

**HB**

**379**

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

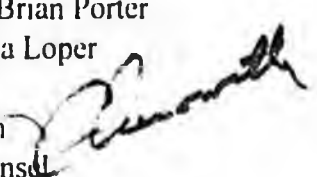
130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

## MEMORANDUM

January 16, 1996

**SUBJECT:** Draft CSHB 379 ( ), relating to community dispute resolution centers  
-- sectional analysis (Work Order No. 9-LS1423F)

**TO:** Representative Brian Porter  
ATTN: Daniella Loper

**FROM:** Jack Chenoweth   
Legislative Counsel

The bill establishes community dispute resolution centers as a means of diverting or providing for the informal resolution and disposition of certain offenses committed by minors who have allegedly committed violations of state laws or municipal ordinances, and allows judges to use these community dispute resolution centers in conjunction with restitution orders made when a minor is adjudicated a delinquent.

**Bill section 1** amends AS 47.10.020(a)(1)(A) to authorize referral of a minor to a community dispute resolution center for purposes of informal adjustment or disposition of a matter by the Department of Health & Social Services following preliminary inquiry.

**Bill section 2** amends AS 47.10.080(b)(4) to permit a judge who has adjudicated a minor to be a delinquent and ordered the minor to pay restitution to require the minor and victim of the minor's offense to use the services of a community dispute resolution center to resolve a dispute involving the amount or manner of payment of the restitution.

**Bill section 3**, adding a new bill section, AS 47.10.267, spells out the procedures by which an entity organized for the purpose of providing community mediation services may operate a community dispute resolution center qualifying under this Act to provide services for minors and the victims of their offenses, and sets out standards and procedures under which the center is to operate.

JBC:pl  
96-024.plm

# Alaska State Legislature

**Representative Brian S. Porter**



CHAIRMAN  
HOUSE LEGISLATIVE COMMITTEE

MEMBER  
HOUSE LABOR & COMMERCE COMMITTEE  
HOUSE STATE AFFAIRS COMMITTEE  
INTERNATIONAL TRADE & TOURISM  
COMMITTEE

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FINANCE SUBCOMMITTEES  
DEPARTMENT OF LAW  
DEPARTMENT OF EDUCATION  
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INTERIM  
16 W. THRUWAY, SUITE 619  
ANCHORAGE, AK 99501-2119  
PHONE (907) 248-8197  
FAX (907) 248-7519

**DISTRICT 20**

## SPONSOR STATEMENT

For

### HB 379 COMMUNITY DISPUTE RESOLUTION CENTERS

Victim offender mediation is a process in which trained volunteer mediators bring victims and juvenile offenders face to face to discuss the property loss and emotional damage caused by the crime. The goal of this meeting is for the victim and the offender to agree on a restitution contract.

Victim offender mediation is part of the larger concept of restorative justice. With this approach offenders take personal responsibility for repairing the damage they have caused.

#### WHAT ARE THE BENEFITS?

##### FOR VICTIMS:

- o Victims report great satisfaction with the mediation process. It allows them to confront the offender with the very real personal impact of their crime.
- o Victims report satisfaction with the restitution agreements due to the fact that they are tailor made to repair their specific loss and their needs for restitution.
- o Victims appreciate having their case resolved in a timely and efficient manner with their maximum involvement.

##### FOR OFFENDERS:

- o Offenders have the chance to talk with a victim and to make amends of the crime.
- o Offenders are more willing to fulfill the restitution agreements that they helped create.
- o Offenders' parents get involved.

##### FOR THE COMMUNITY:

- o The public sees timely and more meaningful responses to juvenile crime.
- o Volunteer community mediators have a direct impact on youth.
- o National studies of offenders in victim offender mediation programs found that they committed considerably fewer future crimes.

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. CSHB 379 (JUD)

Revision Date: \_\_\_\_\_  
 Title: An Act authorizing establishment of  
community dispute resolution centers ... juvenile offender  
 Sponsor: Rep. Porter  
 Requestor: House Judiciary

Dept. Affected: Alaska Court System  
 BRU: Trial Courts  
 Component: \_\_\_\_\_  
 COMPONENT SERIAL NO. 768

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
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 (						
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**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ None

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

No fiscal impact

Prepared by: C. S. Christensen III, Staff Counsel   
 Agency: Alaska Court System

Approved by: Arthur H. Snowden, II, Administrative Director   
 Agency: Alaska Court System

Phone: 284-8228  
 Date: 01/16/96  
 Date: 01/16/96

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# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. HIB 379

Revision Date: \_\_\_\_\_  
 Title: "An Act authorizing establishment of alternative  
 dispute resolution centers..."  
 Sponsor: Rep. Porter  
 Requestor: (H) Jud

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

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

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
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

<b>CAPITAL EXPENDITURES</b>	0	0	0	0	0	0
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<b>CHANGE IN REVENUES ( )</b>	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						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ -0-

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

There is no fiscal impact to the Public Defender Agency.

Prepared by: John Salemi, Director  
 Division: Public Defender Agency

Phone: 269-264-4400  
 Date: \_\_\_\_\_

Approved by Commissioner: Mark Bover *Mark Bover*  
 Agency: Department of Administration

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

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# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. CSHB 379 (JUD)

Revision Date: \_\_\_\_\_ Dept. Affected: Alaska Court System  
 Title: An Act authorizing establishment of BRU: Trial Courts  
community dispute resolution centers ... juvenile offender Component: \_\_\_\_\_  
 Sponsor: Rep. Porter  
 Requestor: House Judiciary COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
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						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

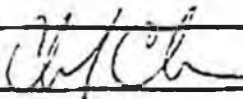
Estimate of any current year (FY 96) cost: \$ None

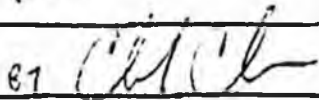
POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

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

No fiscal impact

Prepared by: C. S. Christensen III, Staff Counsel   
 Agency: Alaska Court System

Approved by: Arthur H. Snowden, II, Administrative Director   
 Agency: Alaska Court System

Phone: 264-8228  
 Date: 01/16/96  
 Date: 01/16/96

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# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. HB 379

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: "..authorizing...alternate dispute resolution centers BRU: Civil Division  
...disputes between juvenile offenders and their victims." Component: General Legal Services  
 Sponsor: Representative Porter  
 Requester: Representative Porter COMPONENT SERIAL NO. 2087

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

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
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 (FY96) cost: \$ 0.0

**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 bill amends AS 47.10 to authorize municipalities or nonprofit corporations organized exclusively for the resolution of disputes between minors who are alleged to have committed offenses and the victim of these offenses, to establish and operate alternative dispute resolution centers. The bill also provides that disposition of a juvenile court matter may include use of the services of an alternate dispute resolution center. Use of a center would be voluntary for both juvenile offenders and victims. The bill will not have a fiscal impact for the Department of Law, because alternate dispute resolution centers would be operated by municipalities and nonprofit organizations, and because of the voluntary nature of the bill's dispute resolution process. The bill should have a positive impact on the state's overburdened juvenile justice system.

*Richard I. Peques*

Prepared by: Richard I. Peques, Director  
 Division: Administrative Services Division  
 Approved by Commissioner: Bruce M. Botelho, Attorney General  
 Agency: Department of Law

Phone: 465-3672  
 Date: 1/16/96  
 Date: 1/16/96

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**FISCAL NOTE**

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

BILL NO. HB 379

Revision Date: \_\_\_\_\_  
 Title: "An Act authorizing establishment of alternative  
 dispute resolution centers..."  
 Sponsor: Rep. Porter  
 Requestor: (H) Judiciary

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 97	FY 98	FY 99	FY 00	FY 01	FY 02
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

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ 0

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

There is no fiscal impact on the Office of Public Advocacy.

Prepared by: Brant McGee, Public Advocate  
 Division: Office of Public Advocacy

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

Approved by Commissioner: Mark Boveri *Mark Boveri*  
 Agency: Administration

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

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# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. HB379

Revision Date: \_\_\_\_\_  
 Title: Establish Alternate Dispute Resolution  
Centers for Juvenile Offenders  
 Sponsor: Representative Porter  
 Requestor: House (JUD)

Dept. Affected: Health and Social Services  
 BRU: Family and Youth Services  
 Component: DFYS Central Office  
 COMPONENT SERIAL NO. 259  
 See also (SN#): \_\_\_\_\_

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY97	FY98	FY99	FY00	FY01	FY02
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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CHANGES IN REVENUES ( )						
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**FUND SOURCE**

(Thousands of Dollars)

FUND SOURCE	FY97	FY98	FY99	FY00	FY01	FY02
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF MHTIA						
Other (please specify)						
<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:**

POSITIONS	FY97	FY98	FY99	FY00	FY01	FY02
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY96) cost:                     \$0.0

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

This bill has no fiscal impact on the Division of Family & Youth Services.

Prepared by: L. Diane Worley  
 Division: Family & Youth Services

Phone: \_\_\_\_\_  
 Date: 01/16/96

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

Date: 1/16/96

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# Victims for Justice

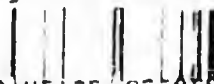
619 East Fifth Avenue, Anchorage, AK 99501

Phone: (907)278-0977 FAX: (907)258-0740

January 17, 1996

Dear Representative Brian Porter,

As a founder of Victims for Justice and the Victim-Offender mediation project, I strongly support HB 579



Community Dispute Resolution Centers.

The main purpose of this legislation is to replace the nonparticipative courtroom with a new environment. Crime is viewed as a conflict between two people. Mediation, as process for mutual resolution of conflict, is more likely than a courtroom to allow for participation and reconciliation.

Mediation offers other benefits over and above reaching an agreement on restitution. The victim may feel some healing from the crime. The juvenile may feel more accountable and as a result may be more likely to comply with the restitution agreement. By intervening early, the first-time offender might be less likely to commit future violent acts.

It is anticipated that the Alaska Victim-Offender Mediation Project will have a profound impact on future juvenile crime in Alaska and on the victims of crime. Mediation may succeed where juvenile justice has failed in reducing the number of violent youths in our society.

Sincerely,

Janice Lenhart, Executive Director  
Victims for Justice

Crisis Intervention

Short and Long Term  
Emotional Support

Grief Education

Victim Advocacy

Assault Support  
Group

Homicide Survivors  
Support Group

Court Accompaniment

CourtWatch Program

Annual Victims Rights  
Week Observance

Member - National  
Association of Victim  
Advocacy

Member - National  
Organization Victim  
Assistance



# UNIVERSITY OF ALASKA ANCHORAGE

3211 Providence Drive  
Anchorage, Alaska 99508

COLLEGE OF ARTS AND SCIENCES  
DEPARTMENT OF SOCIAL WORK

January 16, 1995

Representative Brian Porter  
Chair, House Judiciary Committee  
Juneau, Alaska

RE: HB 379, Community Dispute Resolution Centers

Dear Representative Porter:

I wish to offer my support to your efforts to obtain passage of HB 397, which you recently introduced, as the primary sponsor. I am writing to you in my dual roles as a faculty member of the University of Alaska Anchorage with a long history of work in juvenile justice, and as the Chair of the McLaughlin Youth Center's Citizen Advisory Board.

In my opinion, establishing community dispute resolution centers to promote the active participation of victims and juvenile offenders in obtaining restorative justice, will have a positive and profound impact upon reducing crime and its deleterious effects. It engages both the victim and offender in a more active participation in the justice process. Direct confrontation, restitution, accountability, socialization, healing, empowerment, and achieving justice are all possible within this model. These centers will provide the opportunity for community members to actively participate in this process as volunteers and have a direct impact upon reducing crime, where they live. The dollar cost is minimal the savings enormous.

I recognize that this is not the final solution to one of our major social problem but it is definitely a program that has proven effectiveness. It is particularly useful in recognizing the need for victims to be major participants in responding to crimes against them and also in diverting youth from escalating their criminal activity. The idea of presenting a problem solving model in which the resolving of disputes can occur, without violence, has the potential of not only impacting juvenile offenders and their victims but anyone who chooses violence to solve dilemmas.

Thank you for creating this piece of legislation and if I can be of any assistance, please call upon me.

Sincerely yours,

A handwritten signature in cursive script that reads "Patrick M. Cunningham".

Dr. Patrick M. Cunningham, DSW  
Associate Professor

## 11. Impact of Mediation on Recidivism

- *Juvenile offenders in victim offender mediation programs committed considerably fewer crimes than a matched sample of similar offenders not in mediation.*
- *This finding of lower recidivism, however, was not statistically significant.*

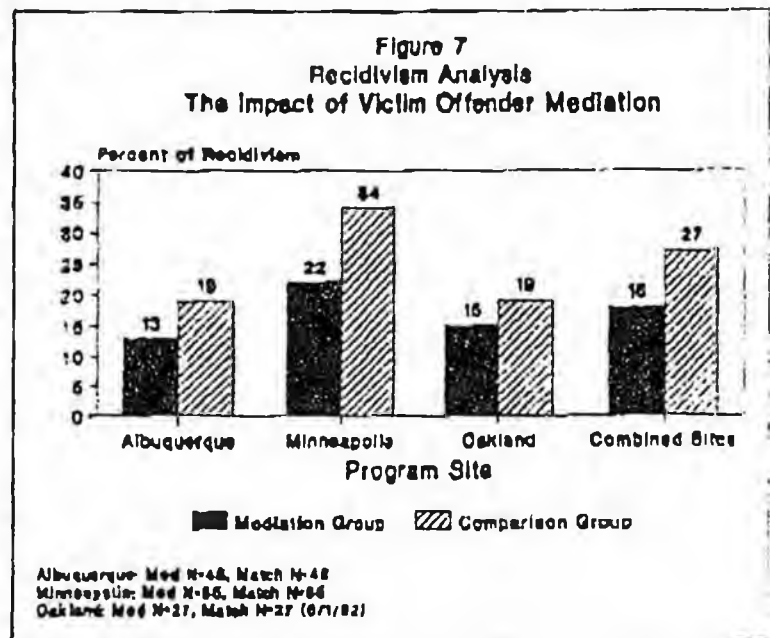
The issue of whether or not the victim offender mediation process has an impact upon reducing further criminal behavior (recidivism) by those offenders participating in mediation was examined at each of the three initial sites. The comparison group at each site consisted of similar offenders from the same jurisdiction who were matched with offenders in mediation, along the variables of age, sex, race, offense and restitution amount.

As Figure 7 indicates, juvenile offenders in the three mediation programs committed considerably fewer additional crimes, within a one year period following the mediation, than similar offenders in the court administered restitution program. They also tended to commit crimes that were less serious than the offense of referral to the mediation program. The largest reduction in recidivism occurred at the Minneapolis program site (post-adjudication cases in Hennepin County), with a recidivism rate of 22 % for the mediation sample and a rate of 34 % for the comparison group sample.

While it is important to know that the victim offender mediation process appears to have had an effect on suppressing further criminal behavior, the finding is not, however, statistically significant. The possibility that this apparent effect of mediation upon reducing recidivism occurred by chance cannot be ruled out. This marginal but non-significant reduction of recidivism is consistent with two English studies of victim offender mediation (Dignan, 1990; Marshall and Merry, 1990). Only one study in the U.S. is known (Schneider, 1986) to have found a significant impact of mediation upon offender recidivism. The program in that study, however, did not employ the same type of procedures

used by the programs described in this cross-site analysis of victim offender mediation.

For some, a finding of a marginal but non-significant impact of the mediation process upon reducing offender recidivism may come as a disappointment. For others, including the authors, it comes as no surprise. Rather, such a finding is consistent with recidivism studies related to other community justice alternative programs. It could be argued that it is



rather naive to think that a time-limited intervention such as mediation by itself (perhaps 4-8 hours per case) would be likely to have a dramatic effect on altering criminal and delinquent behavior in which many other factors related to family life, education, chemical abuse and available opportunities for treatment and growth are known to be major contributing factors.



A Publication of the  
Justice Center

# ALASKA JUSTICE FORUM

Alaska Justice  
Statistical Analysis Unit

Summer 1994

UNIVERSITY OF ALASKA ANCHORAGE

Vol. 11, No. 2

## Victim-Offender Mediation in Anchorage

Patrick Cunningham  
and Lawrence C. Trastie

A pilot victim-offender mediation program, which involves juveniles accused of certain offenses and the victims of these crimes, has recently been established in Anchorage. Mediation is offered as a diversion from the usual system which the offender may accept to avoid more formal adjudication.

Mediation between a victim and offender with the goal of achieving restitution and reconciliation can supplement the formal adjudication process. Under mediation, both victim and offender are active participants in the resolution process. The victim has the opportunity to confront the offender to seek a resolution of the offense, and the offender is provided with the opportunity to make amends for the crime. Such problem-solving intends to restore both parties to more positive social functioning in the larger community and to compensate for some of the perceived inadequacies of the criminal justice system. Mediation programs often are used as an alternative to a diversion within the justice system or as a diversion from the system.

The western tradition from which the U.S. system of criminal justice has developed views crime as an offense against the state, even though a victim may also be involved. It is the state that prosecutes and

brings a case to disposition. Neither the victim nor the offender have much to say in the process, with the involvement of both often quite passive. Since, until recently, in ordinary court proceedings victims were seldom more than observers, feelings of frustration, powerlessness, and further victimization could arise.

### Victim-Offender Mediation

Victim-offender mediation programs provide an opportunity for victims to meet the offenders face-to-face in the presence of a trained mediator for the purpose of reaching a reconciliation intended to resolve the injury of the crime in some way. Crime, under the mediation model, is viewed as a conflict between people rather than as an offense against the state. Through mediation the victim has the opportunity for involvement in the process of negotiating restitution, expressing feelings, and seeking answers from the offender. For the offender, mediation also achieves involvement by stressing accountability for the act, personalizing the crime, and providing a corrective intervention. The idea of the offender making restitution to the wronged person has precedent in many cultures, although it has not commonly been used as a criminal sanction under modern western systems.

### Development

An early application of a modern western model providing mediation between a victim and offender occurred in 1974 in Kitchener, Ontario, Canada: the Victim Offender Reconciliation Program, or VORP. This was followed in 1979 in the United States by a program with the same name, which was started in Elkhart County, Indiana through the joint efforts of PACT Inc., Prisoners and Community Together, and the Methodist Church. The program spread, and by 1981 eight programs had been developed in the United States and Canada. By 1991, 50

program sites had been established, primarily in the Midwest and Canada. By 1994, 25 victim-offender mediation programs were operating in Canada, over 100 in the United States, and 165 in Western Europe.

According to Burt Galaway in a 1991 article in *Social Service Review*, of 14,000 cases referred by the courts to VORP programs, 86 percent were reported to have resulted in successfully completed restitution contracts. The study indicated that victims, for the most part, were not vindictive in negotiating with the offender and that there was a high level of willingness to meet among victim and offender. While long-term research regarding the effectiveness of the mediation model has been limited, such preliminary findings have been consistent in demonstrating that mediation is an effective way to resolve conflict between some crime victims and their offenders.

### The Development of Victim-Offender Mediation in Anchorage

To date, the criminal justice system in Alaska has used formal mediation primarily with juvenile offenders. In 1991, Janice Lienhart, one of the founders of Victims for Justice, a private, nonprofit agency, which provides services to victims of crimes, sought assistance from staff at the McLaughlin Youth Center for a family whose son had been killed by a juvenile, what at that time was being held at the Center. What resulted was a victim-offender mediation involving the family and the juvenile. As a result of that mediation and several subsequent ones at McLaughlin, a core group of professionals formed an organizational base to explore the idea of implementing a victim-offender mediation program in Anchorage. Four organizations were represented in this effort: Victims for Justice, the McLaughlin Youth Center, the

*Please see Mediation, page 5*

### HIGHLIGHTS INSIDE THIS ISSUE

- The Bureau of Justice Statistics describes federal and state prison populations (page 3).
- Cook Inlet Region, Inc. awards \$200,000 gift to the Justice Center (page 6).
- The Bureau of Justice Statistics analyzes the incidence of violent crime victimization in the workplace (page 7).

## Mediation

(continued from page 1)

Department of Social Work and the Justice Center at the University of Alaska Anchorage.

In spring 1993, a survey was sent to 20 Anchorage area professionals connected directly or peripherally with the juvenile justice system; responses came from the Division of Family and Youth Services, the offices of the Public Defender, Public Advocacy, the Attorney General, law enforcement, the court system and various social service agencies. The intent of the survey was to determine the feasibility of establishing a victim-offender mediation program targeting juvenile offenders in Anchorage. Respondents were asked a series of questions regarding program concept, the types of crimes, offenders, and victims to be targeted, and the organizational structure, funding, and staffing patterns. The support for establishing a program from those surveyed was highly positive (96%), with many expressing a willingness to participate actively in the development of a program. Many of those surveyed later joined the project planning group.

In fall 1993 an organizational base, the Victim-Offender Mediation Project Planning Group, was formed. The group included the original four organizations, representatives from Juvenile Probation, the Office of Public Advocacy, the Alaska Judicial Council, the Alaska Youth and Parent Foundation, Family and District Court judges, the Attorney General's Office, the Anchorage Chamber of Commerce, private practice attorneys, and professional mediators. A six-month pilot project began in early 1994.

Plans for the pilot project evolved from committees of the Project Planning Group. The Chief Juvenile Probation Intake Officer and his staff agreed to provide referrals of cases identified as meeting the criterion of first or second-time juvenile offenders accused of property crimes. It was decided

that intake officers would screen cases and determine which referrals were appropriate for mediation. The Alaska Judicial Council participated in the development of instruments to evaluate the project, and the Alaska Youth and Parent Foundation, an Anchorage based private nonprofit agency, provided their facilities for training, meetings, and mediation sessions. A part-time coordinator was hired to train volunteers and implement the pilot project.

Ten volunteers, with previous mediation training, participated in a training program specific to victim-offender mediation. A training model developed by WORP in Elkhart, Indiana was drawn upon that included video presentations of mediations and issues in juvenile justice. Trainees participated in role-playing that replicated the entire mediation process, beginning with the initial contact of the participants through mediation and contracting. A second training was completed for additional community volunteers and included a teenage volunteer who had been active with Anchorage Youth Court. Fifteen trained volunteer mediators are now participating in the project. Except for the part-time coordinator, none of the participants is paid. Although evaluation of the project is in the initial stages, the volunteer mediator report success in the cases that have gone to mediation.

\* By late summer 1994, 61 referrals had been received from Probation Intake, with 16 mediations and contracts being completed, 13 cases in progress and 32 closed without mediation occurring. Of those 32, 22 victims declined mediation and 4 cases were screened as not appropriate for mediation. In 4 cases the offender failed to keep the appointment, and in 2 cases the victim did not keep the mediation appointment.

Each mediation case has its own flow; however, an overall process has been developed. The intake officer interviews the offender following arrest and, if in the judgment of the intake officer, the case

meets the criteria for mediation, it is offered as a possible disposition. (Ordinary offenders are first or second-time offenders charged with property crimes, although several assault cases have also been mediated.)

Following the referral from Juvenile Intake, the project coordinator compiles the

*Please see Mediation, page 4*



## Alaska Justice Forum

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Published quarterly by the Justice Center and  
the Alaska Justice Statistical Analysis Unit at  
the University of Alaska Anchorage, 3211  
Providence Drive, Anchorage, AK 99508,  
(907) 736-1810 fax 736-7777.

© 1994 Justice Center,  
University of Alaska Anchorage  
ISSN 0893-8903

The Bureau of Justice Statistics, U.S. Department of Justice, provides approximately thirty-five percent of the funding for this publication.

The opinions expressed are those of individual authors and may not be those of the Justice Center or the Bureau of Justice Statistics.

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## Mediation

(continued from page 5)

necessary information and assigns the case to two mediators. They, in turn, contact the offender to determine if he or she wishes to participate in the process. If the offender agrees to participate, an appointment is made with the victim. If all parties determine that mediation is feasible, it is conducted with a team of two mediators. The main purpose is to reach a reconciliation between the victim and offender. Mediators function as neutral facilitators of the process. Contracts for restitution resulting from the mediation are monitored by the project coordinator, with the intake officer informed of the final outcome. If a contract is not successfully completed, the intake officer makes a decision about further action on the case.

An example of a successful mediation involved a juvenile who had inflicted \$1,000 of damage by breaking into the garage of an elderly couple. Initially, the couple were resistant to mediation because of fear that meeting the offender would result in becoming known to the offender. They came to realize the irrationality of this fear because the offender obviously already did know where they lived. When the mediators present, the couple were able to ask questions of the offender and the offender was also able to explain his behavior. The woman negotiated a restitution contract with the offender in which he was to write her a letter of apology. The man presented receipts for repairs to the garage and contracted with the offender to do work at the couple's home at \$5 per hour during the summer until the \$1,000 in damages were

paid. Both the couple and offender expressed satisfaction with the mediation process, and the offender completed his contract. The male victim described his decision to participate in the mediation as akin to jury duty, a civic responsibility to participate in the justice process.

The project contains a formal evaluation component. The mediators complete separate pre-mediation questionnaires through interviews with both the victim and offender. Another interview is conducted with each participant immediately after the mediation, and telephone interviews with both victim and offender are also conducted 10 to 14 days later. Referred cases which did not result in mediation are evaluated to determine those factors which preclude the process. The major intent of the project evaluation is to gather information for use in developing an effective, ongoing program. The assembly and analysis of the data are monitored by the Alaska Judicial Council.

The evaluation instruments contain questions concerning the nature of the offense, feelings about the crime, perceptions of the effects of the offense, and perceptions about the justice process and the mediation process. In addition, both victims and offenders are given an opportunity to provide additional relevant comments if they desire.

The Victim Offender Mediation Project has received start-up funding through University of Alaska Anchorage Faculty Development Grants and the First National Bank of Anchorage. Project members are now seeking additional funding to continue and further develop an ongoing program.

Long-range plans are to institutionalize the victim-offender mediation program throughout the state in both the juvenile and adult criminal justice system. In a related effort, some members of the project are meeting with the Alaska Department of Corrections to develop an office for victim advocacy which would be housed in the offices of the Commissioner of Corrections but would operate as an entity separate from adult corrections. This may, in the future, lead to victim-offender mediation involving inmates in the Department of Corrections and their victims. Also, legislation may be sought to obtain confidentiality protection for the mediation process and support for statewide program development.

*Patrick Cunningham is an associate professor of social work at the University of Alaska Anchorage. Lawrence C. Trotter is an assistant professor with the Justice Center.*

## REPORT

The first victim-offender mediation/dialogue program was established in Canada in 1974. Since then, victim-offender mediation/dialogue programs have spread to the United States as well as to other countries throughout the world. Over one hundred programs are now in existence in the United States, alone.

Victim-offender mediation/dialogue programs, as their name suggests, are programs in which a criminal offender and the victim of the crime meet together in the presence of a trained mediator-facilitator. During the meeting or meetings, the victim is afforded the opportunity to seek answers to questions about the crime that may have been troubling the victim, such as why the offender chose the victim's home to burglarize. The victim is also given the chance to tell the offender about how the crime has affected the victim. It is during this portion of the meeting that the offender will often, for the first time, realize the level of emotional trauma caused by his or her criminal conduct. During the meeting, the offender also discusses his or her views about the crime, and this discussion will often culminate in an expression of remorse for the harm that the offender has caused.

The victim and offender then attempt to reach an agreement to redress the harm caused by the offender's criminal conduct. The agreement may require the offender to pay restitution to the victim, to perform work for the victim, to perform community service work, and/or to participate in programs, such as a substance abuse treatment program. Through the implementation of the agreement, which holds an offender accountable for the harm caused by his or her criminal behavior, a victim-offender mediation/dialogue program can serve as an integral component in a comprehensive corrections system, helping to avoid the high human and economic costs of unnecessary incarceration.

One of the chief benefits of victim-offender mediation/dialogue programs is that they humanize the criminal justice process. By bringing criminal offenders together face-to-face with their victims, it becomes more difficult for the offenders to rationalize their criminal behavior. As they face the individual that they have victimized, the harm caused by their crime is also no longer an abstraction but very real.

Mediation/dialogue sessions also bring a human face to the person who is otherwise abstractly and impersonally known as "the criminal." During such sessions, victims may gain a better understanding of who the offenders are and of the circumstances that may have contributed to their criminal behavior.

Research results have confirmed the many benefits of victim-offender mediation/dialogue programs. See, e.g. Mark S. Umbreit & Robert B. Coates, Victim Offender Mediation: An Analysis of Programs in Four States of the U.S. (1992); Jim Dignan, Repairing the Damage: An Evaluation of an Experimental Adult Reparation Scheme in Leicestershire, Northamptonshire (1990); Tony F. Marshall & Susan Merry, Crime and

## **Victim Offender Mediation Project Program Standards and Policies**

The juvenile Victim Offender Mediation Project (VOMP) recruits, trains, and assigns community, volunteer mediators to facilitate face-to-face meetings between certain juvenile offenders and their victims. Participation is entirely voluntary. VOMP's long-term goals are to implement its services statewide and in both juvenile and adult systems.

### **I. Administration**

**Structure.** The VOMP project is administered by a private, nonprofit corporation, the Community Dispute Resolution Center, Inc. The CDRC's mission is to provide community dispute resolution and related services in Alaska. The VOMP program is one way in which the CDRC fulfills this mission. The Board of Directors of the CDRC hires and supervises VOMP's executive director, who serves as staff to VOMP and who in turn trains and supervises all VOMP volunteers.

**Standards and Policies.** The CDRC Board reviews and adopts all standards and policies relating to programs that it administers, including these standards. These standards and policies govern operation of the juvenile Victim Offender Mediation Project. They are separate from but consistent with the CDRC's administrative and personnel policies. The CDRC Board can change these policies as it sees fit to best administer the VOMP program.

**Community Advisory Committee.** A committee of volunteers from the community advises the CDRC Board of Directors on policy and technical issues relating to VOMP. The Community Advisory Committee meets monthly and includes representatives from Victims for Justice (a private, nonprofit victim counseling and advocacy entity), McLaughlin Youth Center, the University of Alaska (Departments of Social Work and the Justice Center), the Alaska Court System, the Public Defender Agency, the Office of Public Advocacy, the Alaska Judicial Council, the local mediation

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## Crime control

*Here's an idea with great potential*

What would you say about a program that sends youthful criminals a sterner message, reduces the chances they will reoffend and gives victims more say in the outcome of a case — all for a fraction of the cost of dispensing conventional juvenile justice?

You'd probably say it sounds too good to be true.

*Mediation could prove better than the current justice system.*

But it's not. Exactly such a program is being started in Anchorage, perhaps as early as next month. Known as a "victim-offender mediation project," it's being spearheaded by two University of Alaska

professors, Pat Cunningham and Larry Trostle.

The effort targets juveniles who are nabbed for first- or second-time property crimes. If both the offender and victim agree, they will meet face-to-face with a mediator and work out a restitution agreement. Options will include repayment, community service or perhaps just a letter of apology — whatever the two parties can agree to.

Mediation could prove better than the current justice system in several ways. Conventional proceedings relegate both offender and victim to passive roles. Judges, prosecutors, lawyers, police officers and other experts dominate action (or inaction) on the case. Criminals are tempted to beat the rap by contesting the evidence, instead of coming clean.

As for victims, the crime often leaves them feeling violated and powerless. Those feelings are often amplified when the system treats them as complete afterthoughts. Sometimes victims may not even learn the youthful criminal's identity. Mediation can encourage the offender to take responsibility for the crime while helping victims restore some feeling of control over their lives.

Perhaps the most amazing thing about this pilot program is its price. It costs a mere \$9,000 for six months, funded by two University of Alaska faculty development grants. Volunteer help from many quarters makes the shoestring operation possible. Victims for Justice will help find victims to participate. Mediators will volunteer their services. Alaska Youth and Parent Foundation will supply office space. The Alaska Judicial Council will track the project's performance.

Similar approaches have worked well elsewhere. Research by UAA students found 100 such programs around the country, and scores more in Canada and Europe. In one study of 14,000 cases, recidivism rates fell and offenders honored 86 percent of the restitution agreements.

Cunningham hopes the approach will merit expanding to juveniles outside Anchorage and to selected violent offenders. Eventually it may offer a useful alternative for certain crimes and offenders in the adult system statewide. Widespread mediation might someday revolutionize American style justice.

Throughout history, other cultures have emphasized restitution and reintegrating offenders into the community. Those values now get lost in the shuffle of adversarial-style American justice. Making amends and healing victims are incidental to deciding whether the accused is guilty or innocent. Mediation could produce a criminal justice system that delivers less crime and more justice.

## FORUM / LETTERS

# Mediation offers hope where juvenile justice fails

By MARY ANN DEARBORN



Youth violence is on the increase. There seems to be no easy fix. Too often people blame the individual. Perhaps if we develop a better understanding of how the individual relates to his or her environment, we can take steps to improve how our children cope with their world and how the world copes with them. By creating the right environment, successful interventions may be developed to correct or avoid violent behavior. One place to start might be the current juvenile justice system.

Confidentiality under current children's court rules, the victim may never find out the juvenile's identity.

Because the juvenile's role is so passive, he or she frequently does not feel remorse and is reluctant to comply with the ordered restitution. Due to an overburdened legal system, compliance with restitution may not be enforced. As a result, the victim may feel further victimized, this time by the system, and the juvenile may not think twice before planning future criminal acts.

A University of Alaska Anchorage faculty development grant awarded in 1993 explored the feasibility of establishing a victim/juvenile offender mediation program in Anchorage. The pro-

venues targeted are first- and second-time property offenders. The pilot project is now in the second stage and is funded through June. This program represents a dramatically different approach to the current juvenile justice system and is supported by 15 groups, including state agencies and the Alaska Court System.

The main purpose of the program is to replace the nonparticipative courtroom with a new environment. Crime is viewed as a conflict between two people. Mediation as a process for mutual resolution of conflict, is more likely than a courtroom to allow for participation and reconciliation. The victim and juvenile offender meet privately, face to face. An impartial mediator guides them in a round table discussion, and together they develop a mutually acceptable restitution agreement. The agreement

*Mediation, as a process for mutual resolution of conflict, is more likely than a courtroom to allow for participation and reconciliation.*



Dearborn

reached might be as simple as a sincere letter of apology or a community service contract.

Mediation offers other benefits over and above reaching an agreement on restitution. The victim may feel some healing from the crime. The juvenile may feel more accountable and as a result may be more likely to comply with the restitution agreement. By intervening early, the first-time offender might be less likely to commit future violent acts.

Dr. Pat Cunningham, Department of Social Work, and Dr. Larry Trostle, Department of Justice, co-authored the UAA grant and are working with other members of the community to get the project rolling.

Juvenile probation officers will be making referrals and will follow up to make certain the restitution agreements are fulfilled by the juveniles. Victims for Justice will contact and screen victim participants. The Alaska Judicial Council will

monitor the project to confirm the intervention has merit. Alaska Youth and Parent Foundation has offered office space, and Niki Stewart, former AYPF coordinator, has been hired to coordinate the program.

It is anticipated that the Alaska Victim Offender Mediation Project will have a profound impact on future juvenile crime in Alaska and on the victims of crime. Crowded correctional institutions and growing doubts as to their effectiveness in deterring crime make victim-offender mediation a highly cost effective alternative to incarceration for some offenders. Mediation may succeed where juvenile justice has failed in reducing the number of violent youths in our society.

Mary Ann Dearborn is a professional mediator in Anchorage.

## Alaska groups target juvenile - victim mediation

By Mary Ann Dearborn  
For the Journal of Commerce

Mediation is not just for settling civil disputes. Crime is viewed as a conflict between people and mediation offers an environment which is more likely than a courtroom to lead to a mutually acceptable resolution of that conflict.

A University of Alaska Anchorage faculty development grant awarded in 1993 is exploring the feasibility of establishing a victim-juvenile offender mediation program in Anchorage, Alaska. The pilot project is now in the second stage and is funded through June, 1994.

Dr. Pat Cunningham, Department of Social Work, and Dr. Larry Trostle, Department of Justice, co-authored the grant, and 15 Alaska groups are supporting the program, including state agencies and the Alaska Court system.

A mediated settlement approach to settling crimes pre-dates the idea of imprisonment. Restitution to persons wronged, intended to heal the injury of the crime, has precedence in many cultures. However restitution as a criminal sanction has played an insignificant role in the history of our criminal justice system. Instead of making individuals act responsibly, we lock people up in ever increasing



Dr. Larry Trostle

numbers and don't see much deterrence from criminal behavior after release.

First and second time juvenile property offenders are being targeted for a special project that will allow the juvenile offender and victim to meet face to face, using an impartial mediator, for the purpose of developing a restitution agreement. Some believe this will be a positive improvement to the current juvenile justice system.

Our current system dictates restitution in a courtroom setting where both offender and victim play passive



Dr. Pat Cunningham

roles. Due to confidentiality under children's court rules, the victim may never find out the juvenile's identity. Because of lack of participation, the juvenile frequently does not feel remorse, is reluctant to comply with the ordered restitution, and due to an overburdened legal system compliance with restitution may not be enforced. As a result the victim may feel further victimized this time by the system, and the juvenile may not think twice before pursuing future criminal activity.

The program calls for juvenile pro-

bation officers to make referrals to the program and follow up to ensure restitution agreements are fulfilled by the juveniles. Victims for Justice would contact and screen victim participants. The Alaska Judicial Council would monitor the project to confirm the intervention has merit. Alaska Youth and Parent Foundation has offered office space and Niki Stewart, former AYPF coordinator, has been hired to coordinate the project. Professional and volunteer mediators are offering their services and will be trained to work with the program.

Mediation, as an intervention alternative to the current juvenile justice system, offers hope for other benefits over and above reaching an agreement on restitution. The victim may feel some healing from the crime. The juvenile may feel more accountable and as a result may be more likely to comply with the restitution agreement. By intervening early, the young offenders may be less likely to commit future criminal acts.

It is anticipated that the Alaska Victim Offender Mediation project will have a profound impact on future juvenile crime in Alaska and on the victims of crime. The long range plan is to implement this program statewide and in both the juvenile and

Continued on Page 28

# Alternative Dispute Resolution

NEWS & INFORMATION

ALASKA BAR  
ASSOCIATION  
ADR SECTION



## Victim-offender mediation: Restorative alternative

By Nikishka Stewart

In January 1994 a pilot project was funded through the University of Alaska Anchorage implementing a Victim-Offender Mediation Project. This project addresses juvenile crime and its effects on individuals and the community as a whole.

In our society, crime is viewed as an offense against the state and not as an injury to a person. Victim-Offender Mediation seeks to personalize the experience and humanize the parties involved while seeking a restitution agreement that effectively resolves the damage done.

The Anchorage mediation project has adopted five goals that help it accomplish this mission 1.) To encourage accountability on the part of the juvenile offender. 2.) To provide an opportunity for the victim to work directly with the offender in discussing restitution. 3.) To provide an op-

portunity for parties to feel restored from or reconciled to the event. 4.) To provide a referral option for the juve-



Nikishka Stewart.

nile corrections system to help handle their caseload. 5.) To maintain a high level of community investment and support.

This project utilizes trained volunteer mediators from the community and has a dynamic advisory committee which includes Master Bill Hitchcock (children's court), Donis Morris (McLaughlin Youth Center), Janico Lienhart (Victims for Justice), Suzanne Cole (Public Defender), Bob Buttane (Juvenile Intake), Patrick Cunningham (UAA), Sig Murphy (District Court Judge), Jay Page (First National Bank) and approximately 15 other community members who volunteer their time to provide direction and support.

To date the project has handled 60 cases. All referrals come from the intake officers at the Juvenile Intake Department housed at McLaughlin Youth Center. Of these 60 cases, 23 are ongoing and being developed for

mediation, 22 were closed without going to mediation and, so far, 15 were successfully mediated with restitution contracts in place.

In the 22 cases that were closed without mediation, 18 of those were due to victims declining to participate and four were screened out by program staff. Typically, when a party refuses it is the victim who declines.

There are more than 200 programs such as this throughout the U.S. and Canada. It is a community-based approach to a problem that affects us as individuals and as a community. How many of us have had the experience of being the victim of a crime? We know the ripple effect it has. We wonder, "Who did it?", "Why me?", "Are they going to do it again? Without information and answers to these questions, we find that our minds tend to work to fill the void. We suppose all sorts of things and can often paint a picture of some horrible, threatening person who seeks only to prey on the unsuspecting. We can lose faith in our surroundings, in others. We wonder, what is safe any more? Who can you trust?

If the case is not resolved to the point where our questions are answered and to the point we feel justice is done our aggravation and frustration can be compounded. We end up fed up with the system and feeling

Mead

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## Restorative alternative works for victim-offender mediation

Continued from Page 20

responsibility and shows he/she is willing to work it out. The victim feels heard, in control, and gets to deal with reality rather than fearful suppositions. The end result is that both parties get to put the crime behind them. The victim feels restored and the offender has had a reality check that makes him or her think twice about breaking the law again. For further information or to volunteer, contact Nikishka (Niki) Stewart, the Project Coordinator at 274-1542.

that crime is out of control.

The Anchorage-based project brings victim and juvenile offender face to face in a safe and constructive setting to discuss the crime and the impacts it has had. The offenders hear how their actions have affected another person, the victims hear the juveniles' side of the story, and both parties work out an agreement that "makes it right." The offender takes

corpus or a petition for post-conviction relief) because, over this five-year period, the accumulated loss of good time has come to equal the number of days remaining in his sentence.

**ALASKA SUPREME COURT  
NOTE: INCLUDES TWO OPINIONS RELEASED BY THE ALASKA SUPREME COURT  
THE WEEK OF July 1, 1994**

- Collateral estoppel
- Full Faith and Credit Clause

**Denis McCaCampion v. State of Alaska, Department of Community & Regional Affairs, Housing Assistance Division, Op. No. 4096 (Alaska July 1, 1994) (14 pages)**

OPINION: Moore, C.J.

ATTORNEYS: Kevin M. Morford, Jensen, Harris & Roth, Anchorage, for Appellant. Richard N. Ullstrom, Routh & Crabtree, P.C., Anchorage, for Appellee.

TRIAL COURT: J. Justin Ripley, Superior Court, Third Judicial District, Anchorage.

PRINCIPAL ISSUE ON APPEAL: Under collateral estoppel and the Full Faith and Credit Clause, is a federal judgment interpreting an Alaska statute binding between the parties in later litigation in Alaska?

HOLDING: The superior court judgment was reversed. The doctrine of collateral estoppel, also referred to as issue preclusion, bars re-litigation, even in an action on a different claim, of all issues of fact or law that were actually litigated and necessarily decided in a prior proceeding.

- Rebuttal of presumption of compensability in Worker Compensation cases

- Necessity of expert medical evidence in Worker Compensation cases

- Substantial evidence needed to support Board conclusions

**Norcon, Inc. and Eagle Pacific Insurance Co. v. Alaska Workers' Compensation Board and Ellen Siebert, Op. No. 4097 (Alaska July 1, 1994) (17 pages)**

OPINION: Compton, J.

ATTORNEYS: Karen L. Russell and Joseph M. Cooper, Russell, Tesche & Wagg, Anchorage, for Appellants. Joseph A. Kalamarides, Kalamarides & Associates, Anchorage, for Appellees.

## Reformers tout ADR programs

Continued from Page 18

ments sooner than the typical eve-of-trial agreements. Within 30 days of the filing of a responsive pleading, an administrator holds a meeting with the attorneys and their clients, including someone from both sides with the authority to settle. Each side discusses facts, issues and possible solutions.

If no settlement is reached, the administrator and the parties agree on the limited discovery that will be needed for ADR, which is scheduled within 90 days of the meeting. Litigants can choose from a number of options, but most pick mediation overseen by the program's administrator, probably because his services are free.

According to Donna Stienstra, a senior research associate for the Federal Judicial Center, the emphasis on getting cases into ADR quickly in Missouri's program is unusual. "There is an expectation that ADR works better later," she said. "One of the surprises of the program may be that

it works well early."

Indeed statistics kept by the district show some success. The cases are divided into three groups: those that are required to go through the early assessment program, those that may opt for it, and a control group of those that may not opt for it.

The median time from filing to disposition of the cases was 232 days for those required to participate, 310 days for those that could opt in, and 317 days for the control group. The cases studied were filed between Jan. 1, 1992, and April 30, 1993.

The 404 attorneys surveyed gave the program a thumbs up. Ninety-two percent said it should be continued and 67 percent said it was very or somewhat helpful in reducing the cost of resolving cases.

Wolf says the program "has been very effective in a district (without) significant problems" with case backlogs. "Can you imagine how effective it would be in a district where many cases are taking three years or more to go to trial?" he asked.

## Inspiration for Windows program outlines

Continued from Page 19

Inspiration doesn't have the graphics features of programs like Power Point or Persuasion. But we do like the program both as an outliner, and for the ease in which we could prepare good looking graphics.

Inspiration for Windows, Version 4. Inspiration Software Inc., 2920 E. V. Dolph Court, Portland, OR 97219. Phone (800) 877-4292 ex 14 or (503) 245-9011. Fax (503) 246-4292

writes about computers from his office in Homewood, Ill. Benjamin H. Cohen is based in Chicago, Ill. These columns are available electronically on NewsNet, Predicasts Newsletter file, Westlaw in the LawPrac file, and on Counsel Connect. For further information you can contact Law Office Technology Review by writing to P.O. Box 2577, Homewood, IL 60430, or sending e-mail to bbayer@bix.com, bbayer@MCI Mail, bbayer@ABA/Net, or Barry Bayer on Counsel Connect.

**"I'd rather have a root canal!":  
notes from a mediation**

Donny B.\* Broke into the home of Mr. and Mrs. S\*. He used a garden shovel to break into their front porch when neither of them were home. Substantial and costly damage was done to the home. The estimate for repair was beyond Mr. and Mrs. S's means.

In a mediation facilitated by two trained volunteer mediators, Mr. and Mrs. S, an older couple, confronted the offender with what his crime had done to them.

Mrs. S. told Donny and the mediators she was out of state at the time caring for her father who was very ill. She spoke of receiving the phone call from her husband and feeling great stress at being unable to return home to support him. She was surprised when tears came to her eyes and had to pause several times as she told of her feelings of helplessness and anger about the crime and not being able to share the burden with her husband.

Mr. S went next and said that the break-in had been the last in a string of misfortunes for the couple. He had suffered a stroke that year and had incurred much debt that was not covered by insurance. The doctor had ordered him to avoid stress to protect his health but it had been very difficult due to the bills, his father-in-law's illness, and now the break-in.

Donny, his voice often shaky and strained, told Mr. and Mrs. S. that he now felt he was stupid and wrong for having broken in to their home. He told them that it had been an exciting spur of the moment crime, his first, and he had never thought about the real people who lived there. After much discussion of the impacts on Mr. and Mrs. S and of his own loss of parental trust, friends, and loss of feelings of self-worth, Donny agreed to do what he could to make it up to them. He also wanted to rebuild his relationship with his parents and hoped the efforts he made toward the couple would help.

Before the mediation, Mr. and Mrs. S talked about how they were fearful to confront the individual who had done the crime. Some thoughts they were having were: Why me? What were you thinking when you did this? Don't you know how devastating this is for us? How do you feel about hurting people this way? What did we do to make you do this to us? As much as they wanted answers they feared retribution. After talking with Donny in the mediation, Mr. and Mrs. S. realized that he was just a kid who had done a dumb thing. They could see him becoming more aware of the impact of his crime. They felt safe again and also reassured by Donny's honest and thorough answers to all of their questions.

The mediators moved the discussion on to restitution. The victims and the offender talked about how to make things right. Donny explained he didn't have the money for permanent repairs. At this point, Mr. and Mrs. S decided to give Donny a chance to personally make it up to them. They explained that neither of them could do yard work anymore and had to pay someone to do that. Mrs. S. proposed that Donny do the yard jobs to work off the costs. Mr. and Mrs. S could then take the yard work money from their budget and apply it to fixing the porch. Startled and grateful, Donny accepted. Together, they collaborated on the details of the agreement, including alternative plans to continue the yard work into the next spring if winter closed in before the total debt was paid.

Mediation had certainly turned things around for the victims and the offender. All the apprehension and stress was relieved. Everyone was feeling better. Mr. S finished up the mediation by offering that if Donny did a good job on their yard and he wanted some money they would consider hiring him in the future to more yard work. Donny, feeling proud and grateful, shook hand with Mr. and Mrs. S and assured them he would be at work bright and early the following Saturday. Mrs. S. said as she left, "You know, when I was approached to do this mediation I thought I would rather have had a root canal. But now that I've been though it I realize it is the best thing I could have done."

\* This case synopsis is based on a real mediation. The names of clients and certain details have been changed to protect the participant's identities and confidentiality.

9-LS1423\K ✓  
Chenoweth  
1/18/96

**CS FOR HOUSE BILL NO. 379( )**

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

**NINETEENTH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVE PORTER**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act authorizing establishment of community dispute resolution centers to  
2 foster the resolution of disputes between juvenile offenders and their victims."

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

4 \* Section 1. AS 22.35 is amended by adding a new section to read:

5       Sec. 22.35.020. RECOGNITION OF COMMUNITY DISPUTE RESOLUTION  
6 CENTERS FOR MATTERS INVOLVING MINORS. The administrative director may  
7 recognize an entity described in AS 47.10.267(a) as a community dispute resolution  
8 center to serve as a center to resolve disputes between minors and victims. Before  
9 extending recognition under this section, the administrative director shall determine that  
10 the bylaws of the entity ~~shall~~ standards and procedures that meet the requirements of  
11 AS 47.10.267(b).

12 \* Sec. 2. AS 47.10.020(a) is amended to read:

13       (a) Whenever circumstances subject a minor to the jurisdiction of  
14 AS 47.10.010 - 47.10.142, the court shall

15       (1) provide, under procedures adopted by court rule, that, for a minor

1 who is alleged to be a delinquent minor under AS 47.10.010(a)(1), a state agency shall  
2 make a preliminary inquiry to determine if any action is appropriate and may take  
3 appropriate action to adjust or dispose of the matter without a court hearing; if, under  
4 this paragraph,

5 (A) the state agency makes a preliminary inquiry and takes  
6 appropriate action to adjust or dispose of the matter without a court hearing,  
7 the minor may not be detained or taken into custody as a condition of the  
8 adjustment or disposition and, subject to (d) of this section, the matter shall be  
9 closed by the agency if the minor successfully completes all that is required of  
10 the minor by the agency in the adjustment or disposition; in a municipality or  
11 municipalities in which a youth court has been established under AS 47.10.265,  
12 adjustment or disposition of the matter under this paragraph may include  
13 referral to the youth court; if a community dispute resolution center has  
14 been established under AS 47.10.267(a) and has obtained recognition under  
15 AS 22.35.020 or AS 47.10.267(b), adjustment or disposition of the matter  
16 under this paragraph may include use of the services of the community  
17 dispute resolution center;

18 (B) the agency concludes that the matter may not be adjusted  
19 or disposed of without a court hearing, the agency may file a petition under (2)  
20 of this subsection setting out the facts; or

21 (2) appoint a competent person or agency to make a preliminary inquiry  
22 and report for the information of the court to determine whether the interests of the  
23 public or of the minor require that further action be taken; if, under this paragraph, the  
24 court appoints a person or agency to make a preliminary inquiry and to report to it,  
25 then upon the receipt of the report, the court may informally adjust or dispose of the  
26 matter without a hearing, or it may authorize the person having knowledge of the facts  
27 of the case to file with the court a petition setting out the facts; if the court informally  
28 adjusts or disposes of the matter, the minor may not be detained or taken into the  
29 custody of the court as a condition of the adjustment or disposition, and the matter  
30 shall be closed by the court upon adjustment or disposition.

31 \* Sec. 3. AS 47.10.080(b) is amended to read:

1 (b) If the court finds that the minor is delinquent, it shall

2 (1) order the minor committed to the department for a period of time  
3 not to exceed two years or in any event extend past the day the minor becomes 19,  
4 except that the department may petition for and the court may grant in a hearing (A)  
5 two-year extensions of commitment that do not extend beyond the child's 19th  
6 birthday if the extension is in the best interests of the minor and the public; and (B)  
7 an additional one-year period of supervision past age 19 if continued supervision is in  
8 the best interests of the person and the person consents to it; the department shall place  
9 the minor in the juvenile facility that the department considers appropriate and that  
10 may include a juvenile correctional school, juvenile work camp, treatment facility,  
11 detention home, or detention facility; the minor may be released from placement or  
12 detention and placed on probation on order of the court and may also be released by  
13 the department, in its discretion, under AS 47.10.200;

14 (2) order the minor placed on probation, to be supervised by the  
15 department, and released to the minor's parents, guardian, or a suitable person; if the  
16 court orders the minor placed on probation, it may specify the terms and conditions  
17 of probation; the probation may be for a period of time, not to exceed two years and  
18 in no event extend past the day the minor becomes 19, except that the department may  
19 petition for and the court may grant in a hearing

20 (A) two-year extensions of supervision that do not extend  
21 beyond the child's 19th birthday if the extension is in the best interests of the  
22 minor and the public; and

23 (B) an additional one-year period of supervision past age 19 if  
24 the continued supervision is in the best interests of the person and the person  
25 consents to it;

26 (3) order the minor committed to the department and placed on  
27 probation, to be supervised by the department, and released to the minor's parents,  
28 guardian, other suitable person, or suitable nondetention setting such as a family home,  
29 group care facility, or child care facility, whichever the department considers  
30 appropriate to implement the treatment plan of the predisposition report; if the court  
31 orders the minor placed on probation, it may specify the terms and conditions of

1 probation; the department may transfer the minor, in the minor's best interests, from  
2 one of the probationary placement settings listed in this paragraph to another, and the  
3 minor, the minor's parents or guardian, and the minor's attorney are entitled to  
4 reasonable notice of the transfer; the probation may be for a period of time, not to  
5 exceed two years and in no event extend past the day the minor becomes 19, except  
6 that the department may petition for and the court may grant in a hearing

7 (A) two-year extensions of commitment that do not extend  
8 beyond the child's 19th birthday if the extension is in the best interests of the  
9 minor and the public; and

10 (B) an additional one-year period of supervision past age 19 if  
11 the continued supervision is in the best interests of the person and the person  
12 consents to it;

13 (4) order the minor to make suitable restitution in lieu of or in addition  
14 to the court's order under (1) - (3) [(1), (2), OR (3)] of this subsection; the court may  
15 not refuse to make an order of restitution under this paragraph to benefit the victim of  
16 the act of the minor that is the basis of the delinquency adjudication; the court may  
17 require the minor to use the services of a community dispute resolution center  
18 that has been recognized by the administrative director of the Alaska Court  
19 System under AS 22.35.020 or by the commissioner under AS 47.10.267(b) to  
20 resolve any dispute between the minor and the victim of the minor's offense as  
21 to the amount of or manner of payment of restitution;

22 (5) order the minor committed to the department for placement in an  
23 adventure based education program established under AS 47.21.020 with conditions  
24 the court considers appropriate concerning release upon satisfactory completion of the  
25 program or commitment under (1) of this subsection if the program is not satisfactorily  
26 completed; or

27 (6) in addition to an order under (1) - (5) of this subsection, if the  
28 delinquency finding is based on the minor's violation of AS 11.71.030(a)(3) or  
29 11.71.040(a)(4), order the minor to perform 50 hours of community service; for  
30 purposes of this paragraph, "community service" includes work

31 (A) defined as community service under AS 33.30.901; or

1 (B) that, on the recommendation of the city council or  
2 traditional village council, would benefit persons within the city or village who  
3 are elderly or disabled.

4 \* Sec. 4. AS 47.10 is amended by adding a new section to read:

5 Sec. 47.10.267. COMMUNITY DISPUTE RESOLUTION CENTERS FOR  
6 MATTERS INVOLVING MINORS. (a) An entity organized for the purpose of  
7 providing community mediation services may establish and operate a community  
8 dispute resolution center to resolve disputes between minors who are alleged to have  
9 committed offenses and the victim of those offenses.

10 (b) The commissioner may recognize an entity organized for the purpose of  
11 providing community mediation services as a community dispute resolution center to  
12 serve as a center to resolve disputes between minors and victims. Before extending  
13 recognition under this subsection, the commissioner shall determine that the bylaws of  
14 the entity set out standards and procedures

15 (1) for filing requests for dispute resolution services with the center and  
16 for scheduling mediation sessions participated in by the parties to the dispute;

17 (2) to ensure that each dispute mediated meets the criteria for  
18 appropriateness for mediation and for rejecting disputes that do not meet the criteria;

19 (3) for giving notice of time, place, and nature of the mediation session  
20 to the parties, and for conducting mediation sessions that comply with the provisions  
21 of this section;

22 (4) to ensure that participation by all parties is voluntary;

23 (5) for obtaining referrals from public and private bodies;

24 (6) for providing mediators who, during the dispute resolution process,  
25 may not make decisions or determinations of the issues involved, but who shall  
26 facilitate negotiations by the participants themselves to achieve a voluntary resolution  
27 of the issues;

28 (7) for communicating to the agency making a referral under  
29 AS 47.10.020(a)(1)(A) or the court making a referral under AS 47.10.080(b)(4), as  
30 appropriate, the following:

31 (A) notice that the minor and victim have been unable to enter

1 into a written agreement under (d)(2) of this section or that the minor or victim  
2 has withdrawn from mediation as authorized by (f) of this section;

3 (B) notice that the minor and victim have entered into a written  
4 agreement under (d)(2) of this section; the center shall transmit a copy of the  
5 agreement to the agency or the court, as appropriate;

6 (C) notice that the minor has failed to perform fully the minor's  
7 obligations under the written agreement under (d)(2) of this section;

8 (D) notice that the minor has successfully completed all that is  
9 required of the minor under the provisions of the written agreement under  
10 (d)(2) of this section; and

11 (8) for informing and educating the community about the community  
12 dispute resolution center and encouraging the use of the center's services in appropriate  
13 cases.

14 (c) A center established under this section shall provide dispute resolution  
15 services between a minor who has committed an offense and who, because of the  
16 commission of the offense, may be alleged to be a delinquent minor under  
17 AS 47.10.010(a)(1), and a person who was a victim of that offense. The center shall  
18 provide dispute resolution services either without charge to a participant or for a fee  
19 that is based on the participant's ability to pay.

20 (d) In conducting a dispute resolution process under this section, a center shall  
21 require that

22 (1) the minor and the victim enter into a written agreement that  
23 expresses the method by which they shall attempt to resolve the issues in dispute; and

24 (2) at the conclusion of the dispute resolution process, the minor and  
25 the victim enter into a written agreement that sets out the settlement of the issues and  
26 the future responsibilities, if any, of each party.

27 (e) Except for a notice or a communication described in (b)(7) of this section,  
28 all memoranda, work notes or products, or case files of centers established under this  
29 section are confidential and privileged and are not subject to disclosure in any judicial  
30 or administrative proceeding unless the court or administrative tribunal determines that  
31 the materials were submitted by a participant to the center for the purpose of avoiding

1 discovery of the material in a subsequent proceeding. Any communication relating to  
2 the subject matter of the resolution made during the resolution process by a participant,  
3 mediator, or another person is a privileged communication and is not subject to  
4 disclosure in a judicial or administrative proceeding unless all parties to the  
5 communication waive the privilege. However, privilege and limitation on evidentiary  
6 use set out in this subsection do not apply to a communication of a threat that injury  
7 or damage may be inflicted on a person or on the property of a party to the dispute  
8 to the extent the communication may be relevant evidence in a criminal matter.

9 (f) A minor or a victim who voluntarily enters a dispute resolution process at  
10 a center established under this chapter may revoke consent, withdraw from dispute  
11 resolution, and seek judicial or administrative redress before reaching a written  
12 resolution agreement. The withdrawal shall be in writing. If a minor or a victim  
13 withdraws from dispute resolution, a legal penalty, sanction, or restraint may not be  
14 imposed upon the person for that withdrawal.

15 (g) A center established under this section may seek and accept contributions  
16 and any other available money and may expend the money to carry out the purposes  
17 of this section.

18 (h) A member of the board of directors of a community dispute resolution  
19 center is immune from suit in a civil action based upon a proceeding or other official  
20 act performed in good faith as a member of the board. Employees and volunteers of  
21 a community dispute resolution center are immune from suit in a civil action based on  
22 a proceeding or other official act performed in their capacity as employees or  
23 volunteers, except in cases of wilful or wanton misconduct. A center is immune from  
24 suit in a civil action based on a proceeding or other official act performed by its  
25 employees, volunteers, or members or its board of directors, except in cases of wilful  
26 or wanton misconduct by its employees or volunteers or in cases of official acts  
27 performed in bad faith by members of the board.

28 (i) In this section, "center" means a community dispute resolution center.



# UNIVERSITY OF ALASKA ANCHORAGE

3211 Providence Drive  
Anchorage, Alaska 99506

COLLEGE OF ARTS AND SCIENCES  
DEPARTMENT OF SOCIAL WORK

January 16, 1995

Representative Brian Porter  
Chair, House Judiciary Committee  
Juneau, Alaska

RE. HB 379, Community Dispute Resolution Centers

Dear Representative Porter:

I wish to offer my support to your efforts to obtain passage of HB 397, which you recently introduced, as the primary sponsor. I am writing to you in my dual roles as a faculty member of the University of Alaska Anchorage with a long history of work in juvenile justice, and as the Chair of the McLaughlin Youth Center's Citizen Advisory Board.

In my opinion, establishing community dispute resolution centers to promote the active participation of victims and juvenile offenders in obtaining restorative justice, will have a positive and profound impact upon reducing crime and its deleterious effects. It engages both the victim and offender in a more active participation in the justice process. Direct confrontation, restitution, accountability, socialization, healing, empowerment, and achieving justice are all possible within this model. These centers will provide the opportunity for community members to actively participate in this process as volunteers and have a direct impact upon reducing crime, where they live. The dollar cost is minimal the savings enormous.

I recognize that this is not the final solution to one of our major social problem but it is definitely a program that has proven effectiveness. It is particularly useful in recognizing the need for victims to be major participants in responding to crimes against them and also in diverting youth from escalating their criminal activity. The idea of presenting a problem solving model in which the resolving of disputes can occur, without violence, has the potential of not only impacting juvenile offenders and their victims but anyone who chooses violence to solve dilemmas.

Thank you for creating this piece of legislation and if I can be of any assistance, please call upon me.

Sincerely yours,

A handwritten signature in cursive script that reads "Patrick M. Cunningham".

Dr. Patrick M. Cunningham, DSW  
Associate Professor

# Alaska State Legislature



## House of Representatives

House Judiciary Committee

January 16, 1996

State Capitol, Room 120  
Juneau, Alaska 99801-1182  
(907) 465-4990

TO: House Judiciary Committee members

FROM: Tom Meyer *staff*

RE: Fiscal note/sectional analysis for HB 379

Sorry these materials couldn't get out sooner. Please add to your packets that have already been distributed to you.

9-LS1423G -  
Chenoweth  
1/17/96

CS FOR HOUSE BILL NO. 379( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVE PORTER

A BILL  
FOR AN ACT ENTITLED

1 "An Act authorizing establishment of community dispute resolution centers to  
2 foster the resolution of disputes between juvenile offenders and their victims."

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9 extending recognition under this section, the administrative director shall determine that  
10 the bylaws of the entity set out standards and procedures that meet the requirements of  
11 AS 47.10.267(b).

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13       (a) Whenever circumstances subject a minor to the jurisdiction of  
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15       (1) provide, under procedures adopted by court rule, that, for a minor

1 who is alleged to be a delinquent minor under AS 47.10.010(a)(1), a state agency shall  
2 make a preliminary inquiry to determine if any action is appropriate and may take  
3 appropriate action to adjust or dispose of the matter without a court hearing; if, under  
4 this paragraph.

5 (A) the state agency makes a preliminary inquiry and takes  
6 appropriate action to adjust or dispose of the matter without a court hearing,  
7 the minor may not be detained or taken into custody as a condition of the  
8 adjustment or disposition and, subject to (d) of this section, the matter shall be  
9 closed by the agency if the minor successfully completes all that is required of  
10 the minor by the agency in the adjustment or disposition; in a municipality or  
11 municipalities in which a youth court has been established under AS 47.10.265,  
12 adjustment or disposition of the matter under this paragraph may include  
13 referral to the youth court: if a community dispute resolution center has  
14 been established under AS 47.10.267(a) and has obtained recognition under  
15 AS 22.35.020 or AS 47.10.267(b), adjustment or disposition of the matter  
16 under this paragraph may include use of the services of the community  
17 dispute resolution center;

18 (B) the agency concludes that the matter may not be adjusted  
19 or disposed of without a court hearing, the agency may file a petition under (2)  
20 of this subsection setting out the facts; or

21 (2) appoint a competent person or agency to make a preliminary inquiry  
22 and report for the information of the court to determine whether the interests of the  
23 public or of the minor require that further action be taken; if, under this paragraph, the  
24 court appoints a person or agency to make a preliminary inquiry and to report to it,  
25 then upon the receipt of the report, the court may informally adjust or dispose of the  
26 matter without a hearing, or it may authorize the person having knowledge of the facts  
27 of the case to file with the court a petition setting out the facts; if the court informally  
28 adjusts or disposes of the matter, the minor may not be detained or taken into the  
29 custody of the court as a condition of the adjustment or disposition, and the matter  
30 shall be closed by the court upon adjustment or disposition.

31 \* Sec. 3. AS 47.10.080(b) is amended to read:

1 (b) If the court finds that the minor is delinquent, it shall

2 (1) order the minor committed to the department for a period of time  
3 not to exceed two years or in any event extend past the day the minor becomes 19,  
4 except that the department may petition for and the court may grant in a hearing (A)  
5 two-year extensions of commitment that do not extend beyond the child's 19th  
6 birthday if the extension is in the best interests of the minor and the public; and (B)  
7 an additional one-year period of supervision past age 19 if continued supervision is in  
8 the best interests of the person and the person consents to it; the department shall place  
9 the minor in the juvenile facility that the department considers appropriate and that  
10 may include a juvenile correctional school, juvenile work camp, treatment facility,  
11 detention home, or detention facility; the minor may be released from placement or  
12 detention and placed on probation on order of the court and may also be released by  
13 the department, in its discretion, under AS 47.10.200;

14 (2) order the minor placed on probation, to be supervised by the  
15 department, and released to the minor's parents, guardian, or a suitable person; if the  
16 court orders the minor placed on probation, it may specify the terms and conditions  
17 of probation; the probation may be for a period of time, not to exceed two years and  
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22 minor and the public; and

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27 probation, to be supervised by the department, and released to the minor's parents,  
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29 group care facility, or child care facility, whichever the department considers  
30 appropriate to implement the treatment plan of the predisposition report; if the court  
31 orders the minor placed on probation, it may specify the terms and conditions of

1 probation: the department may transfer the minor, in the minor's best interests, from  
2 one of the probationary placement settings listed in this paragraph to another, and the  
3 minor, the minor's parents or guardian, and the minor's attorney are entitled to  
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13 (4) order the minor to make suitable restitution in lieu of or in addition  
14 to the court's order under (1) - (3) [(1), (2), OR (3)] of this subsection: the court may  
15 not refuse to make an order of restitution under this paragraph to benefit the victim of  
16 the act of the minor that is the basis of the delinquency adjudication; the court may  
17 require the minor to use the services of a community dispute resolution center  
18 that has been recognized by the administrative director of the Alaska Court  
19 System under AS 22.35.020 or by the commissioner under AS 47.10.267(b) to  
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23 adventure based education program established under AS 47.21.020 with conditions  
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28 delinquency finding is based on the minor's violation of AS 11.71.030(a)(3) or  
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11 employees, volunteers, or members or its board of directors, except in cases of wilful  
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9-LS1423\F  
Chenoweth  
1/15/96

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NINETEENTH LEGISLATURE - SECOND SESSION

BY

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Referred:

Sponsor(s): REPRESENTATIVE PORTER

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5 adjustment or disposition of the matter under this paragraph may include  
6 referral to the youth court; if a community dispute resolution center has  
7 been established under AS 47.10.267, adjustment or disposition of the  
8 matter under this paragraph may include use of the services of the  
9 community dispute resolution center;

10 (B) the agency concludes that the matter may not be adjusted  
11 or disposed of without a court hearing, the agency may file a petition under (2)  
12 of this subsection setting out the facts; or

13 (2) appoint a competent person or agency to make a preliminary inquiry  
14 and report for the information of the court to determine whether the interests of the  
15 public or of the minor require that further action be taken; if, under this paragraph, the  
16 court appoints a person or agency to make a preliminary inquiry and to report to it,  
17 then upon the receipt of the report, the court may informally adjust or dispose of the  
18 matter without a hearing, or it may authorize the person having knowledge of the facts  
19 of the case to file with the court a petition setting out the facts; if the court informally  
20 adjusts or disposes of the matter, the minor may not be detained or taken into the  
21 custody of the court as a condition of the adjustment or disposition, and the matter  
22 shall be closed by the court upon adjustment or disposition.

23 \* Sec. 2. AS 47.10.080(b) is amended to read:

24 (b) If the court finds that the minor is delinquent, it shall

25 (1) order the minor committed to the department for a period of time  
26 not to exceed two years or in any event extend past the day the minor becomes 19,  
27 except that the department may petition for and the court may grant in a hearing (A)  
28 two-year extensions of commitment that do not extend beyond the child's 19th  
29 birthday if the extension is in the best interests of the minor and the public; and (B)  
30 an additional one-year period of supervision past age 19 if continued supervision is in  
31 the best interests of the person and the person consents to it; the department shall place

1 the minor in the juvenile facility that the department considers appropriate and that  
2 may include a juvenile correctional school, juvenile work camp, treatment facility,  
3 detention home, or detention facility; the minor may be released from placement or  
4 detention and placed on probation on order of the court and may also be released by  
5 the department, in its discretion, under AS 47.10.200;

6 (2) order the minor placed on probation, to be supervised by the  
7 department, and released to the minor's parents, guardian, or a suitable person; if the  
8 court orders the minor placed on probation, it may specify the terms and conditions  
9 of probation; the probation may be for a period of time, not to exceed two years and  
10 in no event extend past the day the minor becomes 19, except that the department may  
11 petition for and the court may grant in a hearing

12 (A) two-year extensions of supervision that do not extend  
13 beyond the child's 19th birthday if the extension is in the best interests of the  
14 minor and the public; and

15 (B) an additional one-year period of supervision past age 19 if  
16 the continued supervision is in the best interests of the person and the person  
17 consents to it;

18 (3) order the minor committed to the department and placed on  
19 probation, to be supervised by the department, and released to the minor's parents,  
20 guardian, other suitable person, or suitable nondetention setting such as a family home,  
21 group care facility, or child care facility, whichever the department considers  
22 appropriate to implement the treatment plan of the predisposition report; if the court  
23 orders the minor placed on probation, it may specify the terms and conditions of  
24 probation; the department may transfer the minor, in the minor's best interests, from  
25 one of the probationary placement settings listed in this paragraph to another, and the  
26 minor, the minor's parents or guardian, and the minor's attorney are entitled to  
27 reasonable notice of the transfer; the probation may be for a period of time, not to  
28 exceed two years and in no event extend past the day the minor becomes 19, except  
29 that the department may petition for and the court may grant in a hearing

30 (A) two-year extensions of commitment that do not extend  
31 beyond the child's 19th birthday if the extension is in the best interests of the

1 minor and the public; and

2 (B) an additional one-year period of supervision past age 19 if  
3 the continued supervision is in the best interests of the person and the person  
4 consents to it;

5 (4) order the minor to make suitable restitution in lieu of or in addition  
6 to the court's order under (1) - (3) [(1), (2), OR (3)] of this subsection; the court may  
7 not refuse to make an order of restitution under this paragraph to benefit the victim of  
8 the act of the minor that is the basis of the delinquency adjudication; the court may  
9 require the minor to use the services of a community dispute resolution center  
10 that has been recognized by the commissioner under AS 47.10.267 to resolve any  
11 dispute between the minor and the victim of the minor's offense as to the amount  
12 of or manner of payment of restitution;

13 (5) order the minor committed to the department for placement in an  
14 adventure based education program established under AS 47.21.020 with conditions  
15 the court considers appropriate concerning release upon satisfactory completion of the  
16 program or commitment under (1) of this subsection if the program is not satisfactorily  
17 completed; or

18 (6) in addition to an order under (1) - (5) of this subsection, if the  
19 delinquency finding is based on the minor's violation of AS 11.71.030(a)(3) or  
20 11.71.040(a)(4), order the minor to perform 50 hours of community service: for  
21 purposes of this paragraph. "community service" includes work

22 (A) defined as community service under AS 33.30.901; or

23 (B) that, on the recommendation of the city council or  
24 traditional village council, would benefit persons within the city or village who  
25 are elderly or disabled.

26 \* Sec. 3. AS 47.10 is amended by adding a new section to read:

27 Sec. 47.10.267. COMMUNITY DISPUTE RESOLUTION CENTERS FOR  
28 MATTERS INVOLVING MINORS. (a) An entity organized for the purpose of  
29 providing community mediation services may establish and operate a community  
30 dispute resolution center to resolve disputes between minors who are alleged to have  
31 committed offenses and the victim of those offenses.

1 (b) The commissioner may recognize an entity organized for the purpose of  
2 providing community mediation services as a community dispute resolution center to  
3 serve as a center to resolve disputes between minors and victims. Before extending  
4 recognition under this subsection, the commissioner shall determine that the bylaws of  
5 the entity set out standards and procedures

6 (1) for filing requests for dispute resolution services with the center and  
7 for scheduling mediation sessions participated in by the parties to the dispute;

8 (2) to ensure that each dispute mediated meets the criteria for  
9 appropriateness for mediation and for rejecting disputes that do not meet the criteria;

10 (3) for giving notice of time, place, and nature of the mediation session  
11 to the parties, and for conducting mediation sessions that comply with the provisions  
12 of this section;

13 (4) to ensure that participation by all parties is voluntary;

14 (5) for obtaining referrals from public and private bodies;

15 (6) for providing mediators who, during the dispute resolution process,  
16 may not make decisions or determinations of the issues involved, but who shall  
17 facilitate negotiations by the participants themselves to achieve a voluntary resolution  
18 of the issues; and

19 (7) for informing and educating the community about the community  
20 dispute resolution center and encouraging the use of the center's services in appropriate  
21 cases.

22 (c) A center established under this section shall provide dispute resolution  
23 services between a minor who has committed an offense and who, because of the  
24 commission of the offense, may be alleged to be a delinquent minor under  
25 AS 47.10.010(a)(1), and a person who was a victim of that offense. The center shall  
26 provide dispute resolution services either without charge to a participant or for a fee  
27 that is based on the participant's ability to pay.

28 (d) In conducting a dispute resolution process under this section, a center shall  
29 require that

30 (1) the minor and the victim enter into a written agreement that  
31 expresses the method by which they shall attempt to resolve the issues in dispute; and

1 (2) at the conclusion of the dispute resolution process, the minor and  
2 the victim enter into a written agreement that sets out the settlement of the issues and  
3 the future responsibilities, if any, of each party.

4 (e) All memoranda, work notes or products, or case files of centers established  
5 under this section are confidential and privileged and are not subject to disclosure in  
6 any judicial or administrative proceeding unless the court or administrative tribunal  
7 determines that the materials were submitted by a participant to the center for the  
8 purpose of avoiding discovery of the material in a subsequent proceeding. Any  
9 communication relating to the subject matter of the resolution made during the  
10 resolution process by a participant, mediator, or another person is a privileged  
11 communication and is not subject to disclosure in a judicial or administrative  
12 proceeding unless all parties to the communication waive the privilege. However,  
13 privilege and limitation on evidentiary use set out in this subsection do not apply to  
14 a communication of a threat that injury or damage may be inflicted on a person or on  
15 the property of a party to the dispute to the extent the communication may be relevant  
16 evidence in a criminal matter.

17 (f) A minor or a victim who voluntarily enters a dispute resolution process at  
18 a center established under this chapter may revoke consent, withdraw from dispute  
19 resolution, and seek judicial or administrative redress before reaching a written  
20 resolution agreement. The withdrawal shall be in writing. If a minor or a victim  
21 withdraws from dispute resolution, a legal penalty, sanction, or restraint may not be  
22 imposed upon the person for that withdrawal.

23 (g) A center established under this section may seek and accept contributions  
24 and any other available money and may expend the money to carry out the purposes  
25 of this section.

26 (h) A member of the board of directors of a community dispute resolution  
27 center is immune from suit in a civil action based upon a proceeding or other official  
28 act performed in good faith as a member of the board. Employees and volunteers of  
29 a community dispute resolution center are immune from suit in a civil action based on  
30 a proceeding or other official act performed in their capacity as employees or  
31 volunteers, except in cases of wilful or wanton misconduct. A center is immune from

1 suit in a civil action based on a proceeding or other official act performed by its  
2 employees, volunteers, or members or its board of directors, except in cases of wilful  
3 or wanton misconduct by its employees or volunteers or in cases of official acts  
4 performed in bad faith by members of the board.

5 (i) In this section, "center" means a community dispute resolution center.

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Introduced:  
Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act authorizing establishment of <sup>er -</sup> ~~alternative~~ dispute resolution centers to foster  
2 the resolution of disputes between juvenile offenders and their victims."

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

4 \* Section 1. AS 47.10.020(a) is amended to read:

5 (a) Whenever circumstances subject a minor to the jurisdiction of  
6 AS 47.10.010 - 47.10.142, the court shall

7 (1) provide, under procedures adopted by court rule, that, for a minor  
8 who is alleged to be a delinquent minor under AS 47.10.010(a)(1), a state agency shall  
9 make a preliminary inquiry to determine if any action is appropriate and may take  
10 appropriate action to adjust or dispose of the matter without a court hearing; if, under  
11 this paragraph,

12 (A) the state agency makes a preliminary inquiry and takes  
13 appropriate action to adjust or dispose of the matter without a court hearing,  
14 the minor may not be detained or taken into custody as a condition of the

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adjustment or disposition and, subject to (d) of this section, the matter shall be closed by the agency if the minor successfully completes all that is required of the minor by the agency in the adjustment or disposition; in a municipality or municipalities in which a youth court has been established under AS 47.10.265, adjustment or disposition of the matter under this paragraph may include referral to the youth court; if an alternative dispute resolution center has been established under AS 47.10.267, adjustment or disposition of the matter under this paragraph may include use of the services of the <sup>comm</sup> alternative-dispute resolution center;

(B) the agency concludes that the matter may not be adjusted or disposed of without a court hearing, the agency may file a petition under (2) of this subsection setting out the facts; or

(2) appoint a competent person or agency to make a preliminary inquiry and report for the information of the court to determine whether the interests of the public or of the minor require that further action be taken; if, under this paragraph, the court appoints a person or agency to make a preliminary inquiry and to report to it, then upon the receipt of the report, the court may informally adjust or dispose of the matter without a hearing, or it may authorize the person having knowledge of the facts of the case to file with the court a petition setting out the facts; if the court informally adjusts or disposes of the matter, the minor may not be detained or taken into the custody of the court as a condition of the adjustment or disposition, and the matter shall be closed by the court upon adjustment or disposition.

\* Sec. 2. AS 47.10 is amended by adding a new section to read:

Sec. 47.10.267. ~~ALTERNATIVE DISPUTE RESOLUTION FOR MATTERS INVOLVING MINORS.~~ <sup>An entity</sup> (a) ~~A municipality or a nonprofit corporation organized exclusively for the resolution of disputes between minors who are alleged to have committed offenses and the victim of those offenses may establish and operate an~~ <sup>alternative</sup> ~~alternative~~ dispute resolution center; ~~delete.~~

(b) A center may not begin operation under this section until a plan for establishing a center for the mediation and settlement of disputes has been approved by the assembly or council of the municipality establishing the center or, in the case

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of a center operated by a nonprofit corporation, by the assembly or council of the municipality within which the center will be located. A plan for a <sup>A formal dispute</sup> ~~dispute~~ resolution center may not be approved and the center may not begin operation until the assembly or council finds that the plan adequately prescribes procedures <sup>be reviewed by the ... as a ... The bylaws of the ...</sup>

(1) for filing requests for dispute resolution services with the center and for scheduling mediation sessions participated in by the parties to the dispute;

(2) to ensure that each dispute mediated by the center meets the criteria for appropriateness for mediation set by the <sup>legislative authority</sup> ~~assembly or council~~ and for rejecting disputes that do not meet the criteria;

(3) for giving notice of time, place, and nature of the mediation session to the parties, and for conducting mediation sessions that comply with the provisions of this section;

(4) to ensure that participation by all parties is voluntary;

(5) for obtaining referrals from public and private bodies;

<sup>to etc</sup> (6) for meeting the particular needs of the participants, including providing services at times convenient to the participants, in sign language, and in languages other than English;

(7) for providing <sup>delete</sup> ~~trained~~ mediators who, during the dispute resolution process, may not make decisions or determinations of the issues involved, but who shall facilitate negotiations by the participants themselves to achieve a voluntary resolution of the issues; and

(8) for informing and educating the community about the dispute resolution center and encouraging the use of the center's services in appropriate cases.

(c) A center established under this section annually shall provide to the administrative director of the Alaska <sup>State Court</sup> ~~Court~~ System the data regarding its operation as the administrative director requires. The administrative director shall report annually to the supreme court, the legislature, and the governor regarding the operation of centers established under this chapter.

(d) A center established under this section shall provide dispute resolution services between a minor who has committed an offense and who, because of the commission of the offense, may be alleged to be a delinquent minor under

1 AS 47.10.010(a)(1), and a person who was a victim of that offense. The center shall  
2 provide dispute resolution services either without charge to a participant or for a fee  
3 that is based on the participant's ability to pay.

4 (e) In conducting a dispute resolution process under this section, a center shall  
5 require that

6 (1) the minor and the victim enter into a written agreement that  
7 expresses the method by which they shall attempt to resolve the issues in dispute; and

8 (2) at the conclusion of the dispute resolution process, the minor and  
9 the victim enter into a written agreement that sets out the settlement of the issues and  
10 the future responsibilities, if any, of each party.

11 (f) All memoranda, work notes or products, or case files of centers established  
12 under this section are confidential and privileged and are not subject to disclosure in  
13 any judicial or administrative proceeding unless the court or administrative tribunal  
14 determines that the materials were submitted by a participant to the center for the  
15 purpose of avoiding discovery of the material in a subsequent proceeding. Any  
16 communication relating to the subject matter of the resolution made during the  
17 resolution process by a participant, mediator, or another person is a privileged  
18 communication and is not subject to disclosure in a judicial or administrative  
19 proceeding unless all parties to the communication waive the privilege. However,  
20 privilege and limitation on evidentiary use set out in this subsection do not apply to  
21 a communication of a threat that injury or damage may be inflicted on a person or on  
22 the property of a party to the dispute to the extent the communication may be relevant  
23 evidence in a criminal matter.

24 (g) A minor or a victim who voluntarily enters a dispute resolution process at  
25 a center established under this chapter may revoke consent, withdraw from dispute  
26 resolution, and seek judicial or administrative redress before reaching a written  
27 resolution agreement. The withdrawal shall be in writing. If a minor or a victim  
28 withdraws from dispute resolution, a legal penalty, sanction, or restraint may not be  
29 imposed upon the person for that withdrawal.

30 (h) A center established under this section may seek and accept contributions  
31 and any other available money and may expend the money to carry out the purposes

1 of this section.

2 (i) A member of the board of directors of a dispute resolution center is  
3 immune from suit in a civil action based upon a proceeding or other official act  
4 performed in good faith as a member of the board. Employees and volunteers of a  
5 dispute resolution center are immune from suit in a civil action based on a proceeding  
6 or other official act performed in their capacity as employees or volunteers, except in  
7 cases of wilful or wanton misconduct. A center is immune from suit in a civil action  
8 based on a proceeding or other official act performed by its employees, volunteers, or  
9 members or its board of directors, except in cases of wilful or wanton misconduct by  
10 its employees or volunteers or in cases of official acts performed in bad faith by  
11 members of the board.

12 (j) In this section, "center" means an ~~alternative~~ <sup>alternative</sup> dispute resolution center.