

HB

9

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 3/23/95

FURTHER:

DATE TURNED INTO OFFICE: 4-11-95

The Finance Committee considered **CS FOR HOUSE BILL NO. 9(FIN)**

Recovery of damages from **HB 9 DAMAGE TO PROPERTY BY MINORS** erty is destroyed
r damage caused
by the minor, and to recce
by the minor.

and recommends:

Senate Bill:

be replaced with 5 CS CS HB 9 (Fin)

same title
new title

adopt previous _____ CS _____

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to the _____ Committee

5CS
(Fin)
Coming

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Steve Rios</i>	✓	<i>Wanda Dowley</i>	✓		
<i>Paul E. Rice</i>	✓				
<i>Best Sharp</i>	✓				
Co-Chair: <i>[Signature]</i>	✓				
Co-Chair: <i>[Signature]</i>	✓				

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

<i>Courts</i>	<i>4/3/95</i>	<i>Indeterminate</i>	<i>#1</i>

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

#1 <i>DOLA</i>	<i>1/23/95</i>	<i>0</i>	
#2 <i>DH+SS (Foster Care)</i>	<i>1/24/95</i>	<i>0</i>	
#3 <i>DH+SS (Res Care)</i>	<i>1/24/95</i>	<i>0</i>	
#4 <i>DOA (OPA)</i>	<i>1/30/95</i>	<i>0</i>	
#5 <i>DOA (PDA)</i>	<i>1/30/95</i>	<i>0</i>	
#6 <i>DOA (Risk Mgmt)</i>	<i>1/30/95</i>	<i>0</i>	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. SCS CSHB 9 (JUD)

Revision Date: 04/03/95 Dept. Affected: Alaska Court System
 Title: An Act relating to recovery of damages BRU: Trial Courts
from a minor's parent of legal guardian Components: _____
 Sponsor: Reps. Therriault, Porter
 Requestor: _____ COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES (Thousands of Dollars)

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

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

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

FUND SOURCE (Thousands of Dollars)

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

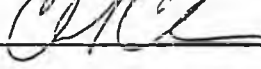
POSITIONS

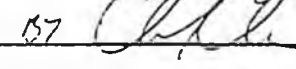
FULL-TIME						
PART-TIME						
TEMPORARY						

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

ANALYSIS: (Attach a separate page if necessary)

* - See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel  Phone: 264-8228
 Agency: Alaska Court System Date: 04/03/95

Approved by: Arthur H. Snowden, II, Administrative Director  Date: 04/03/95
 Agency: Alaska Court System

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

Alaska Court System
Fiscal Analysis
SCS CSHB 9 (JUD)

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

SCS CSHB 9 (Jud) makes several changes to this statute. First, liability for a minor's conduct is now limited to the person having legal custody of the minor. Second, the damage limit is raised from \$2,000 to \$10,000.

The second change will result in an increase in case numbers and costs for several reasons. First, the increase in the dollar amount which can be recovered will increase the field of potential cases. Second, the higher dollar amount means that many of these cases can now be brought in district court, rather than small claims court. This will increase court costs, because district court proceedings take more time, use more expensive district judges rather than magistrates, and give litigants the right to a jury.

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

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

No. 6 BILL NO. 779
Bill Version: CSHB 9(FIN)
(H) Publish Date: 2/13/95

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

Department Affected: Administration
BRU: Risk Management
Component: Risk Management

COMPONENT SERIAL NO. 71

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS; CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

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

Prepared by: Brad Thomason
Division: Risk Management

Phone: 465-2180
Date: _____

Approved by Commissioner: Mark Boyer
Agency: Department of Administration

Date: 1/30/95

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COMMITTEE FOR

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

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

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

Department Affected: Administration
BRU: Public Defender Agency
Component: Public Defender Agency

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	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						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

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

Prepared by: John Salemi, Director *[Signature]*
Division: Public Defender Agency

Phone: 264-4412
Date: _____

Approved by Commissioner: Mark Bover *[Signature]*
Agency: Department of Administration

Date: _____

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

.o. 4
Bill Version: CSHB 9 (JUD)
(H) Publish Date: 1/30/95

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

Department Affected: Administration
BRU: Office of Public Advocacy
Component: Office of Public Advocacy
COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	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						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)
This bill has no fiscal impact on the Office of Public Advocacy.

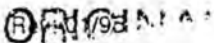
Prepared by: Brant McGee, Director *Brant McGee*
Division: Office of Public Advocacy

Phone: 274-1684
Date: _____

Approved by Commissioner: Mark Boyer *Mark Boyer 1/23/95*
Agency: Department of Administration

Date: _____

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STATE OF ALASKA
1995 LEGISLATIVE SESSION

No. 3
Bill Version: CSHR 9 (1111)
(H) Publish Date: 1/30/95

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: An Act Relating to Recovery From a Parent or Legal Guardian When Property Is Destroyed By The Minor BRU: Purchased Services
 Sponsor: Representative(s) Therriault, Porter Component: Residential Child Care
 Requestor: House (JUD) COMPONENT SERIAL NO. 253
 See also (SN#): 252

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

CAPITAL EXPENDITURES

CHANGES IN REVENUES

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

POSITIONS:
 FULL-TIME _____
 PART-TIME _____
 TEMPORARY _____

Estimate of any current year (FY95) cost: 0.0

ANALYSIS: Attach a separate page if necessary

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

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

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

Approved by Commissioner: [Signature]
 Agency: Department of Health & Social Services

Date: 1-24-95

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STATE OF ALASKA
1995 LEGISLATIVE SESSION

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

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

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

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES

CHANGES IN REVENUES

FUND SOURCE

(Thousands of Dollars)

002 Federal Receipts						
003 GF Match						
004 GF						
005 GF/Program Receipts						
006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME

PART-TIME

TEMPORARY

Estimate of any current year (FY95) cost: 50.0

ANALYSIS: Attach a separate page if necessary

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

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

Phone: 465-3191
Date: 01.23.95

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

Date: 1-24-95

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FISCAL NOTE

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

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

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

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 34.50 to provide that a person, municipal corporation, association, village, school district, or religious or charitable organization may recover damages in a civil action in an amount not to exceed \$10,000, plus court costs, from either parent or both parents or the legal guardian or person having legal custody of an unemancipated minor under the age of 18 years, who destroys real or personal property belonging to the above parties seeking recovery. Currently, the maximum amount that may be recovered is \$2,000. However, the bill also provides that a parent, legal guardian, or person having the legal custody of an unemancipated minor under the age of 18 years who is a runaway or missing minor would not be liable under the foregoing provision if the person having legal custody of the minor makes a report to a law enforcement agency, as authorized by AS 47.10.141 (a), that the minor has run away or is missing. This bill deals with the recovery of damages and, consequently, there will not be a fiscal impact for the Department of Law.

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

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SENATE FINANCE
COMMITTEE

Amendment Number: 71

Bill Number: HB 96

Sponsor: Trapp Date: 4/12/95

Logged In By: JJP

Adopted

9-LS0053K.3

Chenoweth

4/10/95

A M E N D M E N T

*Phoned
Legal 11:40 am
pk*

OFFERED IN THE SENATE

TO: SCS CSHB 9(JUD)

1 Page 1, line 13, after "organization.":

2 Insert "However, for purposes of this subsection,

3 (1) if an unemancipated minor under the age of 18 years has both
4 a custodial and a noncustodial parent, recovery in damages is limited to recovery
5 from the noncustodial parent if the property destruction by the minor occurred
6 during a period of the minor's court-ordered visitation to that parent; and

7 (2) if parents have joint physical custody under a court order of
8 an unemancipated minor under the age of 18 years, recovery in damages is
9 limited to recovery only from the parent having actual ^{date} physical custody of the
10 minor at the time the property destruction by the minor occurred."

SENATE FINANCE
COMMITTEE

9-LS0053AK.3

Chenoweth

4/10/95

Amendment Number: 2

Bill Number: HB 9

Sponsor: Wainwright Date: 4/10/95

Logged In By: [Signature]

A M E N D M E N T

OFFERED IN THE SENATE

TO: SCS CSHB 9(JUD)

1 Page 1, line 13, after "organization.":

2 Insert "However, for purposes of this subsection,

3 (1) if an unemancipated minor under the age of 18 years has both
4 a custodial and a nencustodial parent, recovery in damages is limited to recovery
5 from the noncustodial parent if the property destruction by the minor occurred
6 during a period of the minor's court-ordered visitation to that parent; and

7 (2) if parents have joint physical custody under a court order of
8 an unemancipated minor under the age of 18 years, recovery in damages is
9 limited to recovery only from the parent having actual physical custody of the
10 minor at the time the property destruction by the minor occurred."

A M E N D M E N T

OFFERED IN THE SENATE

TO: SCS CSHB 9(JUD)

1 Page 1, line 13, after "organization.":

2 Insert "However, for purposes of this subsection, as between the custodial and
3 noncustodial parent of an unemancipated minor under the age of 18 years, recovery in
4 damages is limited to recovery from the noncustodial parent if the property destruction
5 by the minor occurred during a period of the minor's court-ordered visitation to that
6 parent."

SENATE FINANCE
COMMITTEE

Amendment Number: 1

Bill Number: HB 9

Sponsor: Sharp Date: 4/6/95

Logged In By: JAC

In a case of ~~sole~~ ^{sole} custody by
a ~~divorced~~ divorced parents, ~~with~~ with
visitation rights by the other
parent, the custodial parent
may recover damages if the
damages occurred during visitation.

Alaska State Legislature

REPRESENTATIVE
GENE THERRIAULT

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119 N. Cushman, Suite 101
Fairbanks, Alaska 99701
(907) 488-0862
Fax (907) 488-4271



White in Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
Fax (907) 465-3884

House District 33

House Of Representatives

MEMORANDUM

April 6, 1995

Subject: House Bill 9, Questions raised in Senate Finance April 6, 1995

To: Senator Rick Halford

From: Representative Gene Therriault *Gene*

In committee you raised a question over who has legal custody of a minor if the minor is visiting the non-custodial parent under a court-ordered visitation. According to Jack Chenoweth, Legislative Counsel, visitation does not transfer custody, so responsibility for damages would remain with the principal custodian. In other words, the non-custodial parent would not be responsible for damage done by the minor during the visit. In the case of joint custody, both parents are responsible equally for damages done by the minor, regardless of who has physical custody. I hope this answers your question. If you have further questions about this bill, or suggestions for a possible amendment to address your concern, please let me know at your earliest convenience.

cc: Senator Bert Sharp

Alaska State Legislature

REPRESENTATIVE
GENE THERRIAULT

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Fax: (907) 488-4271



White, in Juneau
State Capitol
Juneau, Alaska
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House District 33

House Of Representatives

SCS CSHB 9(JUD): "An act relating to recovery of damages from a person having legal custody of a minor when property is destroyed by the minor, and to recovery from a minor's permanent fund dividend for injury or damage caused by the minor."

Sponsor: Representative Gene Therriault

Sponsor Statement:

This victim's rights legislation, which updates a statute that has been on the books since 1957, is intended to encourage responsibility among parents and juveniles and to provide recourse for victims who have lost property. It is based on the principal that the person having legal custody of the juvenile who caused the damage is monetarily responsible for the loss. This legislation would increase the amount the victim may recover from \$2,000 to \$10,000.

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

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

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

The Finance Committee further revised the bill to clarify that the legal custodian is relieved of liability only if a run away report is filed **before** the damages are committed, and to limit liability to the responsible guardian.

DIVISION OF LEGAL 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

April 5, 1995

SUBJECT: SCS CS HB 9 (Judiciary) -- sectional analysis
(Work Order No. 9-LS0053\K)

TO: Representative Gene Therriault
ATTN: Wilda Whitaker

FROM: Jack Chenoweth 
Legislative Counsel

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

Bill section 1, amending AS 34.50.020(a), increases from \$2000 to \$10,000 the amount of damages that the owner of real or personal property would be able to recover in a civil action for damage to the property caused by an unemancipated minor. That recovery would be from "a person having the legal custody of an unemancipated minor," modifying a more specific reference in current law that allows recovery from either parent or both parents or the legal guardian of the minor as well as the person having legal custody. In the bill section, descriptors of the minor's action incorporates reference to culpable mental states that are set out in the current state criminal code--damage to property as a result of a minor's "knowing or intentional act"--replace the current statute's common law modifiers "maliciously or wilfully."

Bill section 2, adding a new subsection, subsection (c), to AS 34.50.020, would preclude liability for the payment of property damages by the person having legal custody of an unemancipated minor if the minor was a runaway or was missing. The committee substitute draws a clearer line with respect to the point in time that the custodian's liability for those damages stops, i.e. "after [the custodian] has made a report to a law enforcement agency, as authorized by AS 47.10.141(a), that the minor has run away or is missing." The bill section supplies a definition of the term "runaway or missing minor."

State law currently provides for payment of permanent fund dividends. Dividends are generally exempt from many forms of collection for debt, but there are exceptions under which dividends may be recovered against by parties having claims. Bill section 3 amends subsection (b) of AS 43.23.065 to conform the exemption to the changes made in bill section 1, that is, the limit of recovery against the minor's dividend in certain civil actions is increased from \$2000 to \$10,000 and the provision authorizing recovery against adults responsible for

Representative Gene Therriault

April 5, 1995

Page 2

the damages that may have been caused by the minor is rewritten to make reference to "a person having the legal custody of an unemancipated minor." It also removes from current law certain qualifications or contingencies that limit recovery against a permanent fund dividend for the acts of minors against which one may obtain recovery.

JBC:klb

95-237.klb

Alaska State Legislature

REPRESENTATIVE
GENE THERRIAULT
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House District 33

House Of Representatives

House Bill 9

Explanation of changes to Senate CS for CS for House Bill 9 (Jud)

The Senate CS for CS for House Bill 9 (Jud) deletes the language from page 2, line 23 through page 3, line 1. The amendment removes unnecessarily restrictive language from A.S. 43.23.065(b) regarding recovery of civil damages from a juvenile's permanent fund dividend. The deleted subsection unduly restricts the circumstances under which a writ of execution can be issued against a minor's permanent fund dividend to satisfy a civil judgment. Under current law, in order to enforce a judgment against a permanent fund dividend, the victim must not only obtain a judgment in the civil action, but the judgment must be based on intentional or knowing property damage or a criminal act in which the juvenile has been adjudicated as a delinquent.



ALASKA COUNCIL OF SCHOOL ADMINISTRATORS

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POSITION STATEMENT

HOUSE BILL # 9

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

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

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

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

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

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

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

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

Stephen T. McPhetres
Executive Director



FAIRBANKS NORTH STAR BOROUGH SCHOOL DISTRICT

520 Fifth Avenue

Fairbanks, Alaska 99701-4756

(907) 452-2000

Fairbanks North Star Borough School District

Board of Education March 9, 1995

Sue Wilken
President
Seat A
474-0341

Representative Gene Therriault
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Bill Burrows
Vice President
Seat E
451-0985

Dear Representative Therriault:

Jane Haigh
Treasurer
Seat D
457-7834

Thank you for the introduction of legislation relating to the recovery of damages from a person having legal custody of a minor and from a minor's Permanent Fund Dividend. We understand that the bill also clarifies that the legal custodian is relieved of liability only if a runaway report is filed before the damages are committed and to limit liability to the responsible guardian.

Bob Boko
Clerk
Seat G
474-9081

Last fall, your attendance at our Board meeting in response to the recurring school facility vandalism in our community was sincerely appreciated. You offered your assistance and have kept that commitment in part by the introduction of HB9.

Jerry McBeath
Member
Seat C
473-2870

We hope that raising the amount that a victim may recover from \$2,000 to \$10,000 will serve as a deterrent and that the district will be able to recover a more reasonable portion of future damages should they occur.

Andy Warwick
Member
Seat F
474-9148

Cynthia Henry
Member
Seat B
474-0034

Sincerely,

Bill Burrows
Vice President
Board of Education

Bill Heinen, Lt. Col.
Eielson Air Force Base
Representative
377-3259

John Popp, Major
Fort Wainwright Army Post
Representative
356-3771

cc: Interior Delegation
Rick Cross, Superintendent
Linda Anderson, Legislative Liaison

Jay McAlpin
Student Representative
488-9061

SAM BISHOP, Editorial Page Editor: 456-6661 (Ext. 274)

FAIRBANKS
Daily News - Miner

"Independent in All Things . . . Neutral in None"

Established in 1903

CHARLES L. GRAY
Publisher Emeritus

PAUL J. MABREY
Publisher

SAM BISHOP
Editorial Page Editor

Returning responsibility

Since before statehood, Alaska law has allowed victims of vandalism to obtain up to \$2,000 in compensation from parents of the vandals.

But some kids today seem to be amusing themselves by causing damage that far exceeds \$2,000 or even \$20,000. Witness the recent incidents at Monroe Catholic High School and Ryan Middle School.

It's time for inflation to catch up with the crooks and the parents who fail to curb them.

That's exactly what Rep. Gene Therriault, R-North Pole, hopes to do with HB 9. His legislation would allow any "person, municipal corporation, association, village, school district or religious or charitable organization" to recover up to \$10,000 from parents or legal guardians of minors who vandalize their property.

This law, if passed, must be applied within reason. Obviously, some parents find themselves with uncontrollable children through little or no fault of their own. For example, with the high incidence of fetal alcohol syndrome in Alaska, some children seem to lack the cognitive ability to anticipate the consequences of their actions. While intensive work does seem to help these children, it may be too much to expect that the parent can control them at all times.

Those who would apply an absolutist view to issues of personal responsibility might argue that the parents should have thought of that when they were drinking during pregnancy. Perhaps. But that doesn't fairly address the parents who have adopted or unexpectedly assumed guardianship of children with such troubles.

Therriault's proposal provides a sensible way to handle some of those complexities. If the parents report the child missing to a law enforcement agency, they would not be held liable for the child's vandalism.

Of course, that provision would allow some devious parents to continue to shirk their responsibilities. But at least the parent would have some large incentive to think just a little about their children and their whereabouts.

Some might scoff at this bill as another hopeless, unenforceable measure that no one will use. But Therriault's measure also changes a state program that everyone watches: the Permanent Fund dividend. Parents and their children could lose up to \$10,000 in annual checks to pay for vandalism if the bill passes.

With that kind of money, schools could recover a good portion of the costs it has incurred in the past few years rebuilding damaged school property. The schools also would have some meaningful financial incentive to pursue the matters.

It's time for society to return a little more responsibility to the place it should have been all along—with parents and their children.

MEMO

To: Rep. Porter

From: Anne Carpeneti *AC*

Re: HB 9

Date: Jan. 26. 1995

HB 9 raises the potential liability of parents and guardians for damage by minors from \$2,000 to \$10,000. and eliminates the requirement that the damage be done maliciously or wilfully.

You asked about the liability of the state for damage by minors in its charge. AS 34.50.020(b) (attached) provides that a state agency or its agents is not liable for acts of minors in its charge or custody.

CS HB 9 : RECOVERING DAMAGES FROM MINORS

EXPLANATION: The bill increases the \$ amount that can be recovered in damages from \$2,000 to \$10,000.

* Judiciary added civil actions against minors to the list of reasons PFD checks can be garnished.

SPONSOR: Rep. Gene Therriault

FISCAL NOTES: 0 Dept. of Law
0 H&SS, Foster Care
0 H&SS, Residential Child Care
0 Administration, Office of Public Advocacy
0 Administration, Public Defender Agency

TESTIMONY: Jane Rutherford, Dept. of Law, Civil Divisio

SENATE COMMITTEE REPORT

DATE: 3/6/95

FURTHER: Finance

DATE TURNED INTO OFFICE: _____

Judiciary Committee considered CS FOR HOUSE BILL NO. 9(FIN)

Recovery of damages from a person having legal custody of a minor when property is destroyed by the minor, and to recovery from a minor's permanent fund dividend for injury or damage caused by the minor.

and recommends:

- be replaced with S CS CS HB 9 (JUD)
- adopt previous CS ()
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:
 same title
 new title
 House Bill:
 same title
 technical change
 new: SCR# _____

SIGNING DO/PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
Mike Miller	✓				
Lynda Beer Green	✓				
		J. Ellis	X		
CHAIR: Robin Taylor	✓				

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

Courts	1/27	✓	
DOA - Public Advoc.	1/30	✓	
DOA - Risk Management	1/30	✓	
DOA - Public Defender	1/30	✓	
HSS - DFYS	1/23	✓	
HSS - DFYS - Foster Care	1/23	✓	
Law	1/23	✓	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

No. 7

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Bill Version: CSHB 9(FIN)
(H) Publish Date: 2/13/95

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

EXPENDITURES/REVENUES (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	*	*	*	*	*	*
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

FUND SOURCE (Thousands of Dollars)

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

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

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

ANALYSIS: (Attach a separate page if necessary)

* - See attached analysis.

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

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

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

Alaska Court System
Fiscal Analysis
HB 9

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

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

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

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