

HB

18

REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

MEMORANDUM

DATE: May 16, 2003

TO: Senator Fred Dyson
Chairman, Senate Health, Education, and Social Services Committee

FROM: Representative Kevin Meyer *Kevin Meyer*

RE: CS HB 18(JUD)am Parental Liability for Child's Damages
Kevin

At your earliest convenience, please schedule CS HB 18(JUD)am Parental Liability for Child's Damages for a hearing in the Senate Health, Education and Social Services Committee.

CS HB 18(JUD)am establishes the limit on recovery of property damaged by a minor at \$15,000. CS HB 18(JUD)am will allow for a person, municipal corporation, village, school district, or religious or charitable organization to recover in an amount not to exceed \$15,000 in damages from parents or legal guardians of a minor who knowingly destroys property.

CS HB 18(JUD)am was amended on the House Floor to allow for the legal guardian of a child who has been adopted after being in state custody, including foster care, to be exempt from liability.

Thank you for your consideration of this matter.

Ford
5/14/03

S CS CS HB 18 ()

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS DYSON, Bunde, Davis, Guess

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to liability for destruction of property by an unemancipated minor;
2 and providing for an effective date."

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

4 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 INTENT. It is the intent of the legislature that this Act

7 (1) promote responsibility as well as the recovery of damages;

8 (2) require an unemancipated minor who causes civil damages to participate in
9 the justice process in order to provide a better remedy and to experience a learning
10 opportunity.

11 * Sec. 2. AS 34.50.020(a) is amended to read:

12 (a) Except as provided under (d) of this section, a [A] person, municipal
13 corporation, association, village, school district, or religious or charitable organization,
14 incorporated or unincorporated, may recover damages in a civil action in an amount

1 not to exceed \$25,000 [\$10,000] and court costs from either parent or [,] both parents
2 [, OR THE LEGAL GUARDIAN] of an unemancipated minor under the age of 18
3 years who, as a result of a knowing or intentional act, destroys real or personal
4 property belonging to the person, municipal corporation, association, village, school
5 district, or religious or charitable organization. However, for purposes of this
6 subsection, recovery in damages shall be apportioned by the court between the parents
7 [OR BETWEEN THE PARENTS AND LEGAL GUARDIAN, OR BOTH,] without
8 regard to legal custody but with due consideration for the actual care and custody of
9 the minor provided by the parents [OR LEGAL GUARDIAN].

10 * Sec. 3. AS 34.50.020(c) is amended to read:

11 (c) A parent [OR, IF ANY, A LEGAL GUARDIAN] of an unemancipated
12 minor under the age of 18 years who is a runaway or missing minor is not liable under
13 (a) of this section for the acts of the minor that are committed by the minor after a
14 parent [OR, IF ANY, A LEGAL GUARDIAN] of the minor has made a report to a
15 law enforcement agency, as authorized by AS 47.10.141(a), that the minor has run
16 away or is missing. In this subsection, "runaway or missing minor" means a minor
17 who a parent [OR LEGAL GUARDIAN OF THE MINOR] reasonably believes is
18 absent from the minor's residence for the purpose of evading a parent [OR THE
19 LEGAL GUARDIAN OF THE MINOR,] or who is otherwise missing from the
20 minor's usual place of abode without the consent of a parent [OR THE LEGAL
21 GUARDIAN OF THE MINOR].

22 * Sec. 4. AS 34.50.020 is amended by adding new subsections to read:

23 (d) Subsection (a) of this section does not authorize the recovery of damages
24 from

25 (1) a legal guardian; or

26 (2) the adoptive parents of a hard-to-place child if the adoptive parents
27 are receiving, at the time the property is destroyed, financial assistance from the state
28 as a result of the adoption; in this paragraph, "hard-to-place child" has the meaning
29 given in AS 25.23.240.

30 (e) If damages are recovered in a civil action as allowed under (a) of this
31 section, the court shall require the unemancipated minor who caused the damages to



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provide a written report to the court regarding

(1) financial resources of the minor that are available for purposes of restitution;

(2) restitution the minor has made to the claimants; and

(3) what, if anything, the minor has learned from the civil justice process.

* **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. This Act applies to a civil action that accrues on or after the effective date of this Act.

* **Sec. 6.** This Act takes effect July 1, 2003.

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SCS CS HB 18 ()

Sectional Analysis

"An Act Relating to Parental Liability"

Updated: March 18, 2003

Contact: Senator Fred Dyson's office at (907) 465-2199

Section 1

Clarifies that the intent of this act is two-fold. First, the act promotes responsibility in that it allows for recovery of damages caused by intentional vandalism by a minor. Second, it requires the involvement of the unemancipated minor in the resulting civil action to provide a better remedy and a learning experience for the minor.

Section 2

Raises the limit on what can be recovered to repair or replace real or personal property knowingly or intentionally destroyed by a minor from \$10,000 to \$25,000

Section 2 & 3

Deletions of "Legal Guardian" from this entire section of existing law. (34.50.020). The reason for this deletion is to clarify that legal guardians do not take on the parental responsibility of being liable for the actions of the minors in their charge. This change makes AS 34.50.020 consistent with AS 13.26.070 that specifically states that, "A guardian of a minor... is not liable to third persons by reasons of the parental relationship for acts of the ward." This deletion does not introduce a policy change, it clarifies what has been accepted as policy.

Section 4

(d) Specifically exempts (1) legal guardians and (2) adoptive parents from being liable to pay damages.

(e) If damages are recovered from a parent, the court will require the unemancipated minor to provide a report that reveals the minor's contribution toward restitution and the minor's learning progress.

Sections 5&6 set date this act goes into effect and date for applicability.

Notes on **SCS CS HB 18 ()**

I. The core intent of hb 18 is to raise the \$10,000 limit on the amount that can be recovered from parents when a minor intentionally and knowingly destroys or damages property. This core intent is maintained in SCS CS HB 18 ()

II. The intent is expanded in the CS to ensure that adults who have the love and resources to take on parental responsibilities for children not fortunate enough to have functioning parents be protected from incurring liability for destructive actions of the children they are trying to help. Passage of this CS will clarify the following:

- 1. Legal guardians* are held harmless (Section 3)**
- 2. Adoptive parents of "hard to place" minors are held harmless. (Section 3)**
- 3. Foster parents** are held harmless in existing law: AS 34.50.020 (b) (attached).**

***This is only a "technical revision" regarding legal guardians and not a policy change, as is demonstrated in another law: AS 13.26.070 (attached).**

****Foster parents are not addressed or effected in HB 18. They are already specifically exempted from liability in AS 34.50.020(b).**

III. The chances of involving the minor in reparations are increased in the CS by a mandate that a court "require" a report from the minor. While it is not typical to involve a third party in a civil dispute, it is justifiable because of the nature of the relationship between a parent and a child. In the circumstances where this law would be applied, family assets are potentially at stake. Clearly both the parent and the minor have an interest in family assets. To reduce the burden on the court, the only mandate is to require the report. No guidance is given regarding how the report is to be used or not used; the report has no effect on the civil action; and, there is no requirement to coordination with the juvenile justice system or for anyone to follow-up with the minor. This CS would simply require one court order per application that has the potential of being tool to be used by some caring adult to steer an errant minor down the right path. I believe this provision will in fact be used to good effect both by the civil court and the juvenile justice system.

Sec. 13.26.070. Powers and duties of guardian of minor.

A guardian of a minor has the powers and responsibilities of a parent who has not been deprived of custody of a minor and unemancipated child, except that a guardian is not legally obligated to provide from the guardian's own funds for the ward **and is not liable to third persons by reason of the parental relationship for acts of the ward.** In particular, and without qualifying the foregoing, a guardian:

(1) must take reasonable care of the ward's personal effects and commence protective proceedings if necessary to protect other property of the ward;

(2) may receive money payable for the support of the ward to the ward's parent, guardian or custodian under the terms of any statutory benefit or insurance system, or any private contract, devise, trust, conservatorship or custodianship; the guardian also may receive money or property of the ward paid or delivered by virtue of AS 13.26.015 ; any sums so received shall be applied to the ward's current needs for support, care and education; the guardian must exercise due care to conserve any excess for the ward's future needs unless a conservator has been appointed for the estate of the ward, in which case excess shall be paid over at least annually to the conservator; sums so received by the guardian may not be used for compensation for the guardian's services except as approved by order of court or as determined by a duly appointed conservator other than the guardian; a guardian may institute proceedings to compel the performance by any person of a duty to support the ward or to pay sums for the welfare of the ward;

(3) may facilitate the ward's education, social, or other activities and authorize medical or other professional care, treatment, or advice; a guardian is not liable by reason of this consent for injury to the ward resulting from the negligence or acts of third persons unless it would have been illegal for a parent to have consented; a guardian may consent to the marriage or adoption of the ward;

(4) must report the condition of the ward and of the ward's estate which has been subject to the guardian's possession or control, as ordered by court on petition of any person interested in the minor's welfare or as required by court rule.

Sec. 34.50.020. Liability for destruction of property by minors.

(a) A person, municipal corporation, association, village, school district, or religious or charitable organization, incorporated or unincorporated, may recover damages in a civil action in an amount not to exceed \$10,000 and court costs from either parent, both parents, or the legal guardian of an unemancipated minor under the age of 18 years who, as a result of a knowing or intentional act, destroys real or personal property belonging to the person, municipal corporation, association, village, school district, or religious or charitable organization. However, for purposes of this subsection, recovery in damages shall be apportioned by the court between the parents or between the parents and legal guardian, or both, without regard to legal custody but with due consideration for the actual care and custody of the minor provided by the parents or legal guardian.

(b) A state agency or its agents, including a person working in or responsible for the operation of a foster, receiving, or detention home, or children's institution, is not liable for the acts of unemancipated minors in its charge or custody. A state agency or an agent of a state agency, including a nonprofit corporation that designates shelters for runaways under AS 47.10.392 - 47.10.399 and employees of or volunteers with that corporation, is not liable for the acts of a minor sheltered in a shelter for runaways, as defined in AS 47.10.399.

(c) A parent or, if any, a legal guardian of an unemancipated minor under the age of 18 years who is a runaway or missing minor is not liable under (a) of this section for the acts of the minor that are committed by the minor after a parent or, if any, a legal guardian of the minor 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. In this subsection, "runaway or missing minor" means a minor who a parent or legal guardian of the minor reasonably believes is absent from the minor's residence for the purpose of evading a parent or the legal guardian of the minor, or who is otherwise missing from the minor's usual place of abode without the consent of a parent or the legal guardian of the minor.

REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

Sponsor Statement

CS HB 18(JUD)am

“An Act relating to the liability of parents and legal guardians of minors who destroy property.”

CS HB 18(JUD)am establishes the limit on recovery of damages caused by a minor at \$15,000. CS HB 18(JUD)am will allow for a person, municipal corporation, association, village, school district, or religious or charitable organization to recover up to \$15,000 in damages from parents or guardians of a minor who knowingly destroys property. Currently, under AS 34.50.020(a), the recovery limit is \$10,000. CS HB 18(JUD)am does provide for an exemption for the legal guardian of a child who has been adopted after being in state custody, including foster care.

Traditionally, Alaska has held that parents are accountable for their children's behavior, and that parents should pay restitution for damages caused by their children. In 1995, the limit for recovery was raised from \$2,000 to \$10,000. Often, cumulative damage to a facility exceeds the \$10,000 limit, thus leaving taxpayers or organizations to bear the cost of repairs and clean up.

The large discrepancy between the \$10,000 limit and the actual cost of damages incurred to property became apparent this past summer in Anchorage. The Anchorage School District reported that minors did nearly \$750,000 in damage over the summer to facilities and schools. By raising the limit, the Anchorage School District will be able to recover more in cases that involve serious damage to property, rather than expending money earmarked for technology enhancement, textbooks, and personnel.

By increasing the limit, children are deterred from making decisions to vandalize and destroy property. This will also impose an additional duty on parents and legal guardians to exercise reasonable care, supervision, protection, and control over their child.

Last Update: May 16, 2003

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 18 (STA)
 (H) Publish Date: 3/10/2003

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title: Parental Liability BRU: Alaska Court System
 Component: Trial Courts
 Sponsor: Representative Meyer
 Requester: House State Affairs Component No.: 768

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
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 ()						
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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 (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The court system does not anticipate any fiscal impact from the passage of CSHB 18 (STA).

Prepared by: Doug Wooliver, Administrative Attorney Phone 463-4750
 Division: Alaska Court System Date/Time 3/10/03 10:50 AM
 Approved by: Stephanie Cole, Administrative Director Date 3/10/2003
 Agency: Alaska Court System

Alaska King Crab

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Anchorage Daily News

Print Page

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fires set at site of new high school

ARSON: Ceiling tiles found burning at several spots in building.

By NICOLE TSONG

Anchorage Daily News

(Published: May 12, 2003)

Anchorage police are investigating as arson several small fires set at the construction site of the new South Anchorage high school early Sunday, police said.

Sgt. Jeff Morton said a person living near the school on Elmore Road, just south of Huffman Road, reported smoke to 911 operators at 6:37 a.m. Firefighters discovered a small shed on the northwest side of the parking lot was set on fire, then saw smoke coming from the partially built building.

They found acoustic ceiling tiles burning inside the building at several spots, he said. Damage included scorched drywall and the burned construction material.

But there were no estimates Sunday on how much the damage would cost to fix, Morton said. The school is scheduled to open in fall 2004.

Morton said he had no leads on who might have set the fires and would not say how they were set.

Carol Comeau, superintendent of the Anchorage School District, said the damage could have been much worse. It wasn't nearly as bad as vandalism at the Dimond High School construction site in December 2001, which caused more than \$100,000 in damage. But she was frustrated that someone would try to destroy public property.

"This was clearly purposeful arson," she said.

The only security at the time was a locked fence around the site, though Anchorage police have had more patrols in the area, Comeau said. The district's facilities staff met just last week to talk about increasing security for all construction sites, including those of Wendler Middle School, Ptarmigan Elementary School and the high schools.

There are people "who are very mean spirited and don't care and vandalize public facilities," Comeau said. "They always seem to do it this time of year."

She said district officials today plan to discuss ways to bolster security.

Daily News reporter Nicole Tsong can be reached at ntsong@adn.com or 257-4450.

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Subject: AASB RESOLUTION SUPPORTING INCREASED LIABILITY FOR DESTRUCTION OF PROPERTY BY MINORS

Date: Thu, 20 Feb 2003 08:40:50 -0900

From: Greg Giles <ggiles@asb.org>

To: Kevin Meyer <Representative_Kevin_Meyer@legis.state.ak.us>

ASSOCIATION OF ALASKA SCHOOL BOARDS

2.21 INCREASE LIABILITY FOR DESTRUCTION OF PROPERTY BY MINORS
(Adopted Nov. 2002)

AASB encourages the Legislature to increase the maximum that may be recovered from either parent, both parents, or the legal guardian of an unemancipated minor under the age of 18 years who, as a result of a knowing or intentional act, destroys real or personal property belonging to a school district from \$10,000 to the actual amount of damages.

Rationale. Vandalism damages a school district's physical plant, has a negative impact on student learning, and demoralizes hard-working staff and students. Every dollar spent on repairing vandalism is a dollar we cannot invest in textbooks, teachers or technology.

Currently, school districts can recover a maximum of \$10,000 from either parent, both parents, or the legal guardian of an unemancipated minor under the age of 18 years who, as the result of a knowing intentional act, destroys real or personal property belonging to a school district. The current law forces taxpayers to bear the cost of vandalism even when a parent's liability insurance is otherwise available to pay the full cost.



Anchorage School District

4600 DeBarr Road
P.O. Box 196614
Anchorage, Alaska 99519-6614
(907) 742-4000

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SUPERINTENDENT

Carol Comeau

February 14, 2003

Representative Kevin Meyer
State Capitol
Juneau, AK 99801

Dear Representative Meyer:

On behalf of the Anchorage School Board and Administration, I want to commend you for sponsoring HB 18 which deletes the \$10,000 cap on vandalism caused by juveniles. This is one of our School Board's priorities and I believe it is essential to our collective efforts to protect schools and other public property from juvenile vandalism.

As I have stated many times since the Dimond High School incident in late December of 2001, I strongly believe that the offenders and their parents should be held fully accountable for restitution in recovering the \$158,000 damage done to the school under construction. The community, as well as the staff and students of Dimond High School were outraged at this completely needless and destructive act, as were the construction workers employed by Alcan General. Since the incident, Alcan General has had to not only repair all of the damage to the building and to the vehicles and equipment of the workforce, they have had to add the additional security staff in order to prevent other vandalism at the school site. These juveniles must be held fully accountable for their actions, and as a deterrent to other juveniles who might decide that there are minimum consequences for destroying public property.

The Anchorage community and taxpayers showed great faith and support for the District when the bonds were approved for the construction of this high school, the first one in over thirty years! These two juveniles were so uncaring and reckless that they decided to do all they could to destroy various parts of the building under construction. They had no concern for their own safety, or for the impact of their actions on the morale of the workforce and the community. The Anchorage Police Department devoted many hours to their investigation in developing their case which led to the successful apprehension of these juveniles; what a waste of their time and resources! It is time for the community to know that there are consequences for vandalism of public property, and that the court supports restitution for this act.

This was the first of a rash of major vandalism that occurred in the District last year. The other incidents seriously damaged Chugiak Elementary School and our Maintenance Department yard. Fortunately, the Anchorage Police Department's efforts paid off; all juveniles were apprehended. I have spent quite a bit of time in juvenile court in the past few months advocating for restitution and consequences. The parents of the Chugiak Elementary students have cooperated with the authorities

RECEIVED

FEB 24 2003

and their children have agreed to pay full restitution and perform community work service. Those students have clearly learned their lesson and I believe, are on the way to success in their lives. I cannot say that about the others who vandalized our property. Their advocates and parents have put up road block after road block in an effort to protect their clients from accepting their responsibility.

Currently the law restricts the ability of the court to impose full restitution in these cases; rather, the judge assesses how much a juvenile can pay in restitution while under the jurisdiction of the court. We feel this is intolerable and sends the wrong message to juveniles that they can get away from long-time consequences of crimes committed when they are under the age of 18, and that the records will be kept confidential. We believe that juveniles should have to sign a commitment to repay full restitution no matter how long it takes them to repay the costs of the vandalism. We believe this will reinforce the importance of parents knowing who their children are with when they are out of their parents' direct supervision.

Our community, the Anchorage Police Department, the Mayor, and our locally elected officials support this statutory change. We must do something to stop this type of juvenile crime! Please accept our thanks for your leadership on this issue. I applaud you and Senator Dyson for your efforts to change the statutes regarding juvenile crime and vandalism.

Please feel free to contact me if you would like me to testify at a hearing on this bill. I will be in Juneau during the AASB fly-in from February 22-25 and again in March and in April, and will try and meet with you to discuss this proposed legislation. I can also call in from the Legislative Information Office in Anchorage.

Sincerely yours,



Carol Comeau
Superintendent

cc School Board members
Senator Fred Dyson
Mayor George Wuerch
Assembly Chair Dick Traini
Chief of Police Walt Monegan
Lt. Gardner Cobb
Larry Wiget

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Anchorage Daily News (AK)

June 25, 2002

Section: Nation

Page: A1

Vandals cost schools \$500,000

ARRESTS: Two boys, ages 13 and 14, charged in maintenance facility rampage.

Katie Pesznecker
Anchorage Daily News

Two teenage boys were arrested late Sunday in connection with a weekend vandalism spree at the Anchorage School District's maintenance facility that racked up more than \$500,000 in damages, Anchorage police said. During the two-day rampage, the boys, ages 13 and 14, allegedly climbed behind the wheel of a John Deere tractor to ram buildings and storage sheds, police said. They destroyed roofs and boilers, ripped away chunks of walls and smashed windows.

The teens are charged with first-degree criminal mischief and resisting arrest. Police did not identify the suspects, who were taken to McLaughlin Youth Center, because they are charged in juvenile court.

"It's just so frustrating," Superintendent Carol Comeau said. "There is nothing that makes me more angry in this job than reckless, malicious vandalism. It's a real sad commentary on these young people. If I had it my way, I'd put their names on the front page of the paper."

Police in the past several days have responded to minor break-ins or vandalism reported at Rabbit Creek, Scenic Park, Homestead and Huffman elementaries, Central Middle School and East and West high schools. Damage ranged from shattered windows and busted copy machines to lewd graffiti.

The maintenance facility, at 1201 Labor St. in South Anchorage, was by far the worst hit. The complex contains offices, storage space for the district's maintenance, facilities and operations departments. Equipment on site includes vehicles and machinery the district uses for snow removal and construction and renovation projects.

Anchorage police said the boys initially broke into the facility a little after 10 p.m. Friday. They wrenched doors off and smashed windows of a dump truck, three street sweepers, two road graders and a tractor.

The boys were apparently driving around the fenced property on lawnmowers when a district employee approached them. The teenagers fled. The employee reported the incident to police, but no suspects were found.

Police said the boys showed up again late Sunday. They apparently fired up a John Deere tractor by using a lever.

The teenagers used the tractor to plow into a double-wide trailer used for storing heavy equipment. The impact caused part of the roof to collapse and obliterated the ramp to the trailer's main door.

The boys also bulldozed storage sheds in the northwest corner of the property, chewing chunks out of building walls. When it was over, the tractor's front wheels were bent at 45-degree angles.

"I'm surprised they didn't get hurt," said Stan Syta, district operations director.

Houses border the property's north side. Comeau is baffled that no one called police.

"They had to have heard breaking glass," she said. "That tractor ramming buildings -- I can't believe no one heard what was going on."

Another employee happened upon the boys and called police shortly after 10 p.m. When officers arrived, the teens bolted. Police caught the 14-year-old hiding in a nearby wooded area. The 13-year-old was later arrested at his home.

The boys admitted to Friday's vandalism at the site, police said.

The district budgets about \$250,000 a year for vandalism. Much of the damage occurs at empty schools during summer breaks. Property damaged Friday and Sunday will not be covered by the district's insurance policy, which in this case covers amounts exceeding \$1 million.

Comeau said the district will do everything in its power to see that the boys are held responsible for the damages, including a possible civil suit. State statute says that in a civil case, a school district can sue for up to \$10,000 and court costs from one or both of a minor's parents or legal guardians.

In the interim, Comeau is encouraging people who live near schools to watch out for strange activity. The district has recruited 15 volunteers this summer to live in motor homes and trailers at more than a dozen schools.

Syta said last summer the district invited a man to live in his trailer at Rabbit Creek Elementary. His presence basically erased vandalism there, Syta said.

But the family living there now didn't prevent Sunday night's window breaking. They were eating dinner when the vandalism took place on the back side of the school, Syta said.

Reporter Katie Pesznecker can be reached at kpesznecker@adn.com or 907 257-4589.

ILLUSTRATION SHOWS RECENT SCHOOL VANDALISM

Police have responded to the following Anchorage schools to investigate vandalism or possible break-ins.

- * Dimond High School - On Dec. 31, vandalism at the new school resulted in spilled paint, smashed piping and sheetrock and windows. Damage totaled \$177,000. Two boys were arrested.
- * Chugiak Elementary - On May 4 and 5, three boys reportedly broke windows, destroyed stereos, televisions and classroom globes and vandalized a car in the parking lot. Damage totalled about \$25,000. Three boys were arrested.
- * Rabbit Creek Elementary - On ??? someone pruned boards off windows on the back side of the school and broke glass. No arrests.
- * District maintenance facility - On June 21, two boys entered and damaged seven vehicles, smashed windows and drove around on lawn mowers. Police arrived after the boys fled. No arrests.
- * West High School - A passerby on June 22 called police to report fowl graffiti on the auditorium's exterior wall. No arrests.
- * Scenic Park Elementary - Security guards on June 23 found several doors propped open with rocks. There was no sign of vandalism or arrests.
- * Homestead Elementary - Police responding to the school's alarm on June 23 found kids playing behind the school. There was no sign of vandalism or arrests.
- * Huffman Elementary - Police responded to an alarm early June 23 and found a broken window and two people running through the building. The people got away. No arrests.
- * William Tyson Elementary - On June 23, an intrusion alarm sounded. No arrests.
- * District maintenance facility - Late June 23, an employee found two boys ramming vehicles and buildings with a tractor. The boys fled and were soon arrested. They admitted to Friday's vandalism also. Police estimate total damage at \$500,00.
- * East High School - At 5:50 a.m. on June 24, police caught and arrested one person who had broken in and sprayed a fire extinguisher around the school.

* Central Middle School - At 6 a.m. on June 24, police arrested a student who had broken in through a window. Police found damage to an interior window, a clock and a copy machine. No damage estimate.

Source: Anchorage School District

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Anchorage Daily News (AK)
September 24, 2002
Section: Metro

Page: B1

Schools want damage limits erased

VANDALISM: District can sue for \$10,000 under current law.

Katie Pesznecker
Anchorage Daily News

Anchorage School District officials want to erase limits that dictate the amount of money they can sue for when students vandalize school property. Current state law says the district can sue an 18-year-old culprit or a minor's parents for up to \$10,000. Sometimes that doesn't cover actual damages, Superintendent Carol Comeau said.

Members of the School Board's legislative subcommittee plan to lobby state lawmakers to do away with the cap. They want the freedom to sue for actual costs.

On Monday, the board voted unanimously to ask the Alaska Association of School Boards to make this move one of its 2002 resolutions. They want the backing of that group when time comes to persuade politicians.

Students smash windows and computers and trash Anchorage schools often enough that the district budget includes about \$250,000 a year to clean up.

But financial retribution is hampered by the \$10,000 limit. There used to be a \$2,000 ceiling on lawsuits but the Legislature increased it in 1995.

"We need to be able to recover the full cost of vandalism," Comeau said. "The current law limits recovery, and we think it's wrong because it penalizes the taxpayer."

School Board member Rita Holthouse said the subcommittee will push to change the law, whether or not the state school board association signs on.

The \$10,000 limit wasn't as noticeable with the more frequent lower-cost incidents, said Howard Trickey, one of the district's attorneys. But when kids do more than \$100,000 in damage, \$10,000 hardly helps. And the district's insurance policy applies only to damage amounts of more than \$1 million.

The most recent big-ticket vandalism came last summer when two teenagers destroyed buildings and equipment at the school maintenance facility in South Anchorage. District officials and the public were outraged.

"It looked like a tornado had been there," said Ed Conyers, then the district's maintenance director.

Vandalism at schools results mostly in small losses that quickly add up -- broken windows, gouges in

desks, busted locks.

The maintenance facility vandalism spree packed a financial wallop originally estimated by police at \$500,000. Later district officials said the sum was closer to \$100,000. It was one of the more costly attacks in recent years but not an isolated incident.

The new Dimond High School, currently under construction, sustained \$177,000 in damage last year when teenagers trashed the inside, which was just taking shape. Students broke into the then new Mirror Lake Middle School in Eagle River about five years ago and chewed through property with a forklift.

The roughly 120 employees in the maintenance department spend up to 15 percent of their time cleaning up this vandalism, Conyers said.

The district has tried to reduce the problem. Crews board up windows at more than a dozen schools during summer. Last summer, the district recruited volunteers who lived in motor homes at various schools to keep an eye out for troublemakers. Comeau has asked people who live near schools to watch for suspicious activity.

And whenever possible, the district sues.

Their legal success is mixed, Comeau said. She or other employees attend hearings, give the judge important statements on damage, and work closely with police.

"We routinely get reimbursement just from kids breaking windows," Conyers said. "That may only be \$250, but we still get it."

Reporter Katie Pesznecker can be reached at kpesznecker@adn.com or 907 257-4589.

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Anchorage Daily News (AK)
October 7, 2002
Section: Metro

Page: 85

VOICE OF THE TIMES

Commentary

School vandals should . . . Pay the price

THE ANCHORAGE School District is on the right track in seeking approval from state lawmakers to sue for actual costs when vandals damage the schools and property it manages for taxpayers.

As it stands now, the district can demand only up to \$10,000 from the parents of minors or from 18-year-olds involved in school vandalism.

That amount -- increased from \$2,000 only a few years ago -- sometimes does not begin to cover the actual damages, Superintendent Carol Comeau said. She points to last year's \$100,000 in damages at the district's school maintenance facility as an example.

The School Board has voted to ask the Alaska Association of School Boards to lobby politicians for the increase, and Comeau said she believes the effort will find favor.

"The legislators we've had contact with . . . they've been very supportive," she said. "I think this is something that will resonate with legislators."

Each year, the school district budgets \$250,000 to \$300,000 to clean up vandalism, and "that's just for maintenance and repair costs," Comeau said. "That doesn't include labor or down time." That also does not reflect repairs to items such as photocopy machines or computers, she said.

Comeau credits additional police patrols and a policy of allowing campers to stay on school grounds with helping to keep vandalism in check this summer. And keeping it in check can save taxpayers hundreds of thousands of dollars.

The district is self-insured to \$1 million, Comeau said, and then its insurance kicks in. In construction areas, such as Dimond High School -- where vandals did about \$170,000 in damage last year -- the contractor's insurance is in force and its lawyers can go after the full amount.

There is no valid reason to bar the district from seeking the amount of actual damages from vandals or their parents. In fact, such a policy could act as a deterrent and encourage parents to know where their children are and what they are doing.

"That's what it comes down to in my mind," Comeau said, "good parenting."

We agree. While 99.9 percent of the kids in Anchorage's schools are good citizens, there is no reason to allow the other .1 percent to have a free ride when they damage the district's property. They and their parents rightly should pay the full amount.

The district should have the right to collect -- in full -- on the taxpayers' behalf.

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LEGISLATIVE RESEARCH REPORT

SEPTEMBER 12, 2002



REPORT NUMBER 03.009

LIMITS OF PARENTAL LIABILITY FOR PROPERTY DAMAGE BY MINORS

PREPARED FOR REPRESENTATIVE KEVIN MEYER

BY ROGER WITHINGTON

You asked for information regarding the scope of parental liability if a minor child willfully destroys property. Specifically, you asked for information on the parental liability laws for five western states and wished to know whether any of these state laws contain graduated limits to liability.

As you know, Alaska Statute 34.50.020(a) allows for a person, municipal corporation, association, village, school district, or religious or charitable organization to recover up to \$10,000 in damages in a civil action from either parent, both parents, or the legal guardian of an unemancipated minor who intentionally destroys property belonging to the person, municipal corporation, association, village, school district, or religious or charitable organization.¹ We were unable to obtain a fifty-state summary of similar parental liability statutes that included the monetary limits to the parents of a delinquent minor. However, we believe the most current information to be a 1999 report compiled by the National Center for Juvenile Justice (NCJJ) that states that at the end of the 1998 legislative session, 34 states had statutes that made the parent of a minor liable for restitution to the victim of a delinquent act. We include NCJJ's report as Attachment A.

In addition, in 1995 this agency completed a report that addressed questions similar to yours as well as the constitutionality of parental liability laws. In Legislative Research Report 95.068, we found that 34 states (not exactly the same 34 states identified in the NCJJ report) had statutes that established parental liability for damages caused by minor children. The dollar amount of the parental liability ranged from \$1,000 to \$25,000, with some states not capping the liability amount. We include Legislative Research Report 95.068 as Attachment B.

In an effort to provide you with more current information, we reviewed the current laws of five western states and British Columbia and found that California, Hawaii, Nevada, Oregon, Washington, and British Columbia all had statutes similar to AS 34.50.020(a). Table 1 provides a summary of the statutes from each of these jurisdictions. Attachment C provides the complete statute from each state.

¹ A minor is defined as a person under the age of 18 years.

As you will see, the laws in Nevada, Oregon, and British Columbia limit liability at the same or lesser amount than does the law in Alaska. The laws in California, Hawaii, and Washington make a distinction in liability for the type of damage caused by the minor; one law in California caps liability at \$25,000, while laws in Hawaii and Washington provide for actual damages.

Table 1: Limits of Parental Liability for Property Damage by Minors			
State / Province	Statutory Citation	Maximum Financial Liability	Comments
California	Cal Civ Code § 1714.1	\$25,000	
	Cal Ed Code § 48904	\$10,000	Specifically addresses damage to school property.
Hawaii	HRS § 46-1.5	\$1,000 or actual cost to repair/replace damage.	Pertains to damage to county property.
	HRS § 577-3.5	Actual cost to repair/replace damage or community work service.	Pertains to damage caused by graffiti.
Nevada	Nev. Rev. Stat. Ann. § 41.470	\$10,000	
Oregon	ORS § 30.765	\$7,500	
Washington	Rev. Code Wash. § 4A.190	\$5,000	
	Rev. Code Wash. § 28A.635.060	Actual cost to repair/replace damage to school.	Specifically addresses damage to school property.
British Columbia	S.B.C. 2001, c. 45, s. 6	\$10,000 CND ^(a)	
Notes: (a) \$10,000 CND equals \$ 6,413.26 USD as of 9/6/2002 per XE.COM, an online currency conversion site. The URL for XE.COM is http://www.xe.com/ucc/ .			
Sources: LEXIS Law Publishing.			

I hope you find this information to be useful. Please do not hesitate to contact us if you have questions or need additional information.

Attachment A

Linda A. Szymanski, "Parental Responsibility for the Delinquent Acts of Their Children," *NCJJ Snapshot*, Volume 4, Number 7, July 1999

NCJJ Snapshot

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 Research Division of the National Council of Juvenile and Family Court Judges

Parental Responsibility for the Delinquent Acts of Their Children

Linda A. Szymanski, Esq., Director of Legal Research, NCJJ

States that have a Parental Accountability Statement in their Juvenile Code Purpose Clause



<input type="checkbox"/> No Parental Responsibility Statement in Purpose Clause	(41)
<input checked="" type="checkbox"/> Parental Responsibility Statement in Purpose Clause	(10)

Over the last fifteen years, juvenile courts have gained increasing power and authority over the parents of children who commit delinquent acts. While all states have had statutes making it illegal for parents to contribute to the delinquency of their children, a handful of states now make parents criminally liable for failing to supervise their minor who commits delinquent acts. There is a wide variety of parental responsibility laws in juvenile codes throughout the states.

For example, as of the end of the 1998 legislative session, 10 states, Alabama, Alaska, Florida, Idaho, Maryland, Nevada, North Carolina, Oregon, Texas, and Virginia, have added a parental

accountability statement in their juvenile code purpose clause.

Arkansas, California, Colorado, the District of Columbia, Florida, Idaho, Indiana, Kansas, North Carolina, Ohio, Oregon, Texas, Wisconsin, and Wyoming allow the juvenile court to order parents to attend a court-approved parental responsibility training program/parent education program.

Alaska, Mississippi, New Hampshire, New Mexico, and Wisconsin have statutes in their juvenile code that allow for public disclosure of the parent's name if his or her child commits specified serious offenses.

Eleven states, Kansas, Louisiana, Michigan, Montana, New Hampshire, North Carolina, Ohio, Pennsylvania, Texas, Virginia, and Wyoming, require parents to aid in the enforcement of court orders concerning their delinquent's rehabilitation program. Failure to aid in the enforcement of court orders can result in contempt sanctions being filed against the parent.

As of the end of the 1998 legislative session, two-thirds of the states have statutes that make the parent of a delinquent liable for restitution to the victim of the delinquent act: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Kentucky, Maryland, Michigan, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, West Virginia, Wisconsin, and Wyoming.

Thirty-nine jurisdictions currently have statutes that permit or require parents of delinquents to participate in family treatment/counseling/probation with their children: Alabama, Alaska, Arizona, Arkansas, California, Colorado, District of Columbia, Florida, Georgia, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland,

Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

In all states, the parents of a delinquent can be held liable for the costs of confinement and/or services provided to their children, such as: the child's support while in an institution, the costs of probation supervision, costs of transporting and/or treatment for delinquent minors, court costs and legal fees, and payment for alcohol and other drug abuse services.

It remains to be seen whether or not these parental accountability laws actually lead to a decrease in juvenile crime.

NCJJ Snapshot is a copyrighted publication of the National Center for Juvenile Justice. NCJJ is a non-profit organization that conducts research (statistical, legal, and applied) on a broad range of juvenile justice topics and provides technical assistance to the field.

For additional information or to request a custom analysis, contact NCJJ at 710 Fifth Avenue, Pittsburgh, PA 15219. Phone: (412) 227-8950.

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 Szymanski, L. (1999). Parental Responsibility for the Delinquent Acts of Their Children. NCJJ Snapshot, 9(7). Pittsburgh, PA: National Center for Juvenile Justice.

Attachment B

Patricia Young, "Parental Liability Laws for Damages Caused by Minor Children,"
Legislative Research Request 95.068, February 16, 1995

Legislative Research Agency

Alaska State Legislature



130 Seward Street, Suite 218
Juneau, Alaska 99801-2196

Phone: (907) 465-3991
Fax: (907) 463-3351

February 16, 1995

MEMORANDUM

TO:

FROM: Patricia Young *Pat Young*
Legislative Analyst

RE: **Parental Liability for Damages Caused by Minor Children**
Research Request 95.068

You wished to know the history behind AS 34.50.020, the law that caps at \$2,000 parents' liability for damages caused by their minor children. You also wished to know if and to what extent other states hold parents financially accountable for damages caused by their children.

In 1957, Alaska passed a statute providing that parents could be held responsible for damages maliciously and willfully caused by their minor children. Liability was capped at \$500. The cap was raised in 1967 from \$500 to the current level of \$2,000.

At least 34 states have laws addressing parental liability for damages caused by minor children. Many states, like Alaska, have traditionally held that parents are accountable for their children's behavior and that parents should pay restitution for damages caused by their children. The attached table shows caps for each state identified. As you will see, of the 34 states, eleven cap liability at \$2,000 or less and ten cap liability at \$5,000 or more. Five states do not specify a limit to parental liability. California's cap is the highest at \$25,000. These laws have been held constitutional in at least the following six states: California, Georgia, Maryland, North Carolina, Texas, and Wyoming.

I have attached copies of "Constitutional Limitations on State Power to Hold Parents Criminally Liable for the Delinquent Acts of Their Children," 44 *Vand. Law Rev.* 441 (1991) and "Parental Liability Law Upheld in California," *Youth Law News*, September-October 1993. I hope the information is helpful. Please let me know if you have questions or need more information.

Attachments

Parental Responsibility for Delinquent Acts of Children

State	Cap (\$)	Notes
Alabama	1,000	
Illinois	1,000	
Minnesota	1,000	
North Carolina	1,000	
Pennsylvania	1,000	
South Dakota	1,500	
Alaska	2,000	
Arkansas	2,000	
Missouri	2,000	
Utah	2,000	
Wyoming	2,000	
Florida	2,500	court may absolve parents of liability if it finds they have made good faith efforts
Michigan	2,500	
New York	2,500	
Wisconsin	2,500	
Indiana	3,000	
Ohio	3,000	
Colorado	3,500	court may absolve parents of liability if it finds they have made good faith efforts
New Mexico	4,000	
Connecticut	5,000	
Georgia	5,000	
Maryland	5,000	parents may be heard and present evidence on their own behalf
Massachusetts	5,000	
Washington	5,000	
Arizona	10,000	
Kentucky	10,000	
New Hampshire	10,000	
Texas	15,000	
California	25,000	cap to be adjusted every 2 years to reflect changes in cost of living
Hawaii	no cap	
Idaho	no cap	victims may be "made whole"
Montana	no cap	court may order parents to pay restitution
New Jersey	no cap	cap at \$1,000 for damage to a public transportation utility
Oklahoma	no cap	court may order parents to pay restitution

Source: NCJJ analysis of state juvenile codes in the Automated Juvenile Law Archive, current as of the end of the 1993 legislative session; NCSL annual state summaries of Children, Youth and Family Issues; and Legislative Research Unit Research Response, "Laws on Parental Responsibility for Child's Acts," File 10-419, September 9, 1992.

Prepared by the Legislative Research Agency, February 1995 (95.068)

SENATE COMMITTEE REPORT

DATE: 5/16/03

FURTHER:

DATE TURNED IN TO OFFICE: 5.16.03

Health, Education & Social Services Committee considered CS FOR HOUSE BILL NO. 18(JUD) am

HB 18 PARENTAL LIABILITY FOR CHILD'S DAMAGE

"An Act relating to the liability of parents and legal guardians of minors who destroy property."

and recommends:

- be replaced with S CS CS HB 18 (HES)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
CRT	3/10		X	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:		DO PASS	DO NOT PASS	NO REC	AMEND
Green	<i>[Signature]</i>	✓			
Gyess	<i>[Signature]</i>	✓			
Davis	<i>[Signature]</i>	✓			
Dyson	CHAIR: <i>[Signature]</i>	✓			