

SB

2

Notes on **CSSB 2 () 23-LS0079|W:**

I. The core intent of SB 2 is to remove 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 cssb 2 () 23-LS0079|w.

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 of |W)**
- 2. Adoptive parents of "hard to place" minors are held harmless. (Section 3 of |W)**
- 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 CSSB 2. 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.

CSSB 2 () 23-LS0079/W

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

Deletes the \$10,000 limit on the amount that can be recovered to repair or replace real or personal property knowingly or intentionally destroyed by a minor. (Page 2, Line 1).

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.

23-LS0079W
Ford
4/2/03

CS FOR SENATE BILL NO. 2()

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

1 AMOUNT NOT TO EXCEED \$10,000] and court costs from either parent or [,] both
2 parents [, OR THE LEGAL GUARDIAN] of an unemancipated minor under the age
3 of 18 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

1 provide a written report to the court regarding
2 (1) financial resources of the minor that are available for purposes of
3 restitution;
4 (2) restitution the minor has made to the claimants; and
5 (3) what, if anything, the minor has learned from the civil justice
6 process.

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

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

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

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.

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.

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.

CSSB 2 () 23-LS0079|S

Sectional Analysis

"An Act Relating to Parental Liability"

Updated: March 18, 2003

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

Section 1

(a) Deletes the \$10,000 limit on the amount that can be recovered to repair or replace real or personal property knowingly or intentionally destroyed by a minor.

Section 2

(c) (and Section 1) Deletions of "Legal Guardian" from this entire section of law. (34.50.020). The reason for this deletion is to remove legal guardians from the increased liability to parents that results from the elimination of the \$10,000 limit in Section 1. This change makes AS 34.50.020 consistent in principle 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 change is also consistent with the policies of DFYS that carries liability insurance to cover foster parents for "damage caused by the child to someone else's property or person."

Section 3

(d)(1) (A) Specifies that legal guardians are held harmless

(B) Specifies that parents that adopt a hard to place child are held harmless.

(d)(2) Recovery of damages is not allowed unless a judgment has been obtained against the minor. This means the assets of the minor, including the permanent fund dividend, must be put on the line to pay for damages before the assets of the minor's parents.

Sections 4 & 5 set date this act goes into effect and date for applicability.

23-LS0079\S
Ford
3/18/03

CS FOR SENATE BILL NO. 2()
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 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) Except as provided under (d) of this section. a [A] person, municipal
6 corporation, association, village, school district, or religious or charitable organization,
7 incorporated or unincorporated, may recover damages in a civil action [IN AN
8 AMOUNT NOT TO EXCEED \$10,000] and court costs from either parent or [,] both
9 parents [, OR THE LEGAL GUARDIAN] of an unemancipated minor under the age
10 of 18 years who, as a result of a knowing or intentional act, destroys real or personal
11 property belonging to the person, municipal corporation, association, village, school
12 district, or religious or charitable organization. However, for purposes of this
13 subsection, recovery in damages shall be apportioned by the court between the parents
14 [OR BETWEEN THE PARENTS AND LEGAL GUARDIAN, OR BOTH,] without

1 regard to legal custody but with due consideration for the actual care and custody of
2 the minor provided by the parents [OR LEGAL GUARDIAN].

3 * Sec. 2. AS 34.50.020(c) is amended to read:

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

15 * Sec. 3. AS 34.50.020 is amended by adding a new subsection to read:

16 (d) Subsection (a) of this section does not

17 (1) authorize the recovery of damages from

18 (A) a legal guardian; or

19 (B) the adoptive parents of a hard-to-place child if the adoptive
20 parents are receiving financial assistance from the state as a result of the
21 adoption; in this subparagraph, "hard-to-place child" has the meaning given in
22 AS 25.23.240; or

23 (2) allow recovery of damages in a civil action unless the person
24 bringing the civil action has first obtained a judgment against the unemancipated
25 minor for the damages described under (a) of this section.

26 * Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to
27 read:

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

30 * Sec. 5. This Act takes effect July 1, 2003.

Note on **CSSB 2 () 23-LS0079 |S:**

The core intent of SB 2 is to remove 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 cssb 2 () 23-LS0079 |s.

The intent expanded 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. Clarification that legal guardians are held harmless (Section 3 of |S)*
- 2. Adoptive parents of hard to place minors are held harmless. (Section 3 of |S)*
- 3. Foster parents are held harmless (existing law: AS 34.50.020 (b)) (attached).*

This is a "clarification" for legal guardians and not a policy change, as is reflected in AS 13.26.070 (attached).

This is a "clarification" for adoptive parents of hard to place children because this CS clearly states (new language) what has been DFYS policy.

Foster parents are not addressed in this CSSB 2. They are already specifically exempted from liability in AS 34.50.020(b).

The CS also includes the added intent to require a minor to be the first in line to pay for damages before damages can be sought from parents. (This has nothing to do with foster parents, legal guardians, or the special adoptive parents) (Section 3, (d) (2) of |S).

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.

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(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.



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

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23-LS0079\H
Ford
3/6/03

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TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

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

A BILL

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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 unincorporated¹, may recover
7 damages in a civil action [IN AN AMOUNT NOT TO EXCEED \$10,000] and court
8 costs from either parent or [,] both parents [, OR THE LEGAL GUARDIAN] of an
9 unemancipated minor under the age of 18 years who, as a result of a knowing or
10 intentional act, destroys real or personal property belonging to the person, municipal
11 corporation, association, village, school district, or religious or charitable organization.
12 However, for purposes of this subsection, recovery in damages shall be apportioned by
13 the court between the parents [OR BETWEEN THE PARENTS AND LEGAL
14 GUARDIAN, OR BOTH,] without regard to legal custody but with due consideration

1 for the actual care and custody of the minor provided by the parents [OR LEGAL
2 GUARDIAN].

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

15 * Sec. 3. AS 34.50.020 is amended by adding a new subsection to read:

16 (d) In this section, "parent" or "parents" does not include a legal guardian.

17 * Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

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

21 * Sec. 5. This Act takes effect July 1, 2003.

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."

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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.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 2
(S) Publish Date: 2/26/03

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 Development
Sponsor Senator Dyson
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, Acting Director Phone 907-269-4578
Division Community & Business Development Date/Time 2/24/03 4:10 PM
Approved by: Edgar Blatchford, Commissioner Date 2/24/2003
Agency Department of Community & Economic Development

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)

Blank CS SB 2

March 17, 2003

Senate Judiciary:

The Core purpose of SB2 is to remove the \$10,000 limit on the amount that can be recovered from the parents of a minor when the minor has intentionally destroyed property.

There has been some discussion that it may be more appropriate to raise the cap as opposed to removing it altogether. At this point, the Sponsor is unwilling to agree to raising the cap. The foundational policy issue at stake is whether parents have the right and responsibility for controlling the actions of their children. If we remove or limit the responsibility for the actions of a minor, we are in effect usurping a basic parental responsibility. If the state doesn't in turn take on that fiscal responsibility, the cost of replacing or repairing destroyed property is forced onto the victim or the taxpayers of Alaska. If the State does take the fiscal responsibility, the incentive for proper care of children is removed.

- Please keep in mind that no one will starve or lose their home because of this law. We have good bankruptcy protection laws that allow the retention of home, transportation, and tools of the trade. It is true that it will be more risky to raise uncontrolled children, but there are other laws to prevent total ruination.
- Just because the limit is removed does not mean that the judge and defense attorney cannot negotiate a less than 100% recovery of damages. If there are mitigating circumstances acceptable to the parties involved, any settlement could be agreed upon.

Reason for the CS:

- Fixes inconsistency between AS 13.26.070 (attached) and AS 34.50.020 (attached).
- CSSB 2 (), version 23-LS0079\I changes the title 34 law to be consistent with the title 13 law.
- This reflects the way the department is doing business. The State carries liability insurance to protect foster families for "damage caused by the child to someone else's property or person" (from page 25 of the "Alaska Foster Parent Handbook") (attached).

Reason for the proposed amendment:

- Several Senators pointed out that the child is not being held responsible in this law. Legal Services has advised me that there is no law that prevents anyone from pursuing the assets of a minor. Any victim can currently get a judgment attached to a minors Permanent fund dividend or any of his or her assets. This is not often done --- presumably because of the relatively small annual revenue source and the extra work of having it renewed every 5 years as required by law... Amendment 23-LS0079\I.1 would require a victim to first obtain a judgment against the minor before pursuing the parent's assets.

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.

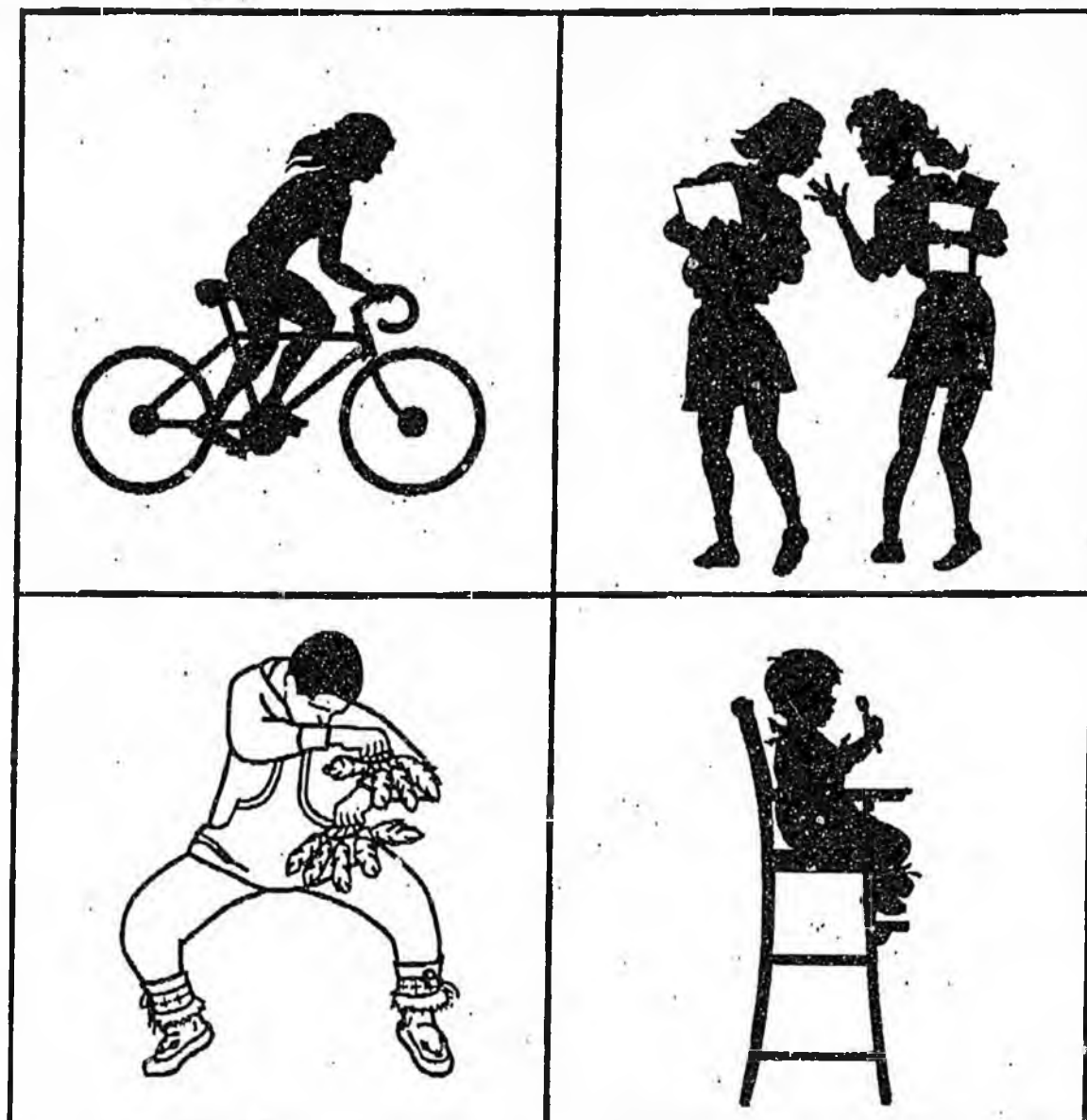
Sec. 34.50.020. Liability for destruction of property by minors.

(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.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES



Alaska Foster Parent Handbook

**Division of Family and Youth Services
Department of Health and Social Services
State of Alaska**

***Written By The Alaska Foster Parent Training Center
Updated August 1999***

Other Financial Considerations...

Income Tax Of The Foster Parent

The payment you receive for providing regular foster care is considered reimbursement for expenses incurred in providing care for the children in your home. Special increased payments for children requiring extra care are usually also considered as reimbursement. However, if your home is a specialized stand-by emergency home that receives a payment incentive to keep beds available, the incentive payment or stipend is considered taxable income. The foster care payment you receive for the actual children who stay in your home is not taxable. Contact your nearest Internal Revenue Service (IRS) for more information on what portions, if any, of foster care payment must be reported as income when you file your federal income tax return. Refer to **IRS Publication 17** under the section for Dependents in Chapter 3.

Liability Insurance

Liability coverage is provided for all DFYS foster families through the Alaska Department of Administration, Division of Risk Management. This coverage is designed for legal actions brought against the foster parents because of accidental injury to the child or damage caused by the child to someone else's property or person. This coverage is in effect during any time that you are providing foster care.

State liability protection is extended to a foster parent for allowing a foster child's participation in a risk activity that is not usual for the community if written permission is obtained from the child's parent or guardian or from the division.

Alaska Permanent Fund Dividend Check

The placement worker is responsible for applying for the foster child's Alaska Permanent Fund Dividend Check for every year the child is in care. The money will be held in trust for the child until the child emancipates from foster care or until custody is returned to the birth parents or to a permanent placement where the child is not in division custody.

Child Support Enforcement

When a child comes into care of the state, whether through public assistance or foster care, DFYS is required to contact the State of Alaska Child Support Enforcement Division. Child support will open a file and contact the birth parents for child support contributing to the care of a child. If child support is paid by the parents of a child in foster care, the money goes to the state to help cover the costs during the time the child is in out-of-home care.

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR DYSON

TO: CSSB 2(), Draft Version "I"

1 Page 2, line 16, following "not":

2 Insert "(1)"

3

4 Page 2, line 18:

5 Delete "(1)"

6 Insert "(A)"

7

8 Page 2, line 19:

9 Delete "(2)"

10 Insert "(B)"

11

12 Page 2, line 20, following "adoption":

13 Insert "; or

14 (2) allow recovery of damages in a civil action unless the person
15 bringing the civil action has first obtained a judgment against the unemancipated
16 minor for the damages described under (a) of this section"

1 regard to legal custody but with due consideration for the actual care and custody of
2 the minor provided by the parents [OR LEGAL GUARDIAN].

3 * Sec. 2. AS 34.50.020(c) is amended to read:

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

15 * Sec. 3. AS 34.50.020 is amended by adding a new subsection to read:

16 (d) Subsection (a) of this section does not ⁽¹⁾ authorize the recovery of damages
17 from
18 ~~(A)~~ a legal guardian; or
19 ~~(B)~~ the adoptive parents of an unemancipated minor if the adoptive
20 parents are receiving financial assistance from the state as a result of the adoption.

21 * Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to
22 read:

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

25 * Sec. 5. This Act takes effect July 1, 2003.

→ (2) allow recovery of damages in civil
action unless the person bringing the
civil action has first obtained a judgement
against the unemancipated minor for
the damages described under (a) of this
section.

CS FOR SENATE BILL NO. 2()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

AMENDED

Offered:
Referred:

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

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) Except as provided under (d) of this section, a [A] person, municipal
6 corporation, association, village, school district, or religious or charitable organization,
7 incorporated or unincorporated, may recover damages in a civil action [IN AN
8 AMOUNT NOT TO EXCEED \$10,000] and court costs from either parent or [,] both
9 parents [, OR THE LEGAL GUARDIAN] of an unemancipated minor under the age
10 of 18 years who, as a result of a knowing or intentional act, destroys real or personal
11 property belonging to the person, municipal corporation, association, village, school
12 district, or religious or charitable organization. However, for purposes of this
13 subsection, recovery in damages shall be apportioned by the court between the parents
14 [OR BETWEEN THE PARENTS AND LEGAL GUARDIAN, OR BOTH,] without