/Revenues:		(Thousands of Dollars)					
OPERATING		FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES							
TRAVEL							
CONTRACTUAL							
SUPPLIES							
EQUIPMENT							
LAND & STRUCTURES							
GRANTS, CLAIMS							
MISCELLANEOUS							
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES

CHANGES IN REVENUES

FUND SOURCE		(Thousands of Dollars)					
002 Federal Receipts							
003 GF Match							
004 GF							
005 GF/Program Receipts							
006 GF/MHTIA							
Other (please specify)							
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:  
FULL-TIME \_\_\_\_\_  
PART-TIME \_\_\_\_\_  
TEMPORARY \_\_\_\_\_

Estimate of any current year (FY95) cost: 50.0

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: Kathy Tibbles, Acting Director  
Division: Division of Family & Youth Services  
Approved by Commissioner: Karen Perdue, Commissioner  
Agency: Department of Health & Social Services

Phone: 465-3191  
Date: 01/23/95  
Date: 1-24-95

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STATE OF ALASKA  
1995 LEGISLATIVE SESSION

No. 3  
Bill Version: CSHB 9 (JUD)  
(H) Publish Date: 1/30/95

Revision Date: \_\_\_\_\_  
Title: An Act Relating to Recovery From a Parent or Legal Guardian When Property Is Destroyed By The Minor  
Sponsor: Representative(s) Therriault, Porter  
Requestor: House (JUD)

Dept. Affected: Health and Social Services  
BRU: Purchased Services  
Component: Residential Child Care  
COMPONENT SERIAL NO. 253  
See also (SN#): 252

Expenditures/Revenues: (Thousands of Dollars)

	FY98	FY97	FY98	FY99	FY00	FY01
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES

CHANGES IN REVENUES

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	
PART-TIME	
TEMPORARY	

Estimate of any current year (FY95) cost: 50.0

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: Kathy Tibbles, Acting Director  
Division: Division of Family & Youth Services

Phone: 465-3191  
Date: 01/23/95

Approved by Commissioner: Karen Perdue, Commissioner  
Agency: Department of Health & Social Services

Date: 1-24-95

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# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

No. 4  
Bill Version: CSHB 9 (JUD)  
(H) Publish Date: 1/30/95

Revision Date: \_\_\_\_\_  
Title: "An Act relating to recovery of damages from a minor's parent or legal guardian when property is destroyed...."  
Sponsor: Therriault, Porter  
Requestor: Therriault

Department Affected: Administration  
BRU: Office of Public Advocacy  
Component: Office of Public Advocacy

COMPONENT SERIAL NO. 43

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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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>

Estimate of any current year (FY 95) cost: \$ none

**POSITIONS:**

FULL-TIME	0.0	0.0	0.0	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.)

This bill has no fiscal impact on the Office of Public Advocacy.

Prepared by: Brant McGee, Director *Brant McGee*  
Division: Office of Public Advocacy

Phone: 274-1684  
Date: \_\_\_\_\_

Approved by Commissioner: Mark Rover *Mark Rover 1/25/95*  
Agency: Department of Administration

Date: \_\_\_\_\_

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# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

No. 5  
Bill Version: CSHB 9 (JUD)  
(H) Publish Date: 1/30/95

Revision Date: \_\_\_\_\_  
Title: "An Act relating to recovery of damages from a minor's parent or legal guardian when property is destroyed...."  
Sponsor: Therriault, Porter  
Requestor: Therriault

Department Affected: Administration  
BRU: Public Defender Agency  
Component: Public Defender Agency  
COMPONENT SERIAL NO. 1631

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**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>

Estimate of any current year (FY 95) cost: \$ \_\_\_\_\_

**POSITIONS:**

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

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

This legislative proposal will have no fiscal impact on the Alaska Public Defender Agency.

Prepared by: John Salemi, Director *J. Salemi*  
Division: Public Defender Agency

Phone: 264-4412  
Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer *M. Boyer*  
Agency: Department of Administration

Date: 1/23/95

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# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB 9

Revision Date: \_\_\_\_\_  
 Title: "An Act Relating to Recovery of Damages to Property  
 by Minors..."  
 Sponsor: Therriault  
 Requestor: \_\_\_\_\_

Department Affected: Administration  
 BRU: Risk Management  
 Component: Risk Management  
 \_\_\_\_\_  
 COMPONENT SERIAL NO. 71

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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>

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ( )	0	0	0	0	0	0
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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>

Estimate of any current year (FY 95) cost: \$ -0-

**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.)

There is no fiscal impact on the Division of Risk Management.

Prepared by: Brad Thompson  
 Division: Risk Management

Phone: 465-2180  
 Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
 Agency: Department of Administration

Date: 1/30/95

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Am 1 Adopted  
Am 2 Adopted

9-LS0053\F

CS FOR HOUSE BILL NO. 9(JUD) Am

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 1/30/95  
Referred: Finance

Sponsor(s): REPRESENTATIVES THERRIAULT, Porter, Green

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to recovery of damages from a minor's parent or legal guardian  
2 when property is destroyed by the minor, and to recovery from a minor's  
3 permanent fund dividend for injury or damage caused by the minor."

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

5 \* Section 1. AS 34.50.020(a) is amended to read:

6 (a) A person, municipal corporation, association, village, school district, or  
7 religious or charitable organization, incorporated or unincorporated, may recover  
8 damages in a civil action in an amount not to exceed \$10,000 [\$2,000] and court costs  
9 [,] from either parent or both parents or the legal guardian or person having the legal  
10 custody of an unemancipated minor under the age of 18 years [,] who, as a result of  
11 a knowing or intentional act, [MALICIOUSLY OR WILFULLY] destroys real or  
12 personal property belonging to the person, municipal corporation, association, village,  
13 school district, or religious or charitable organization.

14 \* Sec. 2. AS 34.50.020 is amended by adding a new subsection to read:

1 (c) A parent, legal guardian, or person having the legal custody of an  
2 unemancipated minor under the age of 18 years who is a runaway or missing minor  
3 is not liable under (a) of this section for the acts of the minor after the parent, legal  
4 guardian, or person having the legal custody of the minor makes a report to a law  
5 enforcement agency, as authorized by AS 47.10.141(a), that the minor has run away  
6 or is missing. In this subsection, "runaway or missing minor" means a minor whom  
7 the minor's parent, legal guardian, or legal custodian reasonably believes is absent from  
8 the minor's residence for the purpose of evading the minor's parent, legal guardian, or  
9 legal custodian, or who is otherwise missing from the minor's usual place of abode  
10 without the consent of the parent, legal guardian, or person having legal custody of  
11 the minor.

12 \* Sec. 3. AS 43.23.065(b) is amended to read:

13 (b) An exemption is not available under this section for permanent fund  
14 dividends taken to satisfy

15 (1) child support obligations required by court order or decision of the  
16 child support enforcement agency under AS 25.27.140 - 25.27.220;

17 (2) court ordered restitution under AS 12.55.045 - 12.55.051, 12.55.100,  
18 or AS 47.10.080(b)(4);

19 (3) claims on defaulted scholarship loans under AS 43.23.067;

20 (4) court ordered fines;

21 (5) writs of execution under AS 09.35 of a judgment that is entered

22 (A) against a minor in a civil action to recover damages;  
23 recovery under this subparagraph is limited to \$10,000 [~~\$2,000~~] and court costs,  
24 and may be obtained only when the judgment is based upon

25 (i) an act of the minor that is defined as a crime against  
26 a person under AS 33.30.901, that injured the plaintiff, and for which  
27 the minor was adjudicated a delinquent or convicted as an adult; or

28 (ii) the minor's intentional, or knowing injury of real or  
29 personal property of the plaintiff;

30 (B) under AS 34.50.020 against the parent, parents, legal  
31 guardian, or person having the legal custody of an unemancipated minor;

1 (6) a debt owed by an eligible individual to an agency of the state,  
2 unless the debt is contested and an appeal is pending, or the time limit for filing an  
3 appeal has not expired.

AMENDMENT 1

*Rep. Therrell*

OFFERED IN THE HOUSE

TO: CSHB 9(JUD)

*Adopted*

- 1 Page 2, line 3, after "minor":
- 2       Insert "that are committed by the minor"
  
- 3 Page 2, line 4:
- 4       Delete "makes"
- 5       Insert "has made"

Adopted

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 9(JUD)

1 Page 1, line 1:

2 Delete "minor's parent or legal guardian"

3 Insert "person having legal custody of a minor"

4 Page 1, lines 6 - 13:

5 Delete all material and insert:

6 "(a) A person, municipal corporation, association, village, school district, or  
7 religious or charitable organization, incorporated or unincorporated, may recover  
8 damages in a civil action in an amount not to exceed \$10,000 [\$2,000] and court costs  
9 [,] from a [EITHER PARENT OR BOTH PARENTS OR THE LEGAL GUARDIAN  
10 OR] person having the legal custody of an unemancipated minor under the age of 18  
11 years [,] who, as a result of a knowing or intentional act, [MALICIOUSLY OR  
12 WILFULLY] destroys real or personal property belonging to the person, municipal  
13 corporation, association, village, school district, or religious or charitable organization."

14 Page 2, line 1:

15 Delete "parent, legal guardian, or"

16 Page 2, lines 3 - 4:

17 Delete "the parent, legal guardian, or"

18 Insert "a"

19 Page 2, line 7:

20 Delete "the minor's parent, legal guardian, or legal custodian"

21 Insert "a person having the legal custody of the minor"

1 Page 2, lines 8 - 9:

2 Delete "the minor's parent, legal guardian, or legal custodian,"

3 Insert "a person having the legal custody of the minor,"

4 Page 2, line 10:

5 Delete "the parent, legal guardian, or"

6 Insert "a"

7 Page 2, lines 30 - 31:

8 Delete "the parent, parents, legal guardian, or"

9 Insert "a [THE PARENT, PARENTS, LEGAL GUARDIAN, OR]"

# Alaska State Legislature

REPRESENTATIVE  
GENE THERRIAU'LT

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Fairbanks, Alaska 99701  
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State Capitol  
Juneau, Alaska  
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House District 33

## House Of Representatives

**HB 9:** "An Act relating to recovery of damages from a minor's parent or legal guardian when property is destroyed by the minor."

**Sponsor:** Representative Gene Therriault *G.T.*

---

### Sponsor Statement:

This victim's rights legislation, which updates a statute that has been on the books since 1957, is intended to encourage responsibility among parents and juveniles and to provide recourse for victims who have lost property. It is based on the principal that parents or legal guardians of juveniles who caused the damage are monetarily responsible for the loss. This legislation would increase the amount the victim may recover from \$2,000 to \$10,000, and bring Alaska more into line with the national average of \$10,000 to \$15,000.

The impetus for my interest in this bill is partly an incident that occurred last summer in which vandals caused approximately \$50,000 in damage to two schools in Fairbanks. Although the vandals were caught, the school district was able to recoup only a small fraction of its loss. This legislation would ensure that victims of property damage could recover a greater amount of their total loss.

The bill was amended by the Judiciary Committee to add the words "as a result of a knowing or intentional act," which limits liability to damages that were caused purposely, but includes unintentional damages that might be caused as a result of the intentional action.

The Committee also added a new section to incorporate the intent of House Bill 36. It updates the permanent fund dividend law that permits the taking of part or all of a dividend to satisfy a judgment. It increases the amount that can be recovered from a minor's permanent fund dividend for injury or damage caused by the minor from the current \$2,000 to \$10,000 to maintain the parallel recovery provision with the change being proposed in House Bill 9.

# Alaska State Legislature

REPRESENTATIVE  
GENE THERRIAULT

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House District 33

## House Of Representatives

### House Bill 9

#### Explanation of changes to CS for House Bill 9 (JUD)

- Section 1. Line 10** Adds the words "as a result of a knowing or intentional act" to limit liability to damages that were caused purposely, but to include unintentional damages that might be caused as a result of the intentional action. The original bill dropped the words "malicious and willful" because they are antiquated terms that lack definition in criminal law.
- Section 3. Line 12** This new section, which incorporates the intent of House Bill 36, was added to update the permanent fund dividend law that permits the taking of part or all of a dividend to satisfy a judgment. It increases the amount that can be recovered from a minor's permanent fund dividend for injury or damage caused by the minor from the current \$2,000 to \$10,000 to maintain the parallel recovery provision with the change being proposed in House Bill 9. Without this amendment, a victim could, arguably, recover up to \$10,000 from a parent's or guardian's dividend under subparagraph (B) but recover only \$2,000 from the dividend of the minor who caused the damage and who, under the law, would be required to make full restitution.

# Vandals hit two schools

## Luke, University Park damage may top \$50,000

By WENDY HOWER  
Staff Writer

Vandals poisoned a tank of fish, smashed vending machines, broke into classrooms and wreaked more than \$50,000 in damages at two public schools last weekend, Alaska State Troopers said.

The rampages at University Park Elementary School and Howard Luke Alternative Junior/Senior High School, both off Geist Road, were likely related, said 1st Sgt. Michael Corkill.

The break-ins took place between Saturday afternoon and 7 a.m. Monday—five weeks before the start of school.

It was probably teenagers who squirted red Hawaiian Punch juice concentrate onto carpeting, furniture and walls at University Park,

troopers said. They poured deadly ammonia into a fish aquarium, killing the fish, then sprayed library walls with permanent ink and discharged a fire extinguisher in the commons area.

They littered the gym floor with playing balls and dribbled liquid automobile tire sealant into a computer keyboard, hard drive and printer.

Across the street at Howard Luke, vandals smashed windows, pulled supplies out of cupboards and poured black paint and rubber cement onto the art room floor. With a baseball bat or another blunt tool, they broke off doorknobs on most classrooms and rummaged through teachers' desks.

The vandals stole speakers and

See VANDALS, Page A-7

## VANDALS: 2 schools hit

Continued from Page A-1

more than 40 compact discs, troopers and school staffers said. They bashed in a dozen or so windows. They cracked and ripped the framed photos of the school's namesake, Athabaskan elder Howard Luke.

"Bored little jerks with jerks for parents," said custodian Kathy Ferrell.

Troopers spotted bike tracks around both schools. They collected fingerprints and footprints at both schools but have no suspects yet, Corkill said. Two troopers are working on the case full time, he said.

"They were on a melee in there for quite some time," Corkill said. "We have some good physical evidence to work on."

At both schools, vandals overturned and smashed vending machines, stealing change and sodas inside. They spared the computer labs in both schools and also left TV sets, video cameras and stereos behind.

Fourth graders expressed shock and sadness as they wandered through the wreckage at Universi-

ty Park Monday afternoon.

"Everything's totally like bogus out there," said Christina Thompson, 8. "It's not the same school anymore."

Nine-year-old Andrew Page gasped when he heard about the poisoned fish.

"I wish they hadn't done this," he said.

School custodians had just finished cleaning the carpets at University Park on Friday. They began to sweep up glass and fire extinguisher chemicals on Monday.

"I get really disgusted. We work so hard and as custodians we take a lot of pride in cleaning our schools," said Dale Shelley, custodian. "To have something like this done, it's just, it's really a shock and angers us. Almost hard to put words to it."

Last week, vandals broke into West Valley High School and stole speakers, Corkill said. Troopers do not know whether the West Valley break-in was related.

Anyone with information about the vandalism should contact troopers at 452-2114.

# ncil cts n bid

ps bonding  
Main alive

JONES

Best offer to develop  
renovation of Main School  
part of the total multi-  
project came a little

Mayor Bob Eley  
voted 5-1 late Mon-  
day to reject his latest offer  
to work on a bonding  
package to renovate the 30-year old  
city and police office

Bob Eley offered  
the largest package  
renovating the renova-  
tion of \$10 mil-

Mayor Randall Wallace  
member who did not  
support Eley's plan to use  
city employees.

Wallace said  
to defeat your motion  
back to the original  
plan.

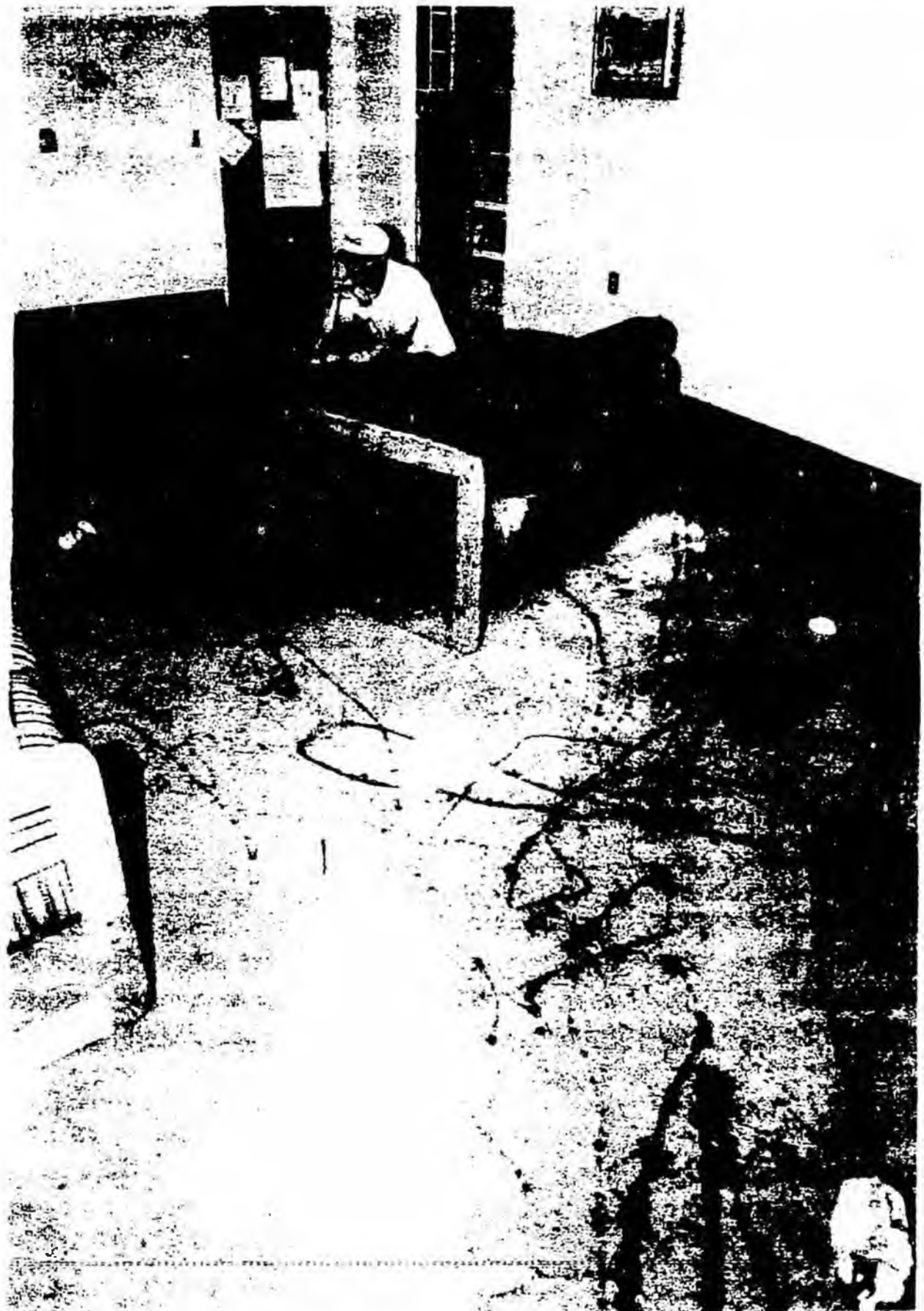
Wallace said  
to support Eley's latest  
offer. A developer pitched  
the plan during a work session  
last Monday. Page A-3

# ves, on OK ement

FRAGANO

Lawyers for  
the state suing Exxon  
for spill damage to tradi-  
tional fisheries agreed to a \$20  
million settlement.

The settlement, announced Monday,  
is subject to approval by the  
state court. The settlement  
would allow for replace-  
ment of fisheries for replace-  
ment of fish, such as seal.  
The settlement could not be har-



Genevieve Barron-News-Miner

**WEEKEND VANDALISM**—Mike Wason, a member of the carpet-cleaning crew, surveys the damage in the teacher's lounge at University Park Elementary School. Vandals poisoned a tank of fish, smashed vending machines, broke into classrooms, causing more than \$50,000 in damages at University Park and Howard Luke Alternative Junior/Senior High School.

**DIVISION OF LEGAL SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA**

(907) 465-3867 or 465-2450  
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Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

**MEMORANDUM**

January 25, 1995

**SUBJECT:** HB 9, relating to recovery of damages caused by minors -- sectional analysis (Work Order No. 9-LS0053\C)

**TO:** Representative Gene Therriault  
ATTN: Wilda Whitaker

**FROM:** Jack Chenoweth  
Legislative Council

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 \$10,000 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 destroyed the property. Recovery is not contingent on a determination that the minor's destruction of the property was malicious or wilful.

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:lmb:pl  
95-092.lmb

SECTIONAL ANALYSIS

# Alaska State Legislature

REPRESENTATIVE  
**GENE THERRIAULT**

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House District 33

## House Of Representatives

### Explanation of Proposed Amendment House Bill 9

This would amend the permanent fund dividend law that permits the taking of part or all of a dividend to satisfy a judgment. It would increase the amount that can be recovered from a minor's permanent fund dividend for injury or damage caused by the minor from the current \$2,000 to \$10,000 to maintain the parallel recovery provision with the change being proposed in House Bill 9. Without this amendment, a victim could, arguably, recover up to \$10,000 from a parent's or guardian's dividend under subparagraph (B) but recover only \$2,000 from the dividend of the minor who caused the damage and who, under the law, would be required to make full restitution.



## ALASKA COUNCIL OF SCHOOL ADMINISTRATORS

326 Fourth St. Suite 404 Juneau AK 99801-1101 • (907) 586-9702 • (800) 478-9702 • FAX (907) 586-5879

### POSITION STATEMENT

#### HOUSE BILL # 9

"An Act relating to recovery of damages from a minor's parent or legal guardian when property is destroyed by a minor."

The Alaska Council of School Administrators supports House Bill #9.

Across Alaska, school administrators have had to deal directly with the vandalism caused by minors in school buildings. In specific incidence, minor vandals have broken into school buildings, destroyed computers, shattered windows, vandalized school laboratories, and sprayed paint on walls, lockers and floors.

ACSA supports the increase in the amount of recovered damages from \$2,000 to \$10,000. Schools across Alaska have equipped their computer laboratories, offices and individual classrooms with the most sophisticated equipment. This equipment is expensive. When it is destroyed it places a financial burden on the school district for the replacement of the destroyed equipment and furnishings. It is appropriate that the burden of responsibility be shifted to the appropriate level, the guilty minor and their parents or legal guardian.

These malicious acts of vandalism have spoiled the opportunities other children have to learn in a safe environment using the most modern tools available to them.

School districts and local tax payers make a determined effort to provide facilities and educational materials and equipment which enhances the learning environment. Communities hold with pride, the quality of facilities they have for educating their children. Districts do not budget for replacement of windows, furniture, and equipment which has been destroyed by acts of violence. When this equipment and facilities are damaged, it places a tremendous burden on an already tight school budget.

Our only recommended change in HB 9 would be to raise the amount available to be recovered to represent the true replacement costs for damages.

The responsibility for restitution must rest with the parents and legal guardians as well as the minor found guilty of such acts of vandalism.

Stephen T. McPhetres  
Executive Director

The terms "with criminal negligence," "recklessly," "knowingly," and "intentionally" are defined in Criminal Law AS 11.81.900. Each carries an increasingly severe punishment and requires a greater degree of evidence to prove, with "intentional" being the crime for which punishment is most severe.

The terms "malicious" and "wilful" are carry overs from common law days that pre-date the 1978 revision of the criminal code. The fact that they are not clearly set out in code makes them more difficult to prove.

## Sec. 11.81.640. Application of AS 11.81.600 — 11.81.630.

## NOTES TO DECISIONS

Cited in *Cole v. State*, 828 P.2d 175  
(Alaska Ct. App. 1992).

## Article 6. Definitions.

Section  
900. Definitions

**Sec. 11.81.900. Definitions.** (a) For purposes of this title, unless the context requires otherwise,

(1) a person acts "~~intentionally~~" with respect to a result described by a provision of law defining an offense when the person's conscious objective is to cause that result; when intentionally causing a particular result is an element of an offense, that intent need not be the person's only objective;

(2) a person acts "~~knowingly~~" with respect to conduct or to a circumstance described by a provision of law defining an offense when the person is aware that the conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist; a person who is unaware of conduct or a circumstance of which the person would have been aware had that person not been intoxicated acts knowingly with respect to that conduct or circumstance;

(3) a person acts "~~recklessly~~" with respect to a result or to a circumstance described by a provision of law defining an offense when the person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation; a person who is unaware of a risk of which the person would have been aware had that person not been intoxicated acts recklessly with respect to that risk;

(4) a person acts with "~~criminal negligence~~" with respect to a result or to a circumstance described by a provision of law defining an offense when the person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

(b) In this title, unless otherwise specified or unless the context requires otherwise,

(iii) overpaid contributions by employers to the unemployment compensation fund under AS 23.20.130;

(11) "last known address" means a description of the location of the apparent owner sufficient for the purpose of the delivery;

(12) "owner" means a depositor in the case of a deposit, a beneficiary in the case of a trust other than a deposit in trust, a creditor, claimant, or payee in the case of other intangible property, or a person having a legal or equitable interest in property subject to AS 34.45.110 — 34.45.780; the term includes a person's legal representative;

(13) "person" means an individual, business association, state, municipality or other government, including the United States government, subdivision or agency, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or other legal or commercial entity;

(14) "property" means personal property;

(15) "state" means a state, district, commonwealth, territory, insular possession, or other area subject to the legislative authority of the United States;

(16) "utility" means a person who owns or operates for public use a plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas. (§ 11 ch 133 SLA 1986; am § 1 ch 29 SLA 1988; am § 29 ch 100 SLA 1989)

*Editor's notes.* — This section is set out above to correct a typographical error in the main pamphlet.

## Chapter 50. Actions for Injuries to Property Interests.

### Section

#### 20. Liability for destruction of property by minors

**Liability for destruction of property by minors.** (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 years, who maliciously or wilfully destroys real or personal property belonging to the person, municipal corporation, association, village, school district, or religious or charitable organization.

(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. A state agency or an agent of a state agency, including a nonprofit corporation that designates shelters for runaways under AS 47.10.392 — 47.10.399 and employees of or volunteers with that corporation, is not liable for the acts of a minor sheltered in a shelter for runaways, as defined in AS 47.10.399. (§ 1 ch 98 SLA 1957; am § 1 ch 107 SLA 1967; am § 10 ch 33 SLA 1994)

**Effect of amendments.** — The 1994 added the second sentence in subsection amendment, effective August 6, 1994, (b).

## Chapter 55. Uniform Land Sales Practices Act.

### Section

#### 20. General powers and duties

**Sec. 34.55.020. General powers and duties.** (a) The department shall adopt regulations under the Administrative Procedure Act (AS 44.62). The regulations must include but not be limited to provisions for advertising standards to assure full and fair disclosure; provisions for escrow or trust agreements or other means reasonably to assure that all improvements referred to in the application for registration and advertising will be completed and that purchasers will receive the interest in land contracted for; provisions for operating procedures; and other provisions as are necessary and proper to accomplish the purpose of this chapter.

(b) The department, by regulation or by an order, after notice and hearing, may require the filing of advertising material relating to subdivided land before its distribution.

(c) If it appears that a person has engaged or is about to engage in an act or practice constituting a violation of this chapter, or a regulation or order under this chapter, the department, with or without prior administrative proceedings may bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this chapter or a regulation or order under this chapter. Upon proper showing, injunctive relief or temporary restraining orders shall be granted, and a receiver or conservator may be appointed. The department is not required to post a bond in court proceedings.

(d) The department may intervene in a suit involving subdivided land. In a suit by or against a subdivider involving subdivided land, the subdivider promptly shall furnish the department notice of the suit and copies of all pleadings.

(e) The department may

(1) accept registrations filed in other states or with the federal government;

## NOTES TO DECISIONS

**Meaning of "immediately".** — Delinquency Rule 7(b) and this section are not inconsistent. The term "immediately" means the same thing in both the rule and the statute. The language "in no event more than 12 hours later" in the statute is not a modification of "immediately," but merely sets an outside time limit for parental notification. *State v. J.R.N.*, 861 P.2d 566 (Alaska 1993).

**Waiver of parental notification by**

**juvenile.** — A juvenile may waive his or her right to parental notification. The waiver must be a knowing and voluntary one. Whether the juvenile's waiver of his right was knowing and voluntary must be assessed by the totality of the circumstances as they existed when he stated that he did not want his parents notified. *State v. J.R.N.*, 861 P.2d 566 (Alaska 1993).

**Sec. 47.10.141. Runaway and missing minors.** (a) Upon receiving a written, telephonic, or other request to locate a minor evading the minor's legal custodian or to locate a minor otherwise missing, a law enforcement agency shall make reasonable efforts to locate the minor and shall immediately complete a missing person's report containing information necessary for the identification of the minor. As soon as practicable, but not later than 24 hours after completing the report, the agency shall transmit the report for entry into the Alaska Public Safety Information Network and the National Crime Information Center computer system. The report shall also be submitted to the missing persons information clearinghouse under AS 18.65.620. As soon as practicable, but not later than 24 hours after the agency learns that the minor has been located, it shall request that the Department of Public Safety and the Federal Bureau of Investigation remove the information from the computer systems.

(b) A peace officer shall take into protective custody a minor described in (a) of this section if the minor is not otherwise subject to arrest or detention. Unless (c) of this section applies, the peace officer shall exercise the officer's discretion and (1) return the minor to the legal custodian if the legal custodian consents to the return except that the officer may not use this option if the officer has reasonable cause to suspect that the minor has experienced physical or sexual abuse in the legal custodian's household; (2) take the minor to a nearby location agreed to by the minor and the legal custodian; or (3) take the minor to an office specified by the Department of Health and Social Services, a program for runaway minors licensed by the department under AS 47.10.310, a shelter for runaways that has a permit from the department under AS 47.35.085 that agrees to shelter the minor, or a facility or contract agency of the department. If an office specified by the department, a licensed program for runaway minors, a shelter for runaways that will accept the minor, or a facility or contract agency of the department does not exist in the community, the officer shall take the minor to another suitable location and promptly notify the department. A minor under protective custody may not be housed in a jail or other detention facility. Immediately

§ 47.10.141 WELFARE, SOCIAL SERVICES & INSTITUTIONS § 47.10.141

upon taking a minor into protective custody, the officer shall advise the minor orally and in writing of the right to social services under AS 47.10.142(b), and, if known, the officer shall advise the legal custodian that the minor has been taken into protective custody and that counseling services for the custodian and the minor's household may be available under AS 47.10.142(b).

(c) A minor may be taken into emergency protective custody by a peace officer and placed into temporary detention in a juvenile detention home in the local community if there has been an order issued by a court under a finding of probable cause that (1) the minor is a runaway in wilful violation of a valid court order issued under AS 47.10.080 or 47.10.142(f), (2) the minor's current situation poses a severe and imminent risk to the minor's life or safety, and (3) no reasonable placement alternative exists within the community. For the purposes of this subsection, a risk may not be considered severe and imminent solely because of the general conditions for runaway minors in the community, but shall be assessed in view of the specific behavior and situation of the minor. A minor detained under this subsection shall be brought before a court on the day the minor is detained, or if that is not possible, within 24 hours after the detention for a hearing to determine the most appropriate placement in the best interests of the minor. A minor taken into emergency protective custody under this subsection may not be detained for more than 24 hours, except as provided under AS 47.10.140. Emergency protective custody may not include placement of a minor in a jail or secure facility other than a juvenile detention home, nor may an order for protective custody be enforced against a minor who is residing in a licensed program for runaway minors, as defined in AS 47.10.390.

(d) If, after investigation of a report of a missing minor, a law enforcement agency has reason to believe that the minor is involuntarily absent from the custody of a custodial parent or guardian, the department shall notify the Bureau of Vital Statistics of the disappearance and shall provide the bureau with a description of the minor. The description of the minor must include, if known, the minor's full name, date and place of birth, parent's names, and mother's maiden name. If the Department of Public Safety has reason to believe that the minor, whether born in this state or not, has been enrolled in a specific school or school district in the state, the department shall also notify the last known school or school district attended in the state by the missing minor of the disappearance. When a person who was listed as a missing minor is found, the Department of Public Safety shall notify the Bureau of Vital Statistics and any school or school district previously informed of the person's disappearance.

(e) In this section, "law enforcement agency" has the meaning given in AS 12.36.090. (§ 2 ch 42 SLA 1985; am § 3 ch 72 SLA 1988;

am §§ 1, 2 ch 144 SLA 1988; am § 4 ch 202 SLA 1990; am § 13 ch 33 SLA 1994)

**Effect of amendments.** — The 1994 amendment, effective August 6, 1994, in subsection (b), rewrote the second sentence, in the third sentence, inserted "a shelter for runaways that will accept the minor," and, in the last sentence, added "and that counseling services for the custodian and the minor's household may be available under AS 47.10.142 (b)" to the end.

**Sec. 47.10.142. Emergency custody and temporary placement hearing.** (a) The Department of Health and Social Services may take emergency custody of a minor upon discovering any of the following circumstances:

(1) the minor has been abandoned;

(2) the minor has been grossly neglected by the minor's parents or guardian, as "neglect" is defined in AS 47.17.290, and the department determines that immediate removal from the minor's surroundings is necessary to protect the minor's life or provide immediate necessary medical attention;

(3) the minor has been subjected to child abuse or neglect by a person responsible for the minor's welfare, as "child abuse or neglect" is defined in AS 47.17.290, and the department determines that immediate removal from the minor's surroundings is necessary to protect the minor's life or that immediate medical attention is necessary; or

(4) the minor has been sexually abused under circumstances listed in AS 47.10.010(a)(2)(D).

(b) The department shall offer available counseling services to the person having legal custody of a minor described in AS 47.10.141 and to the members of the minor's household if it determines that counseling services would be appropriate in the situation. If, after assessing the situation, offering available counseling services to the legal custodian and the minor's household, and furnishing appropriate social services to the minor, the department considers it necessary, the department may take emergency custody of the minor.

(c) When a child is taken into custody under (a) or (b) of this section or when the department is notified of a child's presence in either a program for runaway minors under AS 47.10.300 — 47.10.390 or a shelter for runaway minors under AS 47.10.392 — 47.10.399, the department shall immediately, and in no event more than 12 hours later unless prevented by lack of communication facilities, notify the parents or the person or persons having custody of the child. If the department determines that continued custody is necessary to protect the child, the department shall notify the court of the emergency custody by filing, within 12 hours after custody was assumed, a petition alleging that the child is a child in need of aid. If the department releases the child within 12 hours after taking the child into custody and does not file a child in need of aid petition the department shall, within 12

(5) annually determine, in cooperation with the Department of Corrections, the number and identity of individuals ineligible for a permanent fund dividend under AS 43.23.005(d);

(6) adopt regulations that are necessary to implement AS 43.23.005(d);

(7) adopt regulations that establish procedures for the parent, guardian, or other authorized representative of a disabled individual to apply for prior year permanent fund dividends not received by the disabled individual because no application was submitted on behalf of the individual;

(8) adopt regulations that establish procedures for an individual to apply to have a dividend warrant reissued if it is returned to the department as undeliverable or it is not paid within two years of the date of its issuance; however, the department may not establish a time limit within which an application to have a warrant reissued must be filed;

(9) adopt regulations establishing an optional longevity bonus program to provide for the direct payment by the department of an individual's permanent fund dividend to an annuity program selected by the individual. (§ 1 ch 102 SLA 1982; am § 2 ch 55 SLA 1983; am § 3 ch 43 SLA 1984; am § 3 ch 54 SLA 1988; am § 5 ch 68 SLA 1990; am § 14 ch 4 SLA 1992; am § 1 ch 64 SLA 1993)

**Conditional repeal of paragraph (9).** — Under § 5, ch. 64, SLA 1993, paragraph (9) of this section "is repealed July 31, 1995, if, on June 30, 1995, fewer than 5,000 individuals have elected to participate in the optional longevity bonus program established in AS 43.23.055(9), added by § 1 of this Act."

**Effect of amendments.** — The 1992 amendment, effective January 1, 1993, rewrote paragraph (2) and added paragraph (8).

The 1993 amendment, effective September 20, 1993, added paragraph (9).

**Editor's notes.** — Section 6(b), ch. 64, SLA 1993 provides that "[u]nder AS 01.10.030, if AS 43.23.055(9), added by § 1 of this Act, is held to violate art. II, § 13, Constitution of the State of Alaska, the remainder of this Act shall not be affected."

#### NOTES TO DECISIONS

Applied in *Handley v. State, Dep't of Revenue*, 838 P.2d 1231 (Alaska 1992); *State, Dep't of Revenue v. Cosio*, 858 P.2d 621 (Alaska 1993).

**Sec. 43.23.065. Exemption of and levy on permanent fund dividends.** (a) Except as provided in (b) of this section, 45 percent of the annual permanent fund dividend payable to an individual is exempt from levy, execution, garnishment, attachment, or any other remedy for the collection of debt. This exemption applies to an eligible individual's permanent fund dividend both before and after payment is made to the individual. No other exemption applies to a dividend. Notwithstanding other laws, a writ of execution upon a dividend that has not been delivered to the debtor may be served on the commissioner by

certified mail, return receipt requested. Upon receipt of a writ by certified mail, return receipt requested, the commissioner shall deliver that portion of the dividend executed upon to the court along with the case name and number.

(b) An exemption is not available under this section for permanent fund dividends taken to satisfy

(1) child support obligations required by court order or decision of the child support enforcement agency under AS 25.27.140 — 25.27.220;

(2) court ordered restitution under AS 12.55.045 — 12.55.051, 12.55.100, or AS 47.10.080(b)(4);

(3) claims on defaulted scholarship loans under AS 43.23.067;

(4) court ordered fines;

(5) writs of execution under AS 09.35 of a judgment that is entered

(A) against a minor in a civil action to recover damages; recovery under this subparagraph is limited to \$2,000 and court costs, and may be obtained only when the judgment is based upon

(i) an act of the minor that is defined as a crime against a person under AS 33.30.901, that injured the plaintiff, and for which the minor was adjudicated a delinquent or convicted as an adult; or

(ii) the minor's intentional or knowing injury of real or personal property of the plaintiff;

(B) under AS 34.50.020 against the parent, parents, legal guardian, or person having the legal custody of an unemancipated minor;

(6) a debt owed by an eligible individual to an agency of the state, unless the debt is contested and an appeal is pending, or the time limit for filing an appeal has not expired.

(c) Claims listed in (b) of this section have priority in the order listed over other claims on a permanent fund dividend whether payments are sought through legal actions for the collection of debts or through assignments from the debtor.

(d) An assignment of or levy, execution, garnishment, attachment, or other remedy for the collection of debt applied to a dividend for a year may not be accepted by the department before April 1 of that same year. AS 09.38.080(c) and 09.38.085 do not apply to a levy on a permanent fund dividend. The department shall include the case number with a dividend or portion of a dividend transmitted to the court in response to a writ of execution or other court order. At the time payment is made to the court, the department shall send to the individual at the address provided in the individual's dividend application and to the court that issued the writ or order a notice that contains

(1) notification that all or part of the individual's dividend has been seized under a writ of execution or court order;

(2) the name and address of the court that issued the writ or order;

(3) the case number for which the writ or order was issued;

- (4) the amount seized under the writ or order; and
- (5) notification that the individual has 30 days from the date the notice is mailed in which to file with the court an objection to the seizure if a mistake has been made. (§ 1 ch 102 SLA 1982; am § 1 ch 157 SLA 1984; am § 1 ch 57 SLA 1985; am § 67 ch 138 SLA 1986; am § 3 ch 26 SLA 1989; am § 3 ch 198 SLA 1990; am §§ 3, 4 ch 52 SLA 1992; am § 5 ch 113 SLA 1994)

**Effect of amendments.** — The 1992 amendment, effective June 11, 1992 added the last three sentences in subsection (a); in subsection (b), added paragraphs (3) and (4), redesignated former paragraph (3) as paragraph (5) (now (6)), and made stylistic changes; added "whether payments are sought through legal actions for the collection of debts or through assignments from the debtor" to subsection (c); and added subsection (d). The 1994 amendment, effective Septem-

ber 1, 1994, in subsection (b), added the section reference at the end of paragraph (2) and made related stylistic changes, added present paragraph (5), and redesignated former paragraph (5) as paragraph (6).

**Editor's notes.** — Section 16(1), ch. 113, SLA 1994 provides that the amendments to (b) of this section by § 5, ch. 113, SLA 1994 apply "to civil actions accruing on or after September 1, 1994."

**Sec. 43.23.067. Claims of defaulted scholarship loans.** (a) AS 09.38 does not apply to permanent fund dividends taken under AS 14.43.120(i). Notwithstanding AS 09.35, execution on a claim under AS 14.43.120(i) is accomplished by delivering a certified claim to the department containing the following information:

(1) the name and social security number of the individual whose dividend is being claimed;

(2) the amount the individual owes on the scholarship loan; and

(3) a statement that

(A) the debt has not been contested, or, if contested, that the issue has been resolved in favor of the Alaska Commission on Postsecondary Education; and

(B) if the debt has been contested and resolved in favor of the Alaska Commission on Postsecondary Education, no appeal is pending, the time limit for filing an appeal has expired, or the appeal has been resolved in favor of the commission.

(b) The Alaska Commission on Postsecondary Education shall notify the individual of a claim under (a) of this section. The notice shall be sent to the address provided in the individual's permanent fund dividend application and must provide the following information:

(1) the amount of the claim; and

(2) notice that the amount of the permanent fund dividend that does not exceed the amount of the claim shall be paid to the Alaska Commission on Postsecondary Education unless the commission releases the claim or the individual requests a hearing within 30 days after the date the notice is sent by the commission.