

SB

2



SENATOR FRED DYSON

SB 2

Sponsor Statement

"An Act relating to Parental Liability"

Updated: February 22, 2003

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

Last September Anchorage School District went on record that they want the legislature to erase limits that limit the amount of money they can sue for when students vandalize school property. Current state law limits recovery to not exceed \$10,000, an amount that too often does not cover actual damages. One vandalism spree last summer resulted in damages well over \$100,000 and this is unfortunately not an isolated event. Anchorage School District budgets approximately \$250,000 per year to clean up smashed computers, windows, and other school property.

The Alaska Association of School Boards (AASB) recently passed Resolution 2.21 that encourages the legislature to remove the cap to allow recovery of actual cost of intentional vandalism. The 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."

SB 2 proposes a simple change to do exactly what the Anchorage School District and the AASB recommend. Foster parents will remain immune from the effects of this change because foster children are wards of the State. I anticipate adding an amendment that will protect caring parents who choose to adopt children who can be identified as potentially "high risk".

I anticipate discussion on whether some cap is a rational option to no cap. The question here is whether there is any legitimate governmental role to take the ultimate responsibility for a minor's action. It seems to me that the government should never take parental responsibility unless it is absolutely necessary in order to protect the best interests of the child. Four or five other states have no limits on parental liability.

SENATE BILL NO. 2
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY SENATORS DYSON, Bunde, Davis, Guess

Introduced: 1/21/03

Referred: Health, Education and Social Services, Judiciary

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to recovery of civil damages from the parents or legal guardian of a
2 minor; and providing for an effective date."

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

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

5 (a) A person, municipal corporation, association, village, school district, or
6 religious or charitable organization, incorporated or unincorporated, may recover
7 damages in a civil action [IN AN AMOUNT NOT TO EXCEED \$10,000] and court
8 costs from either parent, both parents, or the legal guardian of an unemancipated
9 minor under the age of 18 years who, as a result of a knowing or intentional act,
10 destroys real or personal property belonging to the person, municipal corporation,
11 association, village, school district, or religious or charitable organization. However,
12 for purposes of this subsection, recovery in damages shall be apportioned by the court
13 between the parents or between the parents and legal guardian, or both, without regard
14 to legal custody but with due consideration for the actual care and custody of the

1 minor provided by the parents or legal guardian.

2 * Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

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

6 * Sec. 3. This Act takes effect July 1, 2003.

THE
FOLLOWING
DOCUMENT(S)
ARE
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FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 2
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title Parent Liability for Damage by Child BRU Community Assist & Econ Dev. (405)
 Component Community & Business
 Sponsor Senator Dyson Development
 Requester Senate Health Education & Social Services Component No. 2486

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)

This bill has no fiscal impacts to the operations of this department.

Prepared by: Gene Kane, Director Phone 907-269-4578
 Division Community & Business Development Date/Time 2/21/03 6:20 PM
 Approved by: Edgar Blatchford, Commissioner Date 2/21/2003
 Agency Department of Community & Economic Development

Anchorage Daily News
Date: 9/24/02

Schools want damage limits erased

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 impact 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."

ALASKA ASSOCIATION OF SCHOOL BOARDS

RESOLUTION 2.21 INCREASE LIABILITY FOR DESTRUCTION OF PROPERTY BY MINORS

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. Adopted 2002 (Sunset: Nov. 2007)

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 1/21/03

FURTHER: Judiciary

Date of 5-Day Notice: 2-20-03
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: 2-24-03

Health, Education and Social Services Committee considered

SENATE BILL NO. 2

SB 2 PARENT LIABILITY FOR DAMAGE BY CHILD

"An Act relating to recovery of civil damages from the parents or legal guardian of a minor; and providing for an effective date."

and recommends:

be replaced with _____ CS _____ (_____)

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#
CED	2/21	1	✓	1

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

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