

**SB**

**10**

# SENATE COMMITTEE REPORT

DATE: 4/12/05

FURTHER:

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Judiciary Committee considered

SENATE BILL NO. 10

## SB 10 PARENTAL LIABILITY FOR CHILD'S DAMAGE

"An Act relating to liability for destruction of property by unemancipated minors; 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

**CS Senate Bill:**  
 Same Title  
 New Title

**SCS House Bill:**  
 Same Title  
 Technical Title Change  
 New Title w/ SCR # \_\_\_\_\_


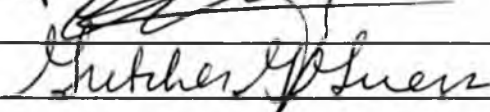
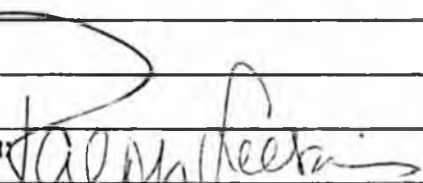
**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
			X	
	X			
CHAIR: 	✓			

24-LS0115K  
Cook  
2/13/06

**CS FOR SENATE BILL NO. 10(JUD)**

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

**TWENTY-FOURTH LEGISLATURE - SECOND SESSION**

**BY THE SENATE JUDICIARY COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): SENATORS GUESS AND DYSON, Ellis, Bunde**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to civil liability for damage to or destruction of property by minors;  
2 relating to court revocation of a minor's privilege to drive; relating to restitution for  
3 certain acts of minors; and amending Rule 60, Alaska Rules of Civil Procedure."

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

5 \* **Section 1.** AS 04.16.050(d) is amended to read:

6 (d) A person is guilty of habitual minor consuming or in possession or control  
7 if the person was placed on probation under (c) of this section, or has been previously  
8 convicted twice, and the person violates (a) of this section. Habitual minor consuming  
9 or in possession or control is a class B misdemeanor. Upon conviction, the court may  
10 impose an appropriate period of imprisonment and fine and place the person on  
11 probation under (e) of this section and shall

12 (1) impose at least 96 hours of community work;

13 (2) revoke the person's driver's license for a period of not less than  
14 six months but not to exceed one year;

1 (3) within five working days, notify the agency responsible for the  
2 administration of motor vehicle laws of the revocation; and

3 (4) take possession of the person's driver's license.

4 \* Sec. 2. AS 28.15.185(a) is amended to read:

5 (a) A person is subject to revocation, under (b) of this section, of the person's  
6 driver's license or permit, privilege to drive, or privilege to obtain a license if the  
7 person

8 (1) is at least 13 years of age but not yet 21 years of age and is  
9 convicted of or is adjudicated a delinquent minor by a court for misconduct involving  
10 a controlled substance under AS 11.71 or violation of a municipal ordinance with  
11 substantially similar elements; or

12 (2) is at least 13 years of age but not yet 18 years of age and is  
13 convicted of or is adjudicated a delinquent minor by a court for a misdemeanor,  
14 felony, [AN OFFENSE INVOLVING THE ILLEGAL USE OR POSSESSION OF A  
15 FIREARM THAT IS PUNISHABLE UNDER AS 11] or violation of a municipal  
16 ordinance with elements that are substantially similar to those of a misdemeanor or  
17 felony [ELEMENTS].

18 \* Sec. 3. AS 28.15.185(b) is amended to read:

19 (b) The court shall impose the revocation for an offense described in (a) of this  
20 section as follows:

21 (1) except as provided in AS 04.16.050(d), for a first conviction or  
22 adjudication when the conviction or adjudication is for a misdemeanor or  
23 violation of an ordinance with substantially similar elements, the revocation may  
24 be for a period not to exceed 90 days;

25 (2) for a second or subsequent conviction or adjudication when the  
26 second or subsequent conviction or adjudication is for a misdemeanor or  
27 violation of an ordinance with substantially similar elements, the revocation may  
28 be for a period not to exceed one year;

29 (3) for a first conviction or adjudication when the conviction or  
30 adjudication is for a felony or violation of an ordinance with substantially similar  
31 elements, the revocation may be for a period not to exceed 180 days;

1                   (4) for a second or subsequent conviction or adjudication when the  
2                   second or subsequent conviction or adjudication is for a felony or violation of an  
3                   ordinance with substantially similar elements, the revocation may be for a period  
4                   not to exceed two years or until the person reaches 18 years of age, whichever is  
5                   longer.

6 \* Sec. 4. AS 28.15.201(a) is amended to read:

7                   (a) A court of competent jurisdiction revoking a person's driver's license,  
8                   privilege to drive, or privilege to obtain a license under AS 28.15.181(b) or  
9                   28.15.185(a) may, if the person is at least 16 years of age and for good cause,  
10                  impose limitations upon the driver's license of a person that will enable the person to  
11                  earn a livelihood without excessive risk or danger to the public. The court may also  
12                  impose limitations on the driver's license of a person who is under 18 years of age  
13                  that will enable the person to satisfy conditions of probation without excessive  
14                  risk or danger to the public. A limitation may not be placed upon a driver's license  
15                  until after a review has been made of the person's driving record and other relevant  
16                  information, and a limitation may not be imposed when a statute specifically prohibits  
17                  the limitation of a license for a violation of its provisions.

18 \* Sec. 5. AS 34.50.020(a) is amended to read:

19                  (a) Except as provided under [(d) AND] (e) of this section, a person,  
20                  including a governmental [MUNICIPAL CORPORATION, ASSOCIATION,  
21                  VILLAGE, SCHOOL DISTRICT, OR RELIGIOUS OR CHARITABLE]  
22                  organization, [INCORPORATED OR UNINCORPORATED,] may recover damages  
23                  in a civil action [IN AN AMOUNT NOT TO EXCEED \$15,000] and court costs from  
24                  [EITHER PARENT OR BOTH PARENTS OF] an unemancipated minor [UNDER  
25                  THE AGE OF 18 YEARS] who, as a result of a knowing or intentional act, damages  
26                  or destroys real or personal property belonging to the person. If the minor has a  
27                  parent, damages and court costs may also be recovered from either parent or  
28                  both parents [, MUNICIPAL CORPORATION, ASSOCIATION, VILLAGE,  
29                  SCHOOL DISTRICT, OR RELIGIOUS OR CHARITABLE ORGANIZATION].  
30                  However, for purposes of this subsection, recovery of that portion of [IN] damages  
31                  for which parents are liable shall be apportioned by the court between the parents

1 without regard to legal custody but with due consideration for the actual care and  
2 custody of the minor provided by the parents. The parent or parents are liable for  
3 that portion of damages that exceed \$5,000, adjusted under this subsection.  
4 However, the total amount of parental liability for dan ges under this subsection  
5 may not exceed \$15,000, adjusted under this subsection. The minor is liable for  
6 that portion of the total damages for which the parent or parents are not liable. If  
7 the unemancipated minor does not have a parent, the minor is not liable for that  
8 portion of damages that exceeds \$5,000, adjusted under this subsection. However,  
9 the total amount of damages for which the minor is not liable may not exceed  
10 \$15,000, adjusted under this subsection. Monetary amounts in this subsection  
11 shall be adjusted according to and to the extent of changes in the Consumer Price  
12 Index for all urban consumers for the Anchorage metropolitan area compiled by  
13 the Bureau of Labor Statistics, United States Department of Labor (the index).  
14 The index for January of 2006 is the reference base index.

15 \* Sec. 6. AS 34.50.020(b) is repealed and reenacted to read:

16 (b) The state is liable, to the same extent a parent is liable under (a) of this  
17 section, for an act of an unemancipated minor committed while in the legal custody of  
18 the state, except that the state is not liable if the act is committed while the minor has  
19 run away from state custody, is missing from state custody, or has been placed by the  
20 state into the physical custody of a parent of the minor. If the minor has been placed  
21 by the state into the physical custody of a parent, the parent is liable under (a) of this  
22 section for an act committed during that placement. To the extent that the state is  
23 liable under this subsection, a parent is not liable under (a) of this section.

24 \* Sec. 7. AS 34.50.020 is amended by adding new subsections to read:

25 (g) The court may order an individual who is liable for damages under (a) of  
26 this section to apply for one or more permanent fund dividends. The court shall set a  
27 payment schedule for each individual liable for damages that is fair and takes into  
28 account each individual's ability to make payments. The schedule must separately  
29 address payments the minor may have to make after reaching 18 years of age.

30 (h) A court may modify the payment schedule set under (g) of this section if  
31 the court determines that a change in the circumstances of a party to the original action

1 requires the modification. If a party to the original action opposes the modification of  
2 the payment schedule and the modification is granted, the court shall enter on the  
3 record its reasons for the modification.

4 \* Sec. 8. AS 43.23.065(b) is amended to read:

5 (b) An exemption is not available under this section for permanent fund  
6 dividends taken to satisfy

7 (1) child support obligations required by court order or decision of the  
8 child support services agency under AS 25.27.140 - 25.27.220;

9 (2) court ordered restitution under AS 12.55.045 - 12.55.051,  
10 12.55.100, or AS 47.12.120(b)(4) or (5);

11 (3) claims on defaulted education loans under AS 43.23.067;

12 (4) court ordered fines;

13 (5) writs of execution under AS 09.35 of a judgment that is entered

14 (A) against a minor in a civil action to recover damages and  
15 court costs;

16 (B) under AS 34.50.020 against an individual for damages  
17 resulting from a knowing or intentional act [THE PARENT, PARENTS,  
18 OR LEGAL GUARDIAN] of an unemancipated minor;

19 (6) a debt owed by an eligible individual to an agency of the state,  
20 including the University of Alaska, unless the debt is contested and an appeal is  
21 pending, or the time limit for filing an appeal has not expired;

22 (7) a debt owed to a person for a program for the rehabilitation of  
23 perpetrators of domestic violence required under AS 12.55.101, AS 18.66.100(c)(15),  
24 AS 25.20.061(3), or AS 33.16.150(f)(2).

25 \* Sec. 9. AS 47.12.060(b) is amended to read:

26 (b) When the department or the entity selected by it decides to make an  
27 informal adjustment of a matter under (a)(2) of this section, that informal adjustment

28 (1) must be made with the agreement or consent of the minor and the  
29 minor's parents or guardian to the terms and conditions of the adjustment;

30 (2) must give the minor's foster parent an opportunity to be heard  
31 before the informal adjustment is made;

1 (3) for a crime against a person, must include notice that informal  
2 action to adjust a matter is not successfully completed unless, among other factors that  
3 the department or the entity selected by it considers, as to the victim of the act of the  
4 minor that is the basis of the delinquency allegation, the minor pays restitution in the  
5 amount set by the department or the entity selected by it or agrees as a term or  
6 condition set by the department or the entity selected by it to pay the restitution;

7 (4) for a violation of habitual minor consuming or in possession or  
8 control under AS 04.16.050(d), must include an agreement that the minor perform 96  
9 hours of community work, provide that the minor's driver's license or permit, privilege  
10 to drive, or privilege to obtain a license be revoked for six months unless  
11 AS 28.15.185(b)(2) applies, and provide that the driver's license or permit, privilege  
12 to drive, or privilege to obtain a license be revoked for an additional six months if the  
13 informal adjustment is not successful because the minor has failed to perform  
14 community work as ordered, or has failed to submit to evaluation or successfully  
15 complete the education or treatment recommended; the department or an entity  
16 selected by the department shall notify the agency responsible for issuing driver's  
17 licenses of an informal adjustment under this paragraph or of an unsuccessful  
18 adjustment described in this paragraph;

19 (5) of an offense described in AS 28.15.185(a) [AS 28.15.185(a)(1)]  
20 must include an agreement that the minor's driver's license or permit, privilege to  
21 drive, or privilege to obtain a license be revoked as provided in AS 28.15.185(b); the  
22 department or an entity selected by the department shall notify the agency responsible  
23 for issuing driver's licenses of an informal adjustment under this paragraph;

24 (6) for a matter not subject to (3) of this subsection, must provide  
25 notice that informal action to adjust the matter is not successfully completed  
26 unless, among other factors that the department or entity selected by it considers,  
27 restitution is paid as required under (c) - (g) of this section.

28 \* Sec. 10. AS 47.12.060 is amended by adding new subsections to read:

29 (c) An informal action subject to (b)(6) of this section must include restitution  
30 for damages resulting from the act of the minor that is the basis of the delinquency  
31 allegation, including restitution to the victim unless the restitution is expressly waived

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by the victim. In determining the amount of restitution, the department or the entity selected by it may not consider the ability to pay of the minor or a parent of the minor. In determining the amount and method of payment of restitution, the department or the entity selected by it shall take into account the

(1) public policy that favors requiring compensation for damages and injury that results from criminal acts;

(2) financial burden placed on the victim and those who provide services to the victim and other persons injured by the criminal conduct of the minor;

(3) amount and type of restitution that has already been made for the act that is the basis of the delinquency allegation.

(d) In an informal action subject to (b)(6) of this section, if the minor was in the legal custody of the minor's parent or parents when the act of the minor that is the basis of the delinquency allegation was committed, the minor's parent or parents are responsible for that portion of the restitution that exceeds \$5,000, as adjusted under this subsection. However, the total amount of parental responsibility for restitution under this subsection may not exceed \$15,000, as adjusted under this subsection. If the minor has two parents, that portion of the amount for which the parents are liable shall be apportioned between the parents without regard to legal custody but with due consideration for the actual care and custody of the minor provided by each parent. The minor is responsible for that portion of the total restitution for which the parent or parents are not responsible under this subsection. If the minor does not have a parent, the minor is not responsible for that portion of restitution that exceeds \$5,000, adjusted under this subsection. However, the total amount of restitution for which the minor is not responsible may not exceed \$15,000, adjusted under this subsection. Monetary amounts in this subsection shall be adjusted according to and to the extent of changes in the Consumer Price Index for all urban consumers for the Anchorage metropolitan area compiled by the Bureau of Labor Statistics, United States Department of Labor (the index). The index for January of 2006 is the reference base index. The state is responsible for restitution, to the same extent a parent with legal custody is responsible for restitution under this subsection, for an act of a minor committed while in the legal custody of the state, except that the state is not responsible if the act is committed

1 while the minor has run away from state custody, is missing from state custody, or has  
2 been placed by the state into the physical custody of a parent of the minor. If the minor  
3 has been placed by the state into the physical custody of a parent, the parent is  
4 responsible for restitution for an act committed during that placement to the same  
5 extent as a parent with legal custody.

6 (e) In an informal action subject to (b)(6) of this section, the department or the  
7 entity selected by it shall set a payment schedule for each individual responsible for  
8 restitution that is fair and takes into account each individual's ability to make  
9 payments. The schedule must provide for payments adequate to fulfill the total  
10 restitution amount before the minor reaches 18 years of age. The department or the  
11 entity selected by it may modify the payment schedule if it determines that a change in  
12 the circumstances of an individual responsible for the restitution requires the  
13 modification. The department or the entity selected by it may require an individual  
14 who is responsible for restitution to agree to apply for one or more permanent fund  
15 dividends.

16 (f) In an informal action subject to (b)(6) of this section, a parent is not  
17 responsible for restitution required as a result of the acts of a runaway or missing  
18 minor that are committed after a parent of the minor has made a report to a law  
19 enforcement agency, as authorized by AS 47.10.141(a), that the minor has run away or  
20 is missing. In this subsection, "runaway or missing minor" means a minor who a  
21 parent reasonably believes is absent from the minor's residence for the purpose of  
22 evading a parent or who is otherwise missing from the minor's usual place of abode  
23 without the consent of a parent.

24 (g) In an informal action subject to (b)(6) of this section, the recovery of  
25 restitution payments is not authorized

26 (1) from a legal guardian other than a parent;

27 (2) except as provided in (d) of this section, from a person, other than  
28 the minor's parent, with temporary or permanent legal custody of the minor when the  
29 minor committed the act that is the basis of the delinquency allegation; or

30 (3) from an adoptive parent of the minor as a hard-to-place child if, at  
31 the time the minor committed the act that is the basis of the delinquency allegation, the

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adoptive parent was receiving financial assistance from the state as a result of the adoption; in this paragraph, "hard-to-place child" has the meaning given in AS 25.23.240.

\* Sec. 11. AS 47.12.120(b) is amended to read:

(b) If the minor is not subject to (j) of this section and the court finds that the minor is delinquent, it shall

(1) order the minor committed to the department for a period of time not to exceed two years or in any event extend past the day the minor becomes 19 years of age, except that the department may petition for and the court may grant in a hearing (A) two-year extensions of commitment that do not extend beyond the minor's 19th birthday if the extension is in the best interests of the minor and the public; and (B) an additional one-year period of supervision past age 19 if continued supervision is in the best interests of the person and the person consents to it; the department shall place the minor in the juvenile facility that the department considers appropriate and that may include a juvenile correctional school, juvenile work camp, treatment facility, detention home, or detention facility; the minor may be released from placement or detention and placed on probation on order of the court and may also be released by the department, in its discretion, under AS 47.12.260;

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

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

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

(3) order the minor committed to the custody of the department and

1 placed on probation, to be supervised by the department and released to the minor's  
2 parents, guardian, other suitable person, or suitable nondetention setting such as with a  
3 relative or in a foster home or residential child care facility, whichever the department  
4 considers appropriate to implement the treatment plan of the predisposition report; if  
5 the court orders the minor placed on probation, it may specify the terms and conditions  
6 of probation; the department may transfer the minor, in the minor's best interests, from  
7 one of the probationary placement settings listed in this paragraph to another, and the  
8 minor, the minor's parents or guardian, the minor's foster parent, and the minor's  
9 attorney are entitled to reasonable notice of the transfer; the probation may be for a  
10 period of time not to exceed two years and in no event to extend past the day the  
11 minor becomes 19 years of age, except that the department may petition for and the  
12 court may grant in a hearing

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

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

19 (4) for a crime against a person, order the minor and the minor's  
20 parent to make suitable restitution in lieu of or in addition to the court's order under  
21 (1), (2), or (3) of this subsection; under this paragraph,

22 (A) except as provided in (B) of this paragraph, the court may  
23 not refuse to make an order of restitution to benefit the victim of the act of the  
24 minor that is the basis of the delinquency adjudication; under this  
25 subparagraph, the court may require the minor to use the services of a  
26 community dispute resolution center that has been recognized by the  
27 commissioner under AS 47.12.450(b) to resolve any dispute between the minor  
28 and the victim of the minor's offense as to the amount of or manner of payment  
29 of the restitution;

30 (B) the court may not order payment of restitution by the parent  
31 of a minor who is a runaway or missing minor for an act of the minor that was

1 committed by the minor after the parent has made a report to a law  
2 enforcement agency, as authorized by AS 47.10.141(a), that the minor has run  
3 away or is missing; for purposes of this subparagraph, "runaway or missing  
4 minor" means a minor who a parent reasonably believes is absent from the  
5 minor's residence for the purpose of evading the parent or who is otherwise  
6 missing from the minor's usual place of abode without the consent of the  
7 parent; and

8 (C) at the request of the department, the Department of Law,  
9 the victims' advocate, or on its own motion, the court shall, at any time, order  
10 the minor and the minor's parent, if applicable, to submit financial information  
11 on a form approved by the Alaska Court System to the court, the department,  
12 and the Department of Law for the purpose of establishing the amount of  
13 restitution or enforcing an order of restitution under AS 47.12.170; the form  
14 must include a warning that submission of incomplete or inaccurate  
15 information is punishable as unsworn falsification under AS 11.56.210;

16 (5) for a matter not covered in (4) of this subsection, order the  
17 minor and the minor's parent to make suitable restitution as provided in (l) - (n)  
18 of this section in lieu of or in addition to the court's order under (1), (2), or (3) of  
19 this subsection; under this paragraph,

20 (A) except as provided in (B) of this paragraph, the court  
21 may not refuse to make an order of restitution to benefit the victim of the  
22 act of the minor that is the basis of the delinquency adjudication; under  
23 this subparagraph, the court may require the minor to use the services of  
24 a community dispute resolution center that has been recognized by the  
25 commissioner under AS 47.12.450(b) to resolve any dispute between the  
26 minor and the victim of the minor's offense as to the amount of or manner  
27 of payment of the restitution;

28 (B) the court may not order payment of restitution

29 (i) by the parent of a minor who is a runaway or  
30 missing minor for an act of the minor that was committed by the  
31 minor after the parent has made a report to a law enforcement

1 agency, as authorized by AS 47.10.141(a), that the minor has run  
2 away or is missing; for purposes of this sub-subparagraph,  
3 "runaway or missing minor" means a minor who a parent  
4 reasonably believes is absent from the minor's residence for the  
5 purpose of evading the parent or who is otherwise missing from the  
6 minor's usual place of abode without the consent of the parent;

7 (ii) by a legal guardian other than a parent;

8 (iii) except as provided in (m) of this section, by a  
9 person, other than the minor's parent, with temporary or  
10 permanent legal custody of the minor when the minor committed  
11 the offense; or

12 (iv) by an adoptive parent of the minor as a hard-to-  
13 place child if, at the time the minor committed the offense, the  
14 adoptive parent was receiving financial assistance from the state as  
15 a result of the adoption; in this sub-subparagraph, "hard-to-place  
16 child" has the meaning given in AS 25.23.240; and

17 (C) at the request of the department, the Department of  
18 Law, the victims' advocate, or, on its own motion, the court shall, at any  
19 time, order the minor and the minor's parent, if applicable, to submit  
20 financial information on a form approved by the Alaska Court System to  
21 the court, the department, and the Department of Law for the purpose of  
22 establishing the amount of restitution or enforcing an order of restitution  
23 under AS 47.12.170; the form must include a warning that submission of  
24 incomplete or inaccurate information is punishable as unsworn  
25 falsification under AS 11.56.210;

26 (6) order the minor committed to the department for placement in an  
27 adventure-based education program established under AS 47.21.020 with conditions  
28 the court considers appropriate concerning release upon satisfactory completion of the  
29 program or commitment under (1) of this subsection if the program is not satisfactorily  
30 completed;

31 (7) [(6)] in addition to an order under (1) - (6) [(1) - (5)] of this

1 subsection, order the minor to perform community service; for purposes of this  
2 paragraph, "community service" includes work

3 (A) on a project identified in AS 33.30.901; or

4 (B) that, on the recommendation of the city council or  
5 traditional village council, would benefit persons within the city or village who  
6 are elderly or disabled; or

7 (8) [(7)] in addition to an order under (1) - (7) [(1) - (6)] of this  
8 subsection, order the minor's parent or guardian to comply with orders made under  
9 AS 47.12.155, including participation in treatment under AS 47.12.155(b)(1).

10 \* Sec. 12. AS 47.12.120(k) is amended to read:

11 (k) A court that adjudicates a delinquent minor for repeat minor consuming or  
12 in possession or control under AS 04.16.050(c) or for habitual minor consuming or in  
13 possession or control under AS 04.16.050(d) shall revoke the minor's driver's license  
14 or permit, privilege to drive, or privilege to obtain a license as provided in  
15 AS 04.16.050(c) or (d). A court that adjudicates a delinquent minor for another [AN]  
16 offense [INVOLVING A CONTROLLED SUBSTANCE UNDER AS 11.1 OR  
17 INVOLVING A FIREARM UNDER AS 11] shall revoke the minor's driver's license  
18 or permit, privilege to drive, or privilege to obtain a license as provided in  
19 AS 28.15.185.

20 \* Sec. 13. AS 47.12.120 is amended by adding new subsections to read:

21 (l) Other than for a crime against a person, a court that adjudicates a  
22 delinquent minor must include restitution for damages resulting from the offense,  
23 including restitution to the victim unless the restitution is expressly waived by the  
24 victim. In determining the amount of restitution, the court may not consider the ability  
25 to pay of the minor or a parent of the minor. In determining the amount and method of  
26 payment of restitution, the court shall take into account the

27 (1) public policy that favors requiring compensation for damages and  
28 injury that results from criminal acts;

29 (2) financial burden placed on the victim and those who provide  
30 services to the victim and other persons injured by the criminal conduct of the minor;  
31 and

1 (3) amount and type of restitution that has already been made for the  
2 offense.

3 (m) If the minor was in the legal custody of the minor's parent or parents when  
4 the offense was committed by the minor, the minor's parent or parents are responsible  
5 for that portion of the restitution ordered under (l) of this section that exceeds \$5,000,  
6 as adjusted under this subsection. However, the total amount of parental responsibility  
7 for restitution under this subsection may not exceed \$15,000, as adjusted under this  
8 subsection. If the minor has two parents, that portion of the amount for which the  
9 parents are liable shall be apportioned by the court between the parents without regard  
10 to legal custody but with due consideration for the actual care and custody of the  
11 minor provided by each of the parents. The minor is responsible for that portion of the  
12 total restitution for which the parent or parents are not responsible under this  
13 subsection. If the minor does not have a parent, the minor is not responsible for that  
14 portion of restitution that exceeds \$5,000, adjusted under this subsection. However,  
15 the total amount of restitution for which the minor is not responsible may not exceed  
16 \$15,000, adjusted under this subsection. Monetary amounts in this subsection shall be  
17 adjusted according to and to the extent of changes in the Consumer Price Index for all  
18 urban consumers for the Anchorage metropolitan area compiled by the Bureau of  
19 Labor Statistics, United States Department of Labor (the index). The index for January  
20 of 2006 is the reference base index. The state is responsible for restitution, to the same  
21 extent a parent with legal custody is responsible for restitution under this subsection,  
22 for an act of a minor committed while in the legal custody of the state, except that the  
23 state is not responsible if the act is committed while the minor has run away from state  
24 custody, is missing from state custody, or has been placed by the state into the  
25 physical custody of a parent of the minor. If the minor has been placed by the state  
26 into the physical custody of a parent, the parent is responsible for restitution for an act  
27 committed during that placement to the same extent as a parent with legal custody.

28 (n) The court shall set a payment schedule for each individual responsible for  
29 restitution under (l) and (m) of this section that is fair and takes into account each  
30 individual's ability to make payments. The schedule must separately address payments  
31 the minor may have to make after reaching 18 years of age. The court may modify the

1 payment schedule if it determines that a change in the circumstances of an individual  
2 responsible for the restitution requires the modification. The court may require an  
3 individual who is responsible for restitution to agree to apply for one or more  
4 permanent fund dividends.

5 \* **Sec. 14.** AS 47.12.140 is amended to read:

6 **Sec. 47.12.140. Court dispositional order.** In making its dispositional order  
7 under AS 47.12.120(b)(1) - (3) and (6) [(5)] and (j), the court shall

8 (1) consider both the best interests of the minor and the interests of the  
9 public, and, in doing so, the court shall take into account

10 (A) the seriousness of the minor's delinquent act and the  
11 attitude of the minor and the minor's parents toward that act;

12 (B) the minor's culpability as indicated by the circumstances of  
13 the particular case;

14 (C) the age of the minor;

15 (D) the minor's prior criminal or juvenile record and the  
16 success or failure of any previous orders, dispositions, or placements imposed  
17 on the minor;

18 (E) the effect of the dispositional order to be imposed in  
19 deterring the minor from committing other delinquent acts;

20 (F) the need to commit the minor to the department's custody or  
21 to detain the minor in an institution or other suitable place in order to prevent  
22 further harm to the public;

23 (G) the interest of the public in securing the minor's  
24 rehabilitation; and

25 (H) the ability of the state to take custody of and to care for the  
26 minor; and

27 (2) order the least restrictive alternative disposition for the minor; for  
28 purposes of this paragraph, the "least restrictive alternative disposition" means that  
29 disposition that is no more restrictive than is, in the judgment of the court, most  
30 conducive to the minor's rehabilitation taking into consideration the interests of the  
31 public.

1 \* Sec. 15. AS 47.12.300(a) is amended to read:

2 (a) The court shall make and keep records of all cases brought before it.

3 Notwithstanding other provisions of this section, the amount of unpaid restitution  
4 ordered under AS 47.12.120(b) owed by an individual 18 years of age or older,  
5 together with the identity of the individual, is a public record.

6 \* Sec. 16. AS 47.12.300(e) is amended to read:

7 (e) The court's official records prepared under this chapter and not made  
8 public under this section are confidential and may be inspected only with the court's  
9 permission and only by persons having a legitimate interest in them. A foster parent is  
10 considered to have a legitimate interest in those portions of the court's official records  
11 relating to a child who is already placed with the foster parent or who is recommended  
12 for placement with the foster parent. A person with a legitimate interest in the  
13 inspection of a confidential record maintained by the court also includes a victim who  
14 suffered physical injury or whose real or personal property was damaged as a result of  
15 an offense that was the basis of an adjudication or modification of disposition. If the  
16 victim knows the identity of the minor, identifies the minor or the offense to the court,  
17 and certifies that the information is being sought to consider or support a civil action  
18 against the minor or against the minor and the minor's parents [OR GUARDIAN]  
19 under AS 34.50.020, the court shall, subject to AS 12.61.110 and 12.61.140, allow the  
20 victim to inspect and use the following records and information in connection with the  
21 civil action:

22 (1) a petition filed under AS 47.12.040(a) seeking to have the court  
23 declare the minor a delinquent;

24 (2) a petition filed under AS 47.12.120 seeking to have the court  
25 modify or revoke the minor's probation;

26 (3) a petition filed under AS 47.12.100 requesting the court to find that  
27 a minor is not amenable to treatment under this chapter and that results in closure of a  
28 case under AS 47.12.100(a); and

29 (4) a court judgment or order entered under this chapter that disposes  
30 of a petition identified in (1) - (3) of this subsection.

31 \* Sec. 17. AS 47.12.315(e) is amended to read:

1 (e) The department or an agency may not release information about a minor  
2 under this section if the offense allegedly committed by the minor on which the  
3 information is based occurred before January 1, 1998. The authority to release  
4 information under this section is limited to five years from the date the department or  
5 other agency is first required or authorized to make the disclosure. However, the  
6 limitation of this section does not apply if the department or other agency determines  
7 that, during the five-year period, the minor

8 (1) has knowingly failed to make all restitution payments required of  
9 the minor by AS 47.12.060(b) or 47.12.120(b)(4) or (5); or

10 (2) has committed a crime punishable as a felony.

11 \* Sec. 18. AS 47.12.450(b) is amended to read:

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

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

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

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

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

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

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

30 (7) for communicating to the agency making a referral under  
31 AS 47.12.040(a)(1)(A) or the court making a referral under AS 47.12.120(b)(4)(A) or

1        (5)(A), as appropriate, the following:

2                    (A) notice that the minor and victim have been unable to enter  
3                    into a written agreement under (d)(2) of this section or that the minor or victim  
4                    has withdrawn from mediation as authorized by (f) of this section;

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

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

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

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

16        \* Sec. 19. AS 34.50.020(d) is repealed.

17        \* Sec. 20. The uncodified law of the State of Alaska is amended by adding a new section to  
18        read:

19                    **INDIRECT COURT RULE AMENDMENT.** AS 34.50.020(h), as added by sec. 7 of  
20                    this Act, amends Rule 60, Alaska Rules of Civil Procedure, relating to modifications of  
21                    payment schedules set in actions involving liability for the knowing or intentional acts of  
22                    unemancipated minors.

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

25                    **SEVERABILITY.** Under AS 01.10.030, if any provision of this Act, or the application  
26                    of it to any person or circumstance, is held invalid, the remainder of this Act and the  
27                    application to other persons or circumstances are not affected.

## Potential State Liability Scenarios for Juvenile Vandalism

Amend.	Description of Liability	Juvenile	Legal Parent	State
O.1	State is liable for all juveniles in their custody.	< \$5,000 > \$20,000	0	\$5 - \$15,000
O.4	State is liable for juveniles in their custody when the state has physical care responsibility for the juvenile.	< \$5,000 > \$20,000	0	\$5 - \$15,000
O.4	State is not liable for juveniles in their custody when the parents have physical care responsibility for the juvenile.	< \$5,000 > \$20,000	\$5 - \$15,000	0
O.2	State is liable when state has custody and parental rights are terminated.	< \$5,000 > \$20,000	0	\$5 - \$15,000
O.3	State is not liable regardless of whether juvenile is in their custody or care and the juvenile has parents.	< \$5,000 > \$20,000	\$5 - \$15,000	0
O.3	State is not liable regardless of whether juvenile is in their custody or care and juvenile has no parents or parental rights have been terminated.	< \$5,000 > \$20,000	0	0 *

\* Victim will not be able to recover damages between \$5,000 and \$20,000.

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR GUESS

TO: CSSB 10(JUD), Draft Version "O"

1 Page 4, lines 15 - 24:

2 Delete all material and insert:

3 **\*\* Sec. 6.** AS 34.50.020(b) is repealed and reenacted to read:

4 (b) The state is liable, to the same extent a parent is liable under (a) of this  
5 section, for an act of an unemancipated minor committed while in the legal custody of  
6 the state, except that the state is not liable if the act is committed while the minor has  
7 run away from state custody, is missing from state custody, or has been placed by the  
8 state into the physical custody of a parent of the minor. If the minor has been placed  
9 by the state into the physical custody of a parent, the parent is liable under (a) of this  
10 section for an act committed during that placement. To the extent that the state is  
11 liable under this subsection, a parent is not liable under (a) of this section."

12

13 Page 7, line 29, through page 8, line 7:

14 Delete all material.

15 Insert "(the index). The index for January of 2006 is the reference base index. The  
16 state is responsible for restitution, to the same extent a parent with legal custody is responsible  
17 for restitution under this subsection, for an act of a minor committed while in the legal  
18 custody of the state, except that the state is not responsible if the act is committed while the  
19 minor has run away from state custody, is missing from state custody, or has been placed by  
20 the state into the physical custody of a parent of the minor. If the minor has been placed by  
21 the state into the physical custody of a parent, the parent is responsible for restitution for an  
22 act committed during that placement to the same extent as a parent with legal custody."

23

24 Page 14, lines 22 - 31:

1 Delete all material.

2 Insert "of 2006 is the reference base index. The state is responsible for restitution, to  
3 the same extent a parent with legal custody is responsible for restitution under this subsection,  
4 for an act of a minor committed while in the legal custody of the state, except that the state is  
5 not responsible if the act is committed while the minor has run away from state custody, is  
6 missing from state custody, or has been placed by the state into the physical custody of a  
7 parent of the minor. If the minor has been placed by the state into the physical custody of a  
8 parent, the parent is responsible for restitution for an act committed during that placement to  
9 the same extent as a parent with legal custody."

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR GUESS

TO: CSSB 10(JUD), Draft Version "O"

1 Page 4, lines 15 - 24:

2 Delete all material and insert:

3 **\*\* Sec. 6.** AS 34.50.020(b) is repealed and reenacted to read:

4 (b) The state is liable, to the same extent a parent is liable under (a) of this  
5 section, for the acts of unemancipated minors committed while in state custody."  
6

7 Page 7, line 29, through page 8, line 7:

8 Delete all material.

9 Insert "(the index). The index for January of 2006 is the reference base index. The  
10 state is responsible for restitution, to the same extent a parent is responsible under this  
11 subsection, for the acts of minors committed while in state custody."  
12

13 Page 14, lines 22 - 31:

14 Delete all material.

15 Insert "of 2006 is the reference base index. The state is responsible for restitution, to  
16 the same extent a parent is responsible under this subsection, for the acts of minors committed  
17 while in state custody."

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR GUESS

TO: CCSB 10(JUD), Draft Version "O"

1 Page 4, lines 15 - 24:

2 Delete all material and insert:

3 **\*\* Sec. 6.** AS 34.50.020(b) is repealed and reenacted to read:

4 (b) The state is liable, to the same extent a parent is liable under (a) of this  
5 section, for an act of an unemancipated minor committed while in state custody if the  
6 parental rights of the minor's parents have been terminated. This subsection does not  
7 apply if the act is committed while the minor has run away or is missing from state  
8 custody."  
9

10 Page 7, line 29, through page 8, line 7:

11 Delete all material.

12 Insert "(the index). The index for January of 2006 is the reference base index. The  
13 state is responsible for restitution, to the same extent a parent is responsible under this  
14 subsection, for an act of a minor committed while in state custody if the parental rights of the  
15 minor's parents have been terminated. This subsection does not apply if the act is committed  
16 while the minor has run away or is missing from state custody."  
17

18 Page 14, lines 22 - 31:

19 Delete all material.

20 Insert "of 2006 is the reference base index. The state is responsible for restitution, to  
21 the same extent a parent is responsible under this subsection, for an act of a minor committed  
22 while in state custody if the parental rights of the minor's parents have been terminated. This  
23 subsection does not apply if the act is committed while the minor has run away or is missing

1 from state custody."

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR GUESS

TO: CSSB 10(JUD), Draft Version "O"

1 Page 4, lines 15 - 24:

2 Delete all material.

3

4 Renumber the following bill sections accordingly.

5

6 Page 7, line 29, through page 8, line 7:

7 Delete all material.

8 Insert "(the index). The index for January of 2006 is the reference base index."

9

10 Page 8, line 27, following "authorized":

11 Insert "from"

12

13 Page 8, line 28:

14 Delete "from"

15

16 Page 8, line 29:

17 Delete "except as provided in (d) of this section, from"

18

19 Page 9, line 1:

20 Delete "from"

21

22 Page 11, line 30, following "restitution":

23 Insert "by"

1

2 Page 11, line 31:

3 Delete "by"

4

5 Page 12, line 9:

6 Delete "by"

7

8 Page 12, line 10:

9 Delete "except as provided in (m) of this section, by"

10

11 Page 12, line 14:

12 Delete "by"

13

14 Page 14, lines 22 - 31:

15 Delete all material.

16 Insert "of 2006 is the reference base index."

17

18 Page 18, line 23:

19 Delete "sec. 7"

20 Insert "sec. 6"

24-LS01150

Cook

2/1/06

**CS FOR SENATE BILL NO. 10(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): SENATORS GUESS AND DYSON, Ellis, Bunde

**A BILL****FOR AN ACT ENTITLED**

1 "An Act relating to civil liability for damage to or destruction of property by minors;  
2 relating to court revocation of a minor's privilege to drive; relating to restitution for  
3 certain acts of minors; and amending Rule 60, Alaska Rules of Civil Procedure."

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

5 \* **Section 1.** AS 04.16.050(d) is amended to read:

6 (d) A person is guilty of habitual minor consuming or in possession or control  
7 if the person was placed on probation under (c) of this section, or has been previously  
8 convicted twice, and the person violates (a) of this section. Habitual minor consuming  
9 or in possession or control is a class B misdemeanor. Upon conviction, the court may  
10 impose an appropriate period of imprisonment and fine and place the person on  
11 probation under (e) of this section and shall

12 (1) impose at least 96 hours of community work;

13 (2) revoke the person's driver's license for a period of not less than  
14 six months but not to exceed one year;

1 (3) within five working days, notify the agency responsible for the  
2 administration of motor vehicle laws of the revocation; and

3 (4) take possession of the person's driver's license.

4 \* Sec. 2. AS 28.15.185(a) is amended to read:

5 (a) A person is subject to revocation, under (b) of this section, of the person's  
6 driver's license or permit, privilege to drive, or privilege to obtain a license if the  
7 person

8 (1) is at least 13 years of age but not yet 21 years of age and is  
9 convicted of or is adjudicated a delinquent minor by a court for misconduct involving  
10 a controlled substance under AS 11.71 or violation of a municipal ordinance with  
11 substantially similar elements; or

12 (2) is at least 13 years of age but not yet 18 years of age and is  
13 convicted of or is adjudicated a delinquent minor by a court for a misdemeanor,  
14 felony, [AN OFFENSE INVOLVING THE ILLEGAL USE OR POSSESSION OF A  
15 FIREARM THAT IS PUNISHABLE UNDER AS 11] or violation of a municipal  
16 ordinance with elements that are substantially similar to those of a misdemeanor or  
17 felony [ELEMENTS].

18 \* Sec. 3. AS 28.15.185(b) is amended to read:

19 (b) The court shall impose the revocation for an offense described in (a) of this  
20 section as follows:

21 (1) except as provided in AS 04.16.050(d), for a first conviction or  
22 adjudication when the conviction or adjudication is for a misdemeanor or  
23 violation of an ordinance with substantially similar elements, the revocation may  
24 be for a period not to exceed 90 days;

25 (2) for a second or subsequent conviction or adjudication when the  
26 second or subsequent conviction or adjudication is for a misdemeanor or  
27 violation of an ordinance with substantially similar elements, the revocation may  
28 be for a period not to exceed one year;

29 (3) for a first conviction or adjudication when the conviction or  
30 adjudication is for a felony or violation of an ordinance with substantially similar  
31 elements, the revocation may be for a period not to exceed 180 days;

1                   (4) for a second or subsequent conviction or adjudication when the  
2                   second or subsequent conviction or adjudication is for a felony or violation of an  
3                   ordinance with substantially similar elements, the revocation may be for a period  
4                   not to exceed two years or until the person reaches 18 years of age, whichever is  
5                   longer.

6 \* Sec. 4. AS 28.15.201(a) is amended to read:

7                   (a) A court of competent jurisdiction revoking a person's driver's license,  
8                   privilege to drive, or privilege to obtain a license under AS 28.15.181(b) or  
9                   28.15.185(a) may, if the person is at least 16 years of age and for good cause,  
10                   impose limitations upon the driver's license of a person that will enable the person to  
11                   earn a livelihood without excessive risk or danger to the public. The court may also  
12                   impose limitations on the driver's license of a person who is under 18 years of age  
13                   that will enable the person to satisfy conditions of probation without excessive  
14                   risk or danger to the public. A limitation may not be placed upon a driver's license  
15                   until after a review has been made of the person's driving record and other relevant  
16                   information, and a limitation may not be imposed when a statute specifically prohibits  
17                   the limitation of a license for a violation of its provisions.

18 \* Sec. 5. AS 34.50.020(a) is amended to read:

19                   (a) Except as provided under [(d) AND] (e) of this section, a person,  
20                   including a governmental [MUNICIPAL CORPORATION, ASSOCIATION,  
21                   VILLAGE, SCHOOL DISTRICT, OR RELIGIOUS OR CHARITABLE]  
22                   organization, [INCORPORATED OR UNINCORPORATED,] may recover damages  
23                   in a civil action [IN AN AMOUNT NOT TO EXCEED \$15,000] and court costs from  
24                   [EITHER PARENT OR BOTH PARENTS OF] an unemancipated minor [UNDER  
25                   THE AGE OF 18 YEARS] who, as a result of a knowing or intentional act, damages  
26                   or destroys real or personal property belonging to the person. If the minor has a  
27                   parent, damages and court costs may also be recovered from either parent or  
28                   both parents [, MUNICIPAL CORPORATION, ASSOCIATION, VILLAGE,  
29                   SCHOOL DISTRICT, OR RELIGIOUS OR CHARITABLE ORGANIZATION].  
30                   However, for purposes of this subsection, recovery of that portion of [IN] damages  
31                   for which parents are liable shall be apportioned by the court between the parents

1 without regard to legal custody but with due consideration for the actual care and  
2 custody of the minor provided by the parents. The parent or parents are liable for  
3 that portion of damages that exceed \$5,000, adjusted under this subsection.  
4 However, the total amount of parental liability for damages under this subsection  
5 may not exceed \$15,000, adjusted under this subsection. The minor is liable for  
6 that portion of the total damages for which the parent or parents are not liable. If  
7 the unemancipated minor does not have a parent, the minor is not liable for that  
8 portion of damages that exceeds \$5,000, adjusted under this subsection. However,  
9 the total amount of damages for which the minor is not liable may not exceed  
10 \$15,000, adjusted under this subsection. Monetary amounts in this subsection  
11 shall be adjusted according to and to the extent of changes in the Consumer Price  
12 Index for all urban consumers for the Anchorage metropolitan area compiled by  
13 the Bureau of Labor Statistics, United States Department of Labor (the index).  
14 The index for January of 2006 is the reference base index.

15 \* Sec. 6. AS 34.50.020(b) is amended to read:

16 (b) A state agency or an agent of a state agency [ITS AGENTS], including a  
17 person working in or responsible for the operation of a foster, receiving, or detention  
18 home, or children's institution, is [NOT] liable, to the same extent a parent is liable  
19 under (a) of this section, for the acts of unemancipated minors in the [ITS] charge or  
20 custody of the agency or agent. A state agency or an agent of a state agency,  
21 including a nonprofit corporation that designates shelters for runaways under  
22 AS 47.10.392 - 47.10.399 and employees of or volunteers with that corporation, is  
23 [NOT] liable, to the same extent a parent is liable under (a) of this section, for the  
24 acts of a minor sheltered in a shelter for runaways, as defined in AS 47.10.399.

25 \* Sec. 7. AS 34.50.020 is amended by adding new subsections to read:

26 (g) The court may order an individual who is liable for damages under (a) of  
27 this section to apply for one or more permanent fund dividends. The court shall set a  
28 payment schedule for each individual liable for damages that is fair and takes into  
29 account each individual's ability to make payments. The schedule must separately  
30 address payments the minor may have to make after reaching 18 years of age.

31 (h) A court may modify the payment schedule set under (g) of this section if

1 the court determines that a change in the circumstances of a party to the original action  
2 requires the modification. If a party to the original action opposes the modification of  
3 the payment schedule and the modification is granted, the court shall enter on the  
4 record its reasons for the modification.

5 \* Sec. 8. AS 43.23.065(b) is amended to read:

6 (b) An exemption is not available under this section for permanent fund  
7 dividends taken to satisfy

8 (1) child support obligations required by court order or decision of the  
9 child support services agency under AS 25.27.140 - 25.27.220;

10 (2) court ordered restitution under AS 12.55.045 - 12.55.051,  
11 12.55.100, or AS 47.12.120(b)(4) or (5);

12 (3) claims on defaulted education loans under AS 43.23.067;

13 (4) court ordered fines;

14 (5) writs of execution under AS 09.35 of a judgment that is entered

15 (A) against a minor in a civil action to recover damages and  
16 court costs;

17 (B) under AS 34.50.020 against an individual for damages  
18 resulting from a knowing or intentional act [THE PARENT, PARENTS,  
19 OR LEGAL GUARDIAN] of an unemancipated minor;

20 (6) a debt owed by an eligible individual to an agency of the state,  
21 including the University of Alaska, unless the debt is contested and an appeal is  
22 pending, or the time limit for filing an appeal has not expired;

23 (7) a debt owed to a person for a program for the rehabilitation of  
24 perpetrators of domestic violence required under AS 12.55.101, AS 18.66.100(c)(15),  
25 AS 25.20.061(3), or AS 33.16.150(f)(2).

26 \* Sec. 9. AS 47.12.060(b) is amended to read:

27 (b) When the department or the entity selected by it decides to make an  
28 informal adjustment of a matter under (a)(2) of this section, that informal adjustment

29 (1) must be made with the agreement or consent of the minor and the  
30 minor's parents or guardian to the terms and conditions of the adjustment;

31 (2) must give the minor's foster parent an opportunity to be heard

1 before the informal adjustment is made;

2 (3) for a crime against a person, must include notice that informal  
3 action to adjust a matter is not successfully completed unless, among other factors that  
4 the department or the entity selected by it considers, as to the victim of the act of the  
5 minor that is the basis of the delinquency allegation, the minor pays restitution in the  
6 amount set by the department or the entity selected by it or agrees as a term or  
7 condition set by the department or the entity selected by it to pay the restitution;

8 (4) for a violation of habitual minor consuming or in possession or  
9 control under AS 04.16.050(d), must include an agreement that the minor perform 96  
10 hours of community work, provide that the minor's driver's license or permit, privilege  
11 to drive, or privilege to obtain a license be revoked for six months unless  
12 AS 28.15.185(b)(2) applies, and provide that the driver's license or permit, privilege  
13 to drive, or privilege to obtain a license be revoked for an additional six months if the  
14 informal adjustment is not successful because the minor has failed to perform  
15 community work as ordered, or has failed to submit to evaluation or successfully  
16 complete the education or treatment recommended; the department or an entity  
17 selected by the department shall notify the agency responsible for issuing driver's  
18 licenses of an informal adjustment under this paragraph or of an unsuccessful  
19 adjustment described in this paragraph;

20 (5) of an offense described in AS 28.15.185(a) [AS 28.15.185(a)(1)]  
21 must include an agreement that the minor's driver's license or permit, privilege to  
22 drive, or privilege to obtain a license be revoked as provided in AS 28.15.185(b); the  
23 department or an entity selected by the department shall notify the agency responsible  
24 for issuing driver's licenses of an informal adjustment under this paragraph;

25 (6) for a matter not subject to (3) of this subsection, must provide  
26 notice that informal action to adjust the matter is not successfully completed  
27 unless, among other factors that the department or entity selected by it considers,  
28 restitution is paid as required under (c) - (g) of this section.

29 \* Sec. 10. AS 47.12.060 is amended by adding new subsections to read:

30 (c) An informal action subject to (b)(6) of this section must include restitution  
31 for damages resulting from the act of the minor that is the basis of the delinquency

1 allegation, including restitution to the victim unless the restitution is expressly waived  
2 by the victim. In determining the amount of restitution, the department or the entity  
3 selected by it may not consider the ability to pay of the minor or a parent of the minor.  
4 In determining the amount and method of payment of restitution, the department or the  
5 entity selected by it shall take into account the

6 (1) public policy that favors requiring compensation for damages and  
7 injury that results from criminal acts;

8 (2) financial burden placed on the victim and those who provide  
9 services to the victim and other persons injured by the criminal conduct of the minor;

10 (3) amount and type of restitution that has already been made for the  
11 act that is the basis of the delinquency allegation.

12 (d) In an informal action subject to (b)(6) of this section, if the minor was in  
13 the legal custody of the minor's parent or parents when the act of the minor that is the  
14 basis of the delinquency allegation was committed, the minor's parent or parents are  
15 responsible for that portion of the restitution that exceeds \$5,000, as adjusted under  
16 this subsection. However, the total amount of parental responsibility for restitution  
17 under this subsection may not exceed \$15,000, as adjusted under this subsection. If the  
18 minor has two parents, that portion of the amount for which the parents are liable shall  
19 be apportioned between the parents without regard to legal custody but with due  
20 consideration for the actual care and custody of the minor provided by each parent.  
21 The minor is responsible for that portion of the total restitution for which the parent or  
22 parents are not responsible under this subsection. If the minor does not have a parent,  
23 the minor is not responsible for that portion of restitution that exceeds \$5,000, adjusted  
24 under this subsection. However, the total amount of restitution for which the minor is  
25 not responsible may not exceed \$15,000, adjusted under this subsection. Monetary  
26 amounts in this subsection shall be adjusted according to and to the extent of changes  
27 in the Consumer Price Index for all urban consumers for the Anchorage metropolitan  
28 area compiled by the Bureau of Labor Statistics, United States Department of Labor  
29 (the index). The index for January of 2006 is the reference base index. A state agency  
30 or an agent of a state agency, including a person working in or responsible for the  
31 operation of a foster, receiving, or detention home, or children's institution, is

1 responsible for restitution, to the same extent a parent is responsible under this  
2 subsection, for the acts of minors in the charge or custody of the agency or agent. A  
3 state agency or an agent of a state agency, including a nonprofit corporation that  
4 designates shelters for runaways under AS 47.10.392 - 47.10.399 and employees of or  
5 volunteers with that corporation, is responsible for restitution, to the same extent a  
6 parent is responsible under this subsection, for the acts of a minor sheltered in a shelter  
7 for runaways, as defined in AS 47.10.399.

8 (e) In an informal action subject to (b)(6) of this section, the department or the  
9 entity selected by it shall set a payment schedule for each individual responsible for  
10 restitution that is fair and takes into account each individual's ability to make  
11 payments. The schedule must provide for payments adequate to fulfill the total  
12 restitution amount before the minor reaches 18 years of age. The department or the  
13 entity selected by it may modify the payment schedule if it determines that a change in  
14 the circumstances of an individual responsible for the restitution requires the  
15 modification. The department or the entity selected by it may require an individual  
16 who is responsible for restitution to agree to apply for one or more permanent fund  
17 dividends.

18 (f) In an informal action subject to (b)(6) of this section, a parent is not  
19 responsible for restitution required as a result of the acts of a runaway or missing  
20 minor that are committed after a parent of the minor has made a report to a law  
21 enforcement agency, as authorized by AS 47.10.141(a), that the minor has run away or  
22 is missing. In this subsection, "runaway or missing minor" means a minor who a  
23 parent reasonably believes is absent from the minor's residence for the purpose of  
24 evading a parent or who is otherwise missing from the minor's usual place of abode  
25 without the consent of a parent.

26 (g) In an informal action subject to (b)(6) of this section, the recovery of  
27 restitution payments is not authorized

28 (1) from a legal guardian other than a parent;

29 (2) except as provided in (d) of this section, from a person, other than  
30 the minor's parent, with temporary or permanent legal custody of the minor when the  
31 minor committed the act that is the basis of the delinquency allegation; or

1 (3) from an adoptive parent of the minor as a hard-to-place child if, at  
2 the time the minor committed the act that is the basis of the delinquency allegation, the  
3 adoptive parent was receiving financial assistance from the state as a result of the  
4 adoption; in this paragraph, "hard-to-place child" has the meaning given in  
5 AS 25.23.240.

6 \* Sec. 11. AS 47.12.120(b) is amended to read:

7 (b) If the minor is not subject to (j) of this section and the court finds that the  
8 minor is delinquent, it shall

9 (1) order the minor committed to the department for a period of time  
10 not to exceed two years or in any event extend past the day the minor becomes 19  
11 years of age, except that the department may petition for and the court may grant in a  
12 hearing (A) two-year extensions of commitment that do not extend beyond the minor's  
13 19th birthday if the extension is in the best interests of the minor and the public; and  
14 (B) an additional one-year period of supervision past age 19 if continued supervision  
15 is in the best interests of the person and the person consents to it; the department shall  
16 place the minor in the juvenile facility that the department considers appropriate and  
17 that may include a juvenile correctional school, juvenile work camp, treatment facility,  
18 detention home, or detention facility; the minor may be released from placement or  
19 detention and placed on probation on order of the court and may also be released by  
20 the department, in its discretion, under AS 47.12.260;

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

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

30 (B) an additional one-year period of supervision past age 19 if  
31 the continued supervision is in the best interests of the person and the person

1 consents to it;

2 (3) order the minor committed to the custody of the department and  
3 placed on probation, to be supervised by the department and released to the minor's  
4 parents, guardian, other suitable person, or suitable nondetention setting such as with a  
5 relative or in a foster home or residential child care facility, whichever the department  
6 considers appropriate to implement the treatment plan of the predisposition report; if  
7 the court orders the minor placed on probation, it may specify the terms and conditions  
8 of probation; the department may transfer the minor, in the minor's best interests, from  
9 one of the probationary placement settings listed in this paragraph to another, and the  
10 minor, the minor's parents or guardian, the minor's foster parent, and the minor's  
11 attorney are entitled to reasonable notice of the transfer; the probation may be for a  
12 period of time not to exceed two years and in no event to extend past the day the  
13 minor becomes 19 years of age, except that the department may petition for and the  
14 court may grant in a hearing

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

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

21 (4) for a crime against a person, order the minor and the minor's  
22 parent to make suitable restitution in lieu of or in addition to the court's order under  
23 (1), (2), or (3) of this subsection; under this paragraph,

24 (A) except as provided in (B) of this paragraph, the court may  
25 not refuse to make an order of restitution to benefit the victim of the act of the  
26 minor that is the basis of the delinquency adjudication; under this  
27 subparagraph, the court may require the minor to use the services of a  
28 community dispute resolution center that has been recognized by the  
29 commissioner under AS 47.12.450(b) to resolve any dispute between the minor  
30 and the victim of the minor's offense as to the amount of or manner of payment  
31 of the restitution;

1 (B) the court may not order payment of restitution by the parent  
2 of a minor who is a runaway or missing minor for an act of the minor that was  
3 committed by the minor after the parent has made a report to a law  
4 enforcement agency, as authorized by AS 47.10.141(a), that the minor has run  
5 away or is missing; for purposes of this subparagraph, "runaway or missing  
6 minor" means a minor who a parent reasonably believes is absent from the  
7 minor's residence for the purpose of evading the parent or who is otherwise  
8 missing from the minor's usual place of abode without the consent of the  
9 parent; and

10 (C) at the request of the department, the Department of Law,  
11 the victims' advocate, or on its own motion, the court shall, at any time, order  
12 the minor and the minor's parent, if applicable, to submit financial information  
13 on a form approved by the Alaska Court System to the court, the department,  
14 and the Department of Law for the purpose of establishing the amount of  
15 restitution or enforcing an order of restitution under AS 47.12.170; the form  
16 must include a warning that submission of incomplete or inaccurate  
17 information is punishable as unsworn falsification under AS 11.56.210;

18 (5) for a matter not covered in (4) of this subsection, order the  
19 minor and the minor's parent to make suitable restitution as provided in (l) - (n)  
20 of this section in lieu of or in addition to the court's order under (1), (2), or (3) of  
21 this subsection; under this paragraph,

22 (A) except as provided in (B) of this paragraph, the court  
23 may not refuse to make an order of restitution to benefit the victim of the  
24 act of the minor that is the basis of the delinquency adjudication; under  
25 this subparagraph, the court may require the minor to use the services of  
26 a community dispute resolution center that has been recognized by the  
27 commissioner under AS 47.12.450(b) to resolve any dispute between the  
28 minor and the victim of the minor's offense as to the amount of or manner  
29 of payment of the restitution;

30 (B) the court may not order payment of restitution

31 (i) by the parent of a minor who is a runaway or

1 missing minor for an act of the minor that was committed by the  
2 minor after the parent has made a report to a law enforcement  
3 agency, as authorized by AS 47.10.141(a), that the minor has run  
4 away or is missing; for purposes of this sub-subparagraph,  
5 "runaway or missing minor" means a minor who a parent  
6 reasonably believes is absent from the minor's residence for the  
7 purpose of evading the parent or who is otherwise missing from the  
8 minor's usual place of abode without the consent of the parent;

9 (ii) by a legal guardian other than a parent;

10 (iii) except as provided in (m) of this section, by a  
11 person, other than the minor's parent, with temporary or  
12 permanent legal custody of the minor when the minor committed  
13 the offense; or

14 (iv) by an adoptive parent of the minor as a hard-to-  
15 place child if, at the time the minor committed the offense, the  
16 adoptive parent was receiving financial assistance from the state as  
17 a result of the adoption; in this sub-subparagraph, "hard-to-place  
18 child" has the meaning given in AS 25.23.240; and

19 (C) at the request of the department, the Department of  
20 Law, the victims' advocate, or, on its own motion, the court shall, at any  
21 time, order the minor and the minor's parent, if applicable, to submit  
22 financial information on a form approved by the Alaska Court System to  
23 the court, the department, and the Department of Law for the purpose of  
24 establishing the amount of restitution or enforcing an order of restitution  
25 under AS 47.12.170; the form must include a warning that submission of  
26 incomplete or inaccurate information is punishable as unsworn  
27 falsification under AS 11.56.210;

28 (6) order the minor committed to the department for placement in an  
29 adventure-based education program established under AS 47.21.020 with conditions  
30 the court considers appropriate concerning release upon satisfactory completion of the  
31 program or commitment under (1) of this subsection if the program is not satisfactorily

1 completed;

2 (7) [(6)] in addition to an order under (1) - (6) [(1) - (5)] of this  
3 subsection, order the minor to perform community service; for purposes of this  
4 paragraph, "community service" includes work

5 (A) on a project identified in AS 33.30.901; or

6 (B) that, on the recommendation of the city council or  
7 traditional village council, would benefit persons within the city or village who  
8 are elderly or disabled; or

9 (8) [(7)] in addition to an order under (1) - (7) [(1) - (6)] of this  
10 subsection, order the minor's parent or guardian to comply with orders made under  
11 AS 47.12.155, including participation in treatment under AS 47.12.155(b)(1).

12 \* Sec. 12. AS 47.12.120(k) is amended to read:

13 (k) A court that adjudicates a delinquent minor for repeat minor consuming or  
14 in possession or control under AS 04.16.050(c) or for habitual minor consuming or in  
15 possession or control under AS 04.16.050(d) shall revoke the minor's driver's license  
16 or permit, privilege to drive, or privilege to obtain a license as provided in  
17 AS 04.16.050(c) or (d). A court that adjudicates a delinquent minor for another [AN]  
18 offense [INVOLVING A CONTROLLED SUBSTANCE UNDER AS 11.71 OR  
19 INVOLVING A FIREARM UNDER AS 11] shall revoke the minor's driver's license  
20 or permit, privilege to drive, or privilege to obtain a license as provided in  
21 AS 28.15.185.

22 \* Sec. 13. AS 47.12.120 is amended by adding new subsections to read:

23 (l) Other than for a crime against a person, a court that adjudicates a  
24 delinquent minor must include restitution for damages resulting from the offense,  
25 including restitution to the victim unless the restitution is expressly waived by the  
26 victim. In determining the amount of restitution, the court may not consider the ability  
27 to pay of the minor or a parent of the minor. In determining the amount and method of  
28 payment of restitution, the court shall take into account the

29 (1) public policy that favors requiring compensation for damages and  
30 injury that results from criminal acts;

31 (2) financial burden placed on the victim and those who provide

1 services to the victim and other persons injured by the criminal conduct of the minor;  
2 and

3 (3) amount and type of restitution that has already been made for the  
4 offense.

5 (m) If the minor was in the legal custody of the minor's parent or parents when  
6 the offense was committed by the minor, the minor's parent or parents are responsible  
7 for that portion of the restitution ordered under (l) of this section that exceeds \$5,000,  
8 as adjusted under this subsection. However, the total amount of parental responsibility  
9 for restitution under this subsection may not exceed \$15,000, as adjusted under this  
10 subsection. If the minor has two parents, that portion of the amount for which the  
11 parents are liable shall be apportioned by the court between the parents without regard  
12 to legal custody but with due consideration for the actual care and custody of the  
13 minor provided by each of the parents. The minor is responsible for that portion of the  
14 total restitution for which the parent or parents are not responsible under this  
15 subsection. If the minor does not have a parent, the minor is not responsible for that  
16 portion of restitution that exceeds \$5,000, adjusted under this subsection. However,  
17 the total amount of restitution for which the minor is not responsible may not exceed  
18 \$15,000, adjusted under this subsection. Monetary amounts in this subsection shall be  
19 adjusted according to and to the extent of changes in the Consumer Price Index for all  
20 urban consumers for the Anchorage metropolitan area compiled by the Bureau of  
21 Labor Statistics, United States Department of Labor (the index). The index for January  
22 of 2006 is the reference base index. A state agency or an agent of a state agency,  
23 including a person working in or responsible for the operation of a foster, receiving, or  
24 detention home, or children's institution, is responsible for restitution, to the same  
25 extent a parent is responsible under this subsection, for the acts of minors in the charge  
26 or custody of the agency or agent. A state agency or an agent of a state agency,  
27 including a nonprofit corporation that designates shelters for runaways under  
28 AS 47.10.392 - 47.10.399 and employees of or volunteers with that corporation, is  
29 responsible for restitution, to the same extent a parent is responsible under this  
30 subsection, for the acts of a minor sheltered in a shelter for runaways, as defined in  
31 AS 47.10.399.

1 (n) The court shall set a payment schedule for each individual responsible for  
2 restitution under (l) and (m) of this section that is fair and takes into account each  
3 individual's ability to make payments. The schedule must separately address payments  
4 the minor may have to make after reaching 18 years of age. The court may modify the  
5 payment schedule if it determines that a change in the circumstances of an individual  
6 responsible for the restitution requires the modification. The court may require an  
7 individual who is responsible for restitution to agree to apply for one or more  
8 permanent fund dividends.

9 \* Sec. 14. AS 47.12.140 is amended to read:

10 **Sec. 47.12.140. Court dispositional order.** In making its dispositional order  
11 under AS 47.12.120(b)(1) - (3) and (6) [(5)] and (j), the court shall

12 (1) consider both the best interests of the minor and the interests of the  
13 public, and, in doing so, the court shall take into account

14 (A) the seriousness of the minor's delinquent act and the  
15 attitude of the minor and the minor's parents toward that act;

16 (B) the minor's culpability as indicated by the circumstances of  
17 the particular case;

18 (C) the age of the minor;

19 (D) the minor's prior criminal or juvenile record and the  
20 success or failure of any previous orders, dispositions, or placements imposed  
21 on the minor;

22 (E) the effect of the dispositional order to be imposed in  
23 deterring the minor from committing other delinquent acts;

24 (F) the need to commit the minor to the department's custody or  
25 to detain the minor in an institution or other suitable place in order to prevent  
26 further harm to the public;

27 (G) the interest of the public in securing the minor's  
28 rehabilitation; and

29 (H) the ability of the state to take custody of and to care for the  
30 minor; and

31 (2) order the least restrictive alternative disposition for the minor; for

1 purposes of this paragraph, the "least restrictive alternative disposition" means that  
2 disposition that is no more restrictive than is, in the judgment of the court, most  
3 conducive to the minor's rehabilitation taking into consideration the interests of the  
4 public.

5 \* Sec. 15. AS 47.12.300(a) is amended to read:

6 (a) The court shall make and keep records of all cases brought before it.  
7 Notwithstanding other provisions of this section, the amount of unpaid restitution  
8 ordered under AS 47.12.120(b) owed by an individual 18 years of age or older,  
9 together with the identity of the individual, is a public record.

10 \* Sec. 16. AS 47.12.300(e) is amended to read:

11 (e) The court's official records prepared under this chapter and not made  
12 public under this section are confidential and may be inspected only with the court's  
13 permission and only by persons having a legitimate interest in them. A foster parent is  
14 considered to have a legitimate interest in those portions of the court's official records  
15 relating to a child who is already placed with the foster parent or who is recommended  
16 for placement with the foster parent. A person with a legitimate interest in the  
17 inspection of a confidential record maintained by the court also includes a victim who  
18 suffered physical injury or whose real or personal property was damaged as a result of  
19 an offense that was the basis of an adjudication or modification of disposition. If the  
20 victim knows the identity of the minor, identifies the minor or the offense to the court,  
21 and certifies that the information is being sought to consider or support a civil action  
22 against the minor or against the minor and the minor's parents [OR GUARDIAN]  
23 under AS 34.50.020, the court shall, subject to AS 12.61.110 and 12.61.140, allow the  
24 victim to inspect and use the following records and information in connection with the  
25 civil action:

26 (1) a petition filed under AS 47.12.040(a) seeking to have the court  
27 declare the minor a delinquent;

28 (2) a petition filed under AS 47.12.120 seeking to have the court  
29 modify or revoke the minor's probation;

30 (3) a petition filed under AS 47.12.100 requesting the court to find that  
31 a minor is not amenable to treatment under this chapter and that results in closure of a

1 case under AS 47.12.100(a); and

2 (4) a court judgment or order entered under this chapter that disposes  
3 of a petition identified in (1) - (3) of this subsection.

4 \* Sec. 17. AS 47.12.315(e) is amended to read:

5 (e) The department or an agency may not release information about a minor  
6 under this section if the offense allegedly committed by the minor on which the  
7 information is based occurred before January 1, 1998. The authority to release  
8 information under this section is limited to five years from the date the department or  
9 other agency is first required or authorized to make the disclosure. However, the  
10 limitation of this section does not apply if the department or other agency determines  
11 that, during the five-year period, the minor

12 (1) has knowingly failed to make all restitution payments required of  
13 the minor by AS 47.12.060(b) or 47.12.120(b)(4) or (5); or

14 (2) has committed a crime punishable as a felony.

15 \* Sec. 18. AS 47.12.450(b) is amended to read:

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

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

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

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

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

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

30 (6) for providing mediators who, during the dispute resolution process,  
31 may not make decisions or determinations of the issues involved, but who shall

1 facilitate negotiations by the participants themselves to achieve a voluntary resolution  
2 of the issues;

3 (7) for communicating to the agency making a referral under  
4 AS 47.12.040(a)(1)(A) or the court making a referral under AS 47.12.120(b)(4)(A) or  
5 (S)(A), as appropriate, the following:

6 (A) notice that the minor and victim have been unable to enter  
7 into a written agreement under (d)(2) of this section or that the minor or victim  
8 has withdrawn from mediation as authorized by (f) of this section;

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

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

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

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

20 \* Sec. 19. AS 34.50.020(d) is repealed.

21 \* Sec. 20. The uncodified law of the State of Alaska is amended by adding a new section to  
22 read:

23 INDIRECT COURT RULE AMENDMENT. AS 34.50.020(h), as added by sec. 7 of  
24 this Act, amends Rule 60, Alaska Rules of Civil Procedure, relating to modifications of  
25 payment schedules set in actions involving liability for the knowing or intentional acts of  
26 unemancipated minors.

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

29 SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the application  
30 of it to any person or circumstance. is held invalid, the remainder of this Act and the  
31 application to other persons or circumstances are not affected.

AMENDMENT #1

OFFERED IN THE SENATE

BY SENATOR GUESS

TO: CSSB 10( ), Draft Version "W"

1 Page 4, following line 24:

2 Insert a new bill section to read:

3 **\*\* Sec. 7. AS 34.50.020(b) is amended to read:**

4 (b) A state agency or an agent of a state agency [ITS AGENTS], including a  
5 person working in or responsible for the operation of a foster, receiving, or detention  
6 home, or children's institution, is [NOT] liable, to the same extent a parent is liable  
7 under (a) of this section, for the acts of unemancipated minors in the [ITS] charge or  
8 custody of the agency or agent. A state agency or an agent of a state agency,  
9 including a nonprofit corporation that designates shelters for runaways under  
10 AS 47.10.392 - 47.10.399 and employees of or volunteers with that corporation, is  
11 [NOT] liable, to the same extent a parent is liable under (a) of this section, for the  
12 acts of a minor sheltered in a shelter for runaways, as defined in AS 47.10.399."  
13

14 Renumber the following bill sections accordingly.

15

16 Page 8, line 3, following "index.":

17 Insert "A state agency or an agent of a state agency, including a person working in or  
18 responsible for the operation of a foster, receiving, or detention home, or children's institution,  
19 is responsible for restitution, to the same extent a parent is responsible under this subsection,  
20 for the acts of minors in the charge or custody of the agency or agent. A state agency or an  
21 agent of a state agency, including a nonprofit corporation that designates shelters for  
22 runaways under AS 47.10.392 - 47.10.399 and employees of or volunteers with that  
23 corporation, is responsible for restitution, to the same extent a parent is responsible under this

- 1 subsection, for the acts of a minor sheltered in a shelter for runaways, as defined in  
2 AS 47.10.399."  
3
- 4 Page 8, line 23:  
5 Delete "from"  
6
- 7 Page 8, line 24, following "(1)":  
8 Insert "from"  
9
- 10 Page 8, line 25, following "(2)":  
11 Insert "except as provided in (d) of this section, from"  
12
- 13 Page 8, line 28, following "(3)":  
14 Insert "from"  
15
- 16 Page 11, line 26:  
17 Delete "by"  
18
- 19 Page 11, line 27, following "(i)":  
20 Insert "by"  
21
- 22 Page 12, line 5, following "(ii)":  
23 Insert "by"  
24
- 25 Page 12, line 6, following "(iii)":  
26 Insert "except as provided in (m) of this section, by"  
27
- 28 Page 12, line 9, following "(iv)":  
29 Insert "by"  
30
- 31 Page 14, line 22, following "index.":

1

2           Insert "A state agency or an agent of a state agency, including a person working in or  
3 responsible for the operation of a foster, receiving, or detention home, or children's institution,  
4 is responsible for restitution, to the same extent a parent is responsible under this subsection,  
5 for the acts of minors in the charge or custody of the agency or agent. A state agency or an  
6 agent of a state agency, including a nonprofit corporation that designates shelters for  
7 runaways under AS 47.10.392 - 47.10.399 and employees of or volunteers with that  
8 corporation, is responsible for restitution, to the same extent a parent is responsible under this  
9 subsection, for the acts of a minor sheltered in a shelter for runaways, as defined in  
10 AS 47.10.399."

11

12 Page 18, line 14:

13           Delete "sec. 7"

14           Insert "sec. 8"

AMENDMENT #2

OFFERED IN THE SENATE

BY SENATOR GUESS

TO: CSSB 10( ), Draft Version "W"

1 Page 3, line 23, following "public.":

2       Insert "The court may also impose limitations on the driver's license of a person  
3 who is under 18 years of age that will enable the person to satisfy conditions of  
4 probation without excessive risk or danger to the public."

AMENDMENT #3

OFFERED IN THE SENATE

BY SENATOR GUESS

TO: CSSB 10( ), Draft Version "W"

1 Page 4, line 9:

2 Delete "damages"

3 Insert "that portion of damages for which the parents are liable"

4

5 Page 4, line 12:

6 Delete "minor is not liable, but the"

7 Insert "~~the~~"

8

9 Page 7, line 19:

10 Delete "the minor is not responsible, but"

11

12 Page 7, line 20:

13 Delete ", "

14

15 Page 7, line 23:

16 Delete "the amount"

17 Insert "that portion of the amount for which the parents are liable"

18

19 Page 14, line 6:

20 Delete "the minor is not responsible, but"

21

22 Page 14, line 7:

23 Delete ", "

1

2 Page 14, line 10:

3 Delete "the amount"

4 Insert "that portion of the amount for which the parents are liable"

AMENDMENT #4

OFFERED IN THE SENATE

BY SENATOR GUESS

TO: CSSB 10( ), Draft Version "W"

1 Page 1, line 5, through page 2, line 2:

2 Delete all material.

3

4 Page 2, line 3:

5 Delete "Sec. 2"

6 Insert "Section 1"

7

8 Renumber the following bill sections accordingly.

9

10 Page 2, lines 11 - 12:

11 Delete all material and insert:

12 "(2) revoke the person's driver's license for a period of not less than  
13 six months but not to exceed one year."

14

15 Page 3, line 2:

16 Delete "AS 04.16.050(c) and (d)"

17 Insert "AS 04.16.050(d)"

18

19 Page 18, line 14:

20 Delete "sec. 7"

21 Insert "sec. 6"

AMENDMENT #5

OFFERED IN THE SENATE

BY SENATOR GUESS

TO: CSSB 10( ), Draft Version "W"

1 Page 7, lines 1 - 7:

2 Delete all material.

3 Insert "allegation, including restitution to the victim unless the restitution is expressly  
4 waived by the victim. In determining the amount of restitution, the department or the entity"

5

6 Page 13, lines 20 - 26:

7 Delete all material.

8 Insert "including restitution to the victim unless the restitution is expressly waived by  
9 the victim. In determining the amount of restitution, the court may not consider the"

Word of the state? is state responsible?

\* Do a court judgement filed

\* judgement entered....

parental responsibility - parental authority

Tony Newman -

drivers license reduces the range

mandatory vs. discretionary license revocation

Procedure:

assume that down is highest priority  
" that question

An example?

Package deal!!



ALASKA STATE LEGISLATURE  
SENATOR GRETCHEN GUESS  
SENATOR FRED DYSON

## Sponsor Statement

### CS Senate Bill 10:

*"An Act relating to civil liability for damage to or destruction of property by minors; relating to court revocation of a minor's privilege to drive, relating to restitution for certain acts of minors; and amending Rule 60, Alaska Rules of Civil Procedure."*

Senate Bill (SB) 10 started out to lift the cap on civil liability for minor's vandalism, holding children and their parents accountable for the damage caused by minors.

In examining the current system, however, we found the juvenile system contains three processes for holding minors and their parents accountable for restitution: informal probation, criminal adjudication, and civil litigation. Each process approaches the crime of vandalism, non-vandalism crimes, the accountability of minors, and the accountability of parents differently.

The intent of Committee Substitute (CS) for SB 10 is to establish a consistent set of policies for all three processes to ensure full restitution, to hold minors and their parents appropriately accountable, and to improve the collection of restitution.

The key provisions of CS SB 10, applied to informal probation, criminal adjudication, and civil litigation processes, are as follows.

- All crimes against property are included except for shoplifting.
- All processes must result in full restitution being paid to the victim, unless the minor has no parents.
- Minors are accountable for the first \$5,000 of damages. Parents are accountable for the next \$15,000, and the minor pays the remaining amount. These allocations increase with the rate of inflation.
- The processes must develop payment plans based on ability to pay.
- Legal guardians, parents of runaway or missing minors, and adoptive parents of a hard-to-place child are exempt from liability.
- PFDs may be garnished and the court can order applying for a PFD.

Additionally, CS SB 10 revokes a minor's driver's license for any criminal adjudication.

Thank you for your consideration.

24-LS0115W  
Cook  
11/21/05

CS FOR SENATE BILL NO. 10( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATORS GUESS AND DYSON, Ellis, Bunde

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to civil liability for damage to or destruction of property by minors;  
2 relating to court revocation of a minor's privilege to drive; relating to restitution for  
3 certain acts of minors; and amending Rule 60, Alaska Rules of Civil Procedure."

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

5 \* Section 1. AS 04.16.050(c) is amended to read:

6 (c) A person is guilty of repeat minor consuming or in possession or control if  
7 the person was placed on probation under (b) of this section or has been previously  
8 convicted, and the person violates (a) of this section. Upon conviction in the district  
9 court, the court shall

10 (1) impose a fine of \$1,000 and require at least 48 hours of community  
11 work;

12 (2) revoke the person's driver's license for three months unless  
13 AS 28.15.185(b)(2) applies;

14 (3) take possession of the person's driver's license; and

1 (4) suspend up to \$500 of the fine and place the person on probation  
2 under (e) of this section.

3 \* Sec. 2. AS 04.16.050(d) is amended to read:

4 (d) A person is guilty of habitual minor consuming or in possession or control  
5 if the person was placed on probation under (c) of this section, or has been previously  
6 convicted twice, and the person violates (a) of this section. Habitual minor consuming  
7 or in possession or control is a class B misdemeanor. Upon conviction, the court may  
8 impose an appropriate period of imprisonment and fine and place the person on  
9 probation under (e) of this section and shall

10 (1) impose at least 96 hours of community work;

11 (2) revoke the person's driver's license for six months unless

12 AS 28.15.185(b)(2) applies:

13 (3) within five working days, notify the agency responsible for the  
14 administration of motor vehicle laws of the revocation; and

15 (4) take possession of the person's driver's license.

16 \* Sec. 3. AS 28.15.185(a) is amended to read:

17 (a) A person is subject to revocation, under (b) of this section, of the person's  
18 driver's license or permit, privilege to drive, or privilege to obtain a license if the  
19 person

20 (1) is at least 13 years of age but not yet 21 years of age and is  
21 convicted of or is adjudicated a delinquent minor by a court for misconduct involving  
22 a controlled substance under AS 11.71 or violation of a municipal ordinance with  
23 substantially similar elements; or

24 (2) is at least 13 years of age but not yet 18 years of age and is  
25 convicted of or is adjudicated a delinquent minor by a court for a misdemeanor,  
26 felony, [AN OFFENSE INVOLVING THE ILLEGAL USE OR POSSESSION OF A  
27 FIREARM THAT IS PUNISHABLE UNDER AS 11] or violation of a municipal  
28 ordinance with elements that are substantially similar to those of a misdemeanor or  
29 felony [ELEMENTS].

30 \* Sec. 4. AS 28.15.185(b) is amended to read:

31 (b) The court shall impose the revocation for an offense described in (a) of this

1 section as follows:

2 (1) except as provided in AS 04.16.050(c) and (d), for a first  
3 conviction or adjudication when the conviction or adjudication is for a  
4 misdemeanor or violation of an ordinance with substantially similar elements, the  
5 revocation may be for a period not to exceed 90 days;

6 (2) for a second or subsequent conviction or adjudication when the  
7 second or subsequent conviction or adjudication is for a misdemeanor or  
8 violation of an ordinance with substantially similar elements, the revocation may  
9 be for a period not to exceed one year;

10 (3) for a first conviction or adjudication when the conviction or  
11 adjudication is for a felony or violation of an ordinance with substantially similar  
12 elements, the revocation may be for a period not to exceed 180 days;

13 (4) for a second or subsequent conviction or adjudication when the  
14 second or subsequent conviction or adjudication is for a felony or violation of an  
15 ordinance with substantially similar elements, the revocation may be for a period  
16 not to exceed two years or until the person reaches 18 years of age, whichever is  
17 longer.

18 \* Sec. 5. AS 28.15.201(a) is amended to read:

19 (a) A court of competent jurisdiction revoking a person's driver's license,  
20 privilege to drive, or privilege to obtain a license under AS 28.15.181(b) or  
21 28.15.185(a) may, if the person is at least 16 years of age and for good cause,  
22 impose limitations upon the driver's license of a person that will enable the person to  
23 earn a livelihood without excessive risk or danger to the public. A limitation may not  
24 be placed upon a driver's license until after a review has been made of the person's  
25 driving record and other relevant information, and a limitation may not be imposed  
26 when a statute specifically prohibits the limitation of a license for a violation of its  
27 provisions.

28 \* Sec. 6. AS 34.50.020(a) is amended to read:

29 (a) Except as provided under [(d) AND] (e) of this section, a person,  
30 including a governmental [MUNICIPAL CORPORATION, ASSOCIATION,  
31 VILLAGE, SCHOOL DISTRICT, OR RELIGIOUS OR CHARITABLE]

1 organization, [INCORPORATED OR UNINCORPORATED,] may recover damages  
2 in a civil action [IN AN AMOUNT NOT TO EXCEED \$15,000] and court costs from  
3 [EITHER PARENT OR BOTH PARENTS OF] an unemancipated minor [UNDER  
4 THE AGE OF 18 YEARS] who, as a result of a knowing or intentional act, damages  
5 or destroys real or personal property belonging to the person. If the minor has a  
6 parent, damages and court costs may also be recovered from either parent or  
7 both parents [, MUNICIPAL CORPORATION, ASSOCIATION, VILLAGE,  
8 SCHOOL DISTRICT, OR RELIGIOUS OR CHARITABLE ORGANIZATION].  
9 However, for purposes of this subsection, recovery in damages shall be apportioned by  
10 the court between the parents without regard to legal custody but with due  
11 consideration for the actual care and custody of the minor provided by the parents.  
12 The minor is not liable, but the parent or parents are liable for that portion of  
13 damages that exceed \$5,000, adjusted under this subsection. However, the total  
14 amount of parental liability for damages under this subsection may not exceed  
15 \$15,000, adjusted under this subsection. The minor is liable for that portion of  
16 the total damages for which the parent or parents are not liable. If the  
17 unemancipated minor does not have a parent, the minor is not liable for that  
18 portion of damages that exceeds \$5,000, adjusted under this subsection. However,  
19 the total amount of damages for which the minor is not liable may not exceed  
20 \$15,000, adjusted under this subsection. Monetary amounts in this subsection  
21 shall be adjusted according to and to the extent of changes in the Consumer Price  
22 Index for all urban consumers for the Anchorage metropolitan area compiled by  
23 the Bureau of Labor Statistics, United States Department of Labor (the index).  
24 The index for January of 2006 is the reference base index.

25 \* Sec. 7. AS 34.50.020 is amended by adding new subsections to read:

26 (g) The court may order an individual who is liable for damages under (a) of  
27 this section to apply for one or more permanent fund dividends. The court shall set a  
28 payment schedule for each individual liable for damages that is fair and takes into  
29 account each individual's ability to make payments. The schedule must separately  
30 address payments the minor may have to make after reaching 18 years of age.

31 (h) A court may modify the payment schedule set under (g) of this section if

1 the court determine that a change in the circumstances of a party to the original action  
2 requires the modification. If a party to the original action opposes the modification of  
3 the payment schedule and the modification is granted, the court shall enter on the  
4 record its reasons for the modification.

5 \* Sec. 8. AS 43.23.065(b) is amended to read:

6 (b) An exemption is not available under this section for permanent fund  
7 dividends taken to satisfy

8 (1) child support obligations required by court order or decision of the  
9 child support services agency under AS 25.27.140 - 25.27.220;

10 (2) court ordered restitution under AS 12.55.045 - 12.55.051,  
11 12.55.100, or AS 47.12.120(b)(4) or (5);

12 (3) claims on defaulted education loans under AS 43.23.067;

13 (4) court ordered fines;

14 (5) writs of execution under AS 09.35 of a judgment that is entered

15 (A) against a minor in a civil action to recover damages and  
16 court costs;

17 (B) under AS 34.50.020 against an individual for damages  
18 resulting from a knowing or intentional act [THE PARENT, PARENTS,  
19 OR LEGAL GUARDIAN] of an unemancipated minor;

20 (6) a debt owed by an eligible individual to an agency of the state,  
21 including the University of Alaska, unless the debt is contested and an appeal is  
22 pending, or the time limit for filing an appeal has not expired;

23 (7) a debt owed to a person for a program for the rehabilitation of  
24 perpetrators of domestic violence required under AS 12.55.101, AS 18.66.100(c)(15),  
25 AS 25.20.061(3), or AS 33.16.150(f)(2).

26 \* Sec. 9. AS 47.12.060(b) is amended to read:

27 (b) When the department or the entity selected by it decides to make an  
28 informal adjustment of a matter under (a)(2) of this section, that informal adjustment

29 (1) must be made with the agreement or consent of the minor and the  
30 minor's parents or guardian to the terms and conditions of the adjustment;

31 (2) must give the minor's foster parent an opportunity to be heard

1 before the informal adjustment is made;

2 (3) for a crime against a person, must include notice that informal  
3 action to adjust a matter is not successfully completed unless, among other factors that  
4 the department or the entity selected by it considers, as to the victim of the act of the  
5 minor that is the basis of the delinquency allegation, the minor pays restitution in the  
6 amount set by the department or the entity selected by it or agrees as a term or  
7 condition set by the department or the entity selected by it to pay the restitution;

8 (4) for a violation of habitual minor consuming or in possession or  
9 control under AS 04.16.050(d), must include an agreement that the minor perform 96  
10 hours of community work, provide that the minor's driver's license or permit, privilege  
11 to drive, or privilege to obtain a license be revoked for six months unless  
12 AS 28.15.185(b)(2) applies, and provide that the driver's license or permit, privilege  
13 to drive, or privilege to obtain a license be revoked for an additional six months if the  
14 informal adjustment is not successful because the minor has failed to perform  
15 community work as ordered, or has failed to submit to evaluation or successfully  
16 complete the education or treatment recommended; the department or an entity  
17 selected by the department shall notify the agency responsible for issuing driver's  
18 licenses of an informal adjustment under this paragraph or of an unsuccessful  
19 adjustment described in this paragraph;

20 (5) of an offense described in AS 28.15.185(a) [AS 28.15.185(a)(1)]  
21 must include an agreement that the minor's driver's license or permit, privilege to  
22 drive, or privilege to obtain a license be revoked as provided in AS 28.15.185(b); the  
23 department or an entity selected by the department shall notify the agency responsible  
24 for issuing driver's licenses of an informal adjustment under this paragraph;

25 (6) for a matter not subject to (3) of this subsection, must provide  
26 notice that informal action to adjust the matter is not successfully completed  
27 unless, among other factors that the department or entity selected by it considers,  
28 restitution is paid as required under (c) - (g) of this section.

29 \* Sec. 10. AS 47.12.060 is amended by adding new subsections to read:

30 (c) An informal action subject to (b)(6) of this section must include restitution  
31 for damages resulting from the act of the minor that is the basis of the delinquency

1 allegation, including restitution to the victim and to any person who is or will be  
2 providing counseling, medical care, or shelter to the victim, unless the restitution is  
3 expressly waived by the person entitled to receive it. When supported with credible  
4 evidence, unless expressly waived, the restitution shall include compensation to a  
5 nonprofit organization for the value of labor or goods provided by volunteers of the  
6 organization if the labor or goods were necessary to alleviate or mitigate the effects of  
7 the minor's act. In determining the amount of restitution, the department or the entity  
8 selected by it may not consider the ability to pay of the minor or a parent of the minor.  
9 In determining the amount and method of payment of restitution, the department or the  
10 entity selected by it shall take into account the

11 (1) public policy that favors requiring compensation for damages and  
12 injury that results from criminal acts;

13 (2) financial burden placed on the victim and those who provide  
14 services to the victim and other persons injured by the criminal conduct of the minor;

15 (3) amount and type of restitution that has already been made for the  
16 act that is the basis of the delinquency allegation.

17 (d) In an informal action subject to (b)(6) of this section, if the minor was in  
18 the legal custody of the minor's parent or parents when the act of the minor that is the  
19 basis of the delinquency allegation was committed, the minor is not responsible, but  
20 the minor's parent or parents are responsible, for that portion of the restitution that  
21 exceeds \$5,000, as adjusted under this subsection. However, the total amount of  
22 parental responsibility for restitution under this subsection may not exceed \$15,000, as  
23 adjusted under this subsection. If the minor has two parents, the amount shall be  
24 apportioned between the parents without regard to legal custody but with due  
25 consideration for the actual care and custody of the minor provided by each parent.  
26 The minor is responsible for that portion of the total restitution for which the parent or  
27 parents are not responsible under this subsection. If the minor does not have a parent,  
28 the minor is not responsible for that portion of restitution that exceeds \$5,000, adjusted  
29 under this subsection. However, the total amount of restitution for which the minor is  
30 not responsible may not exceed \$15,000, adjusted under this subsection. Monetary  
31 amounts in this subsection shall be adjusted according to and to the extent of changes

1 in the Consumer Price Index for all urban consumers for the Anchorage metropolitan  
2 area compiled by the Bureau of Labor Statistics, United States Department of Labor  
3 (the index). The index for January of 2006 is the reference base index.

4 (e) In an informal action subject to (b)(6) of this section, the department or the  
5 entity selected by it shall set a payment schedule for each individual responsible for  
6 restitution that is fair and takes into account each individual's ability to make  
7 payments. The schedule must provide for payments adequate to fulfill the total  
8 restitution amount before the minor reaches 18 years of age. The department or the  
9 entity selected by it may modify the payment schedule if it determines that a change in  
10 the circumstances of an individual responsible for the restitution requires the  
11 modification. The department or the entity selected by it may require an individual  
12 who is responsible for restitution to agree to apply for one or more permanent fund  
13 dividends.

14 (f) In an informal action subject to (b)(6) of this section, a parent is not  
15 responsible for restitution required as a result of the acts of a runaway or missing  
16 minor that are committed after a parent of the minor has made a report to a law  
17 enforcement agency, as authorized by AS 47.10.141(a), that the minor has run away or  
18 is missing. In this subsection, "runaway or missing minor" means a minor who a  
19 parent reasonably believes is absent from the minor's residence for the purpose of  
20 evading a parent or who is otherwise missing from the minor's usual place of abode  
21 without the consent of a parent.

22 (g) In an informal action subject to (b)(6) of this section, the recovery of  
23 restitution payments is not authorized from

24 (1) a legal guardian other than a parent;

25 (2) a person, other than the minor's parent, with temporary or  
26 permanent legal custody of the minor when the minor committed the act that is the  
27 basis of the delinquency allegation; or

28 (3) an adoptive parent of the minor as a hard-to-place child if, at the  
29 time the minor committed the act that is the basis of the delinquency allegation, the  
30 adoptive parent was receiving financial assistance from the state as a result of the  
31 adoption; in this paragraph, "hard-to-place child" has the meaning given in

1 AS 25.23.240.

2 \* Sec. 11. AS 47.12.120(b) is amended to read:

3 (b) If the minor is not subject to (j) of this section and the court finds that the  
4 minor is delinquent, it shall

5 (1) order the minor committed to the department for a period of time  
6 not to exceed two years or in any event extend past the day the minor becomes 19  
7 years of age, except that the department may petition for and the court may grant in a  
8 hearing (A) two-year extensions of commitment that do not extend beyond the minor's  
9 19th birthday if the extension is in the best interests of the minor and the public; and  
10 (B) an additional one-year period of supervision past age 19 if continued supervision  
11 is in the best interests of the person and the person consents to it; the department shall  
12 place the minor in the juvenile facility that the department considers appropriate and  
13 that may include a juvenile correctional school, juvenile work camp, treatment facility,  
14 detention home, or detention facility; the minor may be released from placement or  
15 detention and placed on probation on order of the court and may also be released by  
16 the department, in its discretion, under AS 47.12 260;

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

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

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

29 (3) order the minor committed to the custody of the department and  
30 placed on probation, to be supervised by the department and released to the minor's  
31 parents, guardian, other suitable person, or suitable nondetention setting such as with a

1 relative or in a foster home or residential child care facility, whichever the department  
2 considers appropriate to implement the treatment plan of the predisposition report; if  
3 the court orders the minor placed on probation, it may specify the terms and conditions  
4 of probation; the department may transfer the minor, in the minor's best interests, from  
5 one of the probationary placement settings listed in this paragraph to another, and the  
6 minor, the minor's parents or guardian, the minor's foster parent, and the minor's  
7 attorney are entitled to reasonable notice of the transfer; the probation may be for a  
8 period of time not to exceed two years and in no event to extend past the day the  
9 minor becomes 19 years of age, except that the department may petition for and the  
10 court may grant in a hearing

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

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

17 (4) for a crime against a person, order the minor and the minor's  
18 parent to make suitable restitution in lieu of or in addition to the court's order under  
19 (1), (2), or (3) of this subsection; under this paragraph.

20 (A) except as provided in (B) of this paragraph, the court may  
21 not refuse to make an order of restitution to benefit the victim of the act of the  
22 minor that is the basis of the delinquency adjudication; under this  
23 subparagraph, the court may require the minor to use the services of a  
24 community dispute resolution center that has been recognized by the  
25 commissioner under AS 47.12.450(b) to resolve any dispute between the minor  
26 and the victim of the minor's offense as to the amount of or manner of payment  
27 of the restitution;

28 (B) the court may not order payment of restitution by the parent  
29 of a minor who is a runaway or missing minor for an act of the minor that was  
30 committed by the minor after the parent has made a report to a law  
31 enforcement agency, as authorized by AS 47.10.141(a), that the minor has run

1 away or is missing; for purposes of this subparagraph, "runaway or missing  
2 minor" means a minor who a parent reasonably believes is absent from the  
3 minor's residence for the purpose of evading the parent or who is otherwise  
4 missing from the minor's usual place of abode without the consent of the  
5 parent; and

6 (C) at the request of the department, the Department of Law,  
7 the victims' advocate, or on its own motion, the court shall, at any time, order  
8 the minor and the minor's parent, if applicable, to submit financial information  
9 on a form approved by the Alaska Court System to the court, the department,  
10 and the Department of Law for the purpose of establishing the amount of  
11 restitution or enforcing an order of restitution under AS 47.12.170; the form  
12 must include a warning that submission of incomplete or inaccurate  
13 information is punishable as unsworn falsification under AS 11.56.210;

14 (5) for a matter not covered in (4) of this subsection, order the  
15 minor and the minor's parent to make suitable restitution as provided in (l) - (n)  
16 of this section in lieu of or in addition to the court's order under (1), (2), or (3) of  
17 this subsection; under this paragraph.

18 (A) except as provided in (B) of this paragraph, the court  
19 may not refuse to make an order of restitution to benefit the victim of the  
20 act of the minor that is the basis of the delinquency adjudication; under  
21 this subparagraph, the court may require the minor to use the services of  
22 a community dispute resolution center that has been recognized by the  
23 commissioner under AS 47.12.450(b) to resolve any dispute between the  
24 minor and the victim of the minor's offense as to the amount of or manner  
25 of payment of the restitution;

26 (B) the court may not order payment of restitution by

27 (i) the parent of a minor who is a runaway or  
28 missing minor for an act of the minor that was committed by the  
29 minor after the parent has made a report to a law enforcement  
30 agency, as authorized by AS 47.10.141(a), that the minor has run  
31 away or is missing; for purposes of this sub-subparagraph.

1 "runaway or missing minor" means a minor who a parent  
2 reasonably believes is absent from the minor's residence for the  
3 purpose of evading the parent or who is otherwise missing from the  
4 minor's usual place of abode without the consent of the parent;

5 (ii) a legal guardian other than a parent;

6 (iii) a person, other than the minor's parent, with  
7 temporary or permanent legal custody of the minor when the  
8 minor committed the offense; or

9 (iv) an adoptive parent of the minor as a hard-to-  
10 place child if, at the time the minor committed the offense, the  
11 adoptive parent was receiving financial assistance from the state as  
12 a result of the adoption; in this sub-subparagraph, "hard-to-place  
13 child" has the meaning given in AS 25.23.240; and

14 (C) at the request of the department, the Department of  
15 Law, the victims' advocate, or, on its own motion, the court shall, at any  
16 time, order the minor and the minor's parent, if applicable, to submit  
17 financial information on a form approved by the Alaska Court System to  
18 the court, the department, and the Department of Law for the purpose of  
19 establishing the amount of restitution or enforcing an order of restitution  
20 under AS 47.12.170; the form must include a warning that submission of  
21 incomplete or inaccurate information is punishable as unsworn  
22 falsification under AS 11.56.210;

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

28 (7) [(1)] in addition to an order under (1) - (6) [(1) - (5)] of this  
29 subsection, order the minor to perform community service; for purposes of this  
30 paragraph, "community service" includes work

31 (A) on a project identified in AS 33.30.901; or

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

4 (8) [(7)] in addition to an order under (1) - (7) [(1) - (6)] of this  
5 subsection, order the minor's parent or guardian to comply with orders made under  
6 AS 47.12.155, including participation in treatment under AS 47.12.155(b)(1).

7 \* Sec. 12. AS 47.12.120(k) is amended to read:

8 (k) A court that adjudicates a delinquent minor for repeat minor consuming or  
9 in possession or control under AS 04.16.050(c) or for habitual minor consuming or in  
10 possession or control under AS 04.16.050(d) shall revoke the minor's driver's license  
11 or permit, privilege to drive, or privilege to obtain a license as provided in  
12 AS 04.16.050(c) or (d). A court that adjudicates a delinquent minor for another [AN]  
13 offense [INVOLVING A CONTROLLED SUBSTANCE UNDER AS 11.71 OR  
14 INVOLVING A FIREARM UNDER AS 11] shall revoke the minor's driver's license  
15 or permit, privilege to drive, or privilege to obtain a license as provided in  
16 AS 28.15.185.

17 \* Sec. 13. AS 47.12.120 is amended by adding new subsections to read:

18 (l) Other than for a crime against a person, a court that adjudicates a  
19 delinquent minor must include restitution for damages resulting from the offense,  
20 including restitution to the victim and to any person who is or will be providing  
21 counseling, medical care, or shelter to the victim, unless the restitution is expressly  
22 waived by the person entitled to receive it. When supported with credible evidence,  
23 unless expressly waived, the restitution shall include compensation to a nonprofit  
24 organization for the value of labor or goods provided by volunteers of the organization  
25 if the labor or goods were necessary to alleviate or mitigate the effects of the minor's  
26 offense. In determining the amount of restitution, the court may not consider the  
27 ability to pay of the minor or a parent of the minor. In determining the amount and  
28 method of payment of restitution, the court shall take into account the

29 (1) public policy that favors requiring compensation for damages and  
30 injury that results from criminal acts;

31 (2) financial burden placed on the victim and those who provide

1 services to the victim and other persons injured by the criminal conduct of the minor;  
2 and

3 (3) amount and type of restitution that has already been made for the  
4 offense.

5 (m) If the minor was in the legal custody of the minor's parent or parents when  
6 the offense was committed by the minor, the minor is not responsible, but the minor's  
7 parent or parents are responsible, for that portion of the restitution ordered under (l) of  
8 this section that exceeds \$5,000, as adjusted under this subsection. However, the total  
9 amount of parental responsibility for restitution under this subsection may not exceed  
10 \$15,000, as adjusted under this subsection. If the minor has two parents, the amount  
11 shall be apportioned by the court between the parents without regard to legal custody  
12 but with due consideration for the actual care and custody of the minor provided by  
13 each of the parents. The minor is responsible for that portion of the total restitution for  
14 which the parent or parents are not responsible under this subsection. If the minor does  
15 not have a parent, the minor is not responsible for that portion of restitution that  
16 exceeds \$5,000, adjusted under this subsection. However, the total amount of  
17 restitution for which the minor is not responsible may not exceed \$15,000, adjusted  
18 under this subsection. Monetary amounts in this subsection shall be adjusted according  
19 to and to the extent of changes in the Consumer Price Index for all urban consumers  
20 for the Anchorage metropolitan area compiled by the Bureau of Labor Statistics,  
21 United States Department of Labor (the index). The index for January of 2006 is the  
22 reference base index.

23 (n) The court shall set a payment schedule for each individual responsible for  
24 restitution under (l) and (m) of this section that is fair and takes into account each  
25 individual's ability to make payments. The schedule must separately address payments  
26 the minor may have to make after reaching 18 years of age. The court may modify the  
27 payment schedule if it determines that a change in the circumstances of an individual  
28 responsible for the restitution requires the modification. The court may require an  
29 individual who is responsible for restitution to agree to apply for one or more  
30 permanent fund dividends.

31 \* Sec. 14. AS 47.12.140 is amended to read:

1           **Sec. 47.12.140. Court dispositional order.** In making its dispositional order  
2 under AS 47.12.120(b)(1) - (3) and (6) [(5)] and (j), the court shall

3           (1) consider both the best interests of the minor and the interests of the  
4 public, and, in doing so, the court shall take into account

5                   (A) the seriousness of the minor's delinquent act and the  
6 attitude of the minor and the minor's parents toward that act;

7                   (B) the minor's culpability as indicated by the circumstances of  
8 the particular case;

9                   (C) the age of the minor;

10                  (D) the minor's prior criminal or juvenile record and the  
11 success or failure of any previous orders, dispositions, or placements imposed  
12 on the minor;

13                  (E) the effect of the dispositional order to be imposed in  
14 deterring the minor from committing other delinquent acts;

15                  (F) the need to commit the minor to the department's custody or  
16 to detain the minor in an institution or other suitable place in order to prevent  
17 further harm to the public;

18                  (G) the interest of the public in securing the minor's  
19 rehabilitation; and

20                  (H) the ability of the state to take custody of and to care for the  
21 minor; and

22           (2) order the least restrictive alternative disposition for the minor; for  
23 purposes of this paragraph, the "least restrictive alternative disposition" means that  
24 disposition that is no more restrictive than is, in the judgment of the court, most  
25 conducive to the minor's rehabilitation taking into consideration the interests of the  
26 public.

27 \* Sec. 15. AS 47.12.300(a) is amended to read:

28           (a) The court shall make and keep records of all cases brought before it.

29           Notwithstanding other provisions of this section, the amount of unpaid restitution  
30 ordered under AS 47.12.120(b) owed by an individual 18 years of age or older,  
31 together with the identity of the individual, is a public record.

1 \* Sec. 16. AS 47.12.300(e) is amended to read:

2 (e) The court's official records prepared under this chapter and not made  
3 public under this section are confidential and may be inspected only with the court's  
4 permission and only by persons having a legitimate interest in them. A foster parent is  
5 considered to have a legitimate interest in those portions of the court's official records  
6 relating to a child who is already placed with the foster parent or who is recommended  
7 for placement with the foster parent. A person with a legitimate interest in the  
8 inspection of a confidential record maintained by the court also includes a victim who  
9 suffered physical injury or whose real or personal property was damaged as a result of  
10 an offense that was the basis of an adjudication or modification of disposition. If the  
11 victim knows the identity of the minor, identifies the minor or the offense to the court,  
12 and certifies that the information is being sought to consider or support a civil action  
13 against the minor or against the minor and the minor's parents [OR GUARDIAN]  
14 under AS 34.50.020, the court shall, subject to AS 12.61.110 and 12.61.140, allow the  
15 victim to inspect and use the following records and information in connection with the  
16 civil action:

17 (1) a petition filed under AS 47.12.040(a) seeking to have the court  
18 declare the minor a delinquent;

19 (2) a petition filed under AS 47.12.120 seeking to have the court  
20 modify or revoke the minor's probation;

21 (3) a petition filed under AS 47.12.100 requesting the court to find that  
22 a minor is not amenable to treatment under this chapter and that results in closure of a  
23 case under AS 47.12.100(a); and

24 (4) a court judgment or order entered under this chapter that disposes  
25 of a petition identified in (1) - (3) of this subsection.

26 \* Sec. 17. AS 47.12.315(e) is amended to read:

27 (e) The department or an agency may not release information about a minor  
28 under this section if the offense allegedly committed by the minor on which the  
29 information is based occurred before January 1, 1998. The authority to release  
30 information under this section is limited to five years from the date the department or  
31 other agency is first required or authorized to make the disclosure. However, the

1 limitation of this section does not apply if the department or other agency determines  
2 that, during the five-year period, the minor

3 (1) has knowingly failed to make all restitution payments required of  
4 the minor by AS 47.12.060(b) or 47.12.120(b)(4) or (5); or

5 (2) has committed a crime punishable as a felony.

6 \* Sec. 18. AS 47.12.450(b) is amended to read:

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

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

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

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

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

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

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

25 (7) for communicating to the agency making a referral under  
26 AS 47.12.040(a)(1)(A) or the court making a referral under AS 47.12.120(b)(4)(A) or  
27 (5)(A), as appropriate, the following:

28 (A) notice that the minor and victim have been unable to enter  
29 into a written agreement under (d)(2) of this section or that the minor or victim  
30 has withdrawn from mediation as authorized by (f) of this section;

31 (B) notice that the minor and victim have entered into a written

1 agreement under (d)(2) of this section; the center shall transmit a copy of the  
2 agreement to the agency or the court, as appropriate;

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

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

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

11 \* Sec. 19. AS 34.50.020(d) is repealed.

12 \* Sec. 20. The uncodified law of the State of Alaska is amended by adding a new section to  
13 read:

14 INDIRECT COURT RULE AMENDMENT. AS 35.50.020(h), as added by sec. 7 of  
15 this Act, amends Rule 60, Alaska Rules of Civil Procedure, relating to modifications of  
16 payment schedules set in actions involving liability for the knowing or intentional acts of  
17 unemancipated minors.

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

20 SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the application  
21 of it to any person or circumstance, is held invalid, the remainder of this Act and the  
22 application to other persons or circumstances are not affected.

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: CSSB10-LAW-C&S-1-18  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time 2/7/06 11:50 am Dept. Affected: LAW  
 Title "An Act relating to civil liability for damage to or RDU CIVIL  
destruction of property by minors; relating to court revocation.." Component Collections and Support  
 Sponsor Senators Guess and Dyson  
 Requester Senate Judiciary Component No. \_\_\_\_\_

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	96.7	96.7	96.7	96.7	96.7	96.7
Travel	0.2	0.2	0.2	0.2	0.2	0.2
Contractual	10.9	10.9	10.9	10.9	10.9	10.9
Supplies	1.4	1.4	1.4	1.4	1.4	1.4
Equipment	7.3	0.8	0.8	0.8	0.8	0.8
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>116.5</b>	<b>110.0</b>	<b>110.0</b>	<b>110.0</b>	<b>110.0</b>	<b>110.0</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	116.5	110.0	110.0	110.0	110.0	110.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>116.5</b>	<b>110.0</b>	<b>110.0</b>	<b>110.0</b>	<b>110.0</b>	<b>110.0</b>

Estimate of any current year (FY2006) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

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

This bill makes a number of changes to the process of collecting restitution owed by juveniles in criminal cases. The Collections unit collects restitution owed to victims. Currently, a juvenile offender and his/her parents all have joint and several liability when it comes to collecting debt owed to victims. This bill would change that by making the juvenile solely responsible for the first \$5,000 of restitution owed, making the parents responsible for the next \$15,000 owed, then making the juvenile responsible for any additional amount in property destruction cases. Furthermore, it allows the court to set a payment plan. These changes will be extremely burdensome to implement and will serve to reduce the amount of restitution or debt that can be collected. It will be burdensome because it limits the flexibility the Department of Law has to work with the debtor in undertaking bank sweeps and wage garnishments. The annual Permanent Fund Dividend garnishment would be much more time intensive

Prepared by: Kathryn Daughhete, Director Phone 465-3673  
 Division: Administrative Services Division Date/Time 2/7/06 11:50 AM  
 Approved by: Kathryn Daughhete for David Marquez, Attorney General Date 2/7/2006  
 Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA  
2006 LEGISLATIVE SESSION

BILL NO. CSSB10

**ANALYSIS CONTINUATION**

because it will require a review of each separate payment plan to determine who the court allows garnishment from and who should not be garnished. Unless the court included a party in the payment plan, Law would have to eliminate that debtor from the garnishment. Any obligor that defaults on payment will require Law to file a notice of default and request for writ of execution before Law can do a bank sweep or wage garnishment. The current database Law uses to track obligations is not now set up to track whether a PFD garnishment is allowed or not. That is a further modification that would be necessary to implement this legislation. This assignment of particular financial responsibility in this bill has the potential to drag the collection of restitution out over a very long time and as a result, become more difficult as the individuals involved move away and default on the debt. The collections unit currently has 356 open juvenile restitution files. 124 or roughly one-third of them are over \$5,000

In accordance with the FY 2007 timekeeping and billing calculation, the Department of Law estimates that an additional paraprofessional position will be needed to implement the additional complexities this legislation would add to the current restitution and collection process. One time costs for furnishings and equipments in the amount of \$6,500 are requested for the initial year of funding.

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
Bill Version: CSSB10-LAW-T&WC-2-3  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: LA.V  
Title "An Act relating to civil liability for damage to RDU CIVIL  
or destruction of property by minors..." Component Torts and Workers' Compensation  
Sponsor Senators Guess and Dyson  
Requester Senate Judiciary Component No. \_\_\_\_\_

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	200.0	200.0	200.0	200.0	200.0	200.0
Travel	0.7	0.7	0.7	0.7	0.7	0.7
Contractual	19.5	19.5	19.5	19.5	19.5	19.5
Supplies	3.5	3.5	3.5	3.5	3.5	3.5
Equipment	14.2	1.2	1.2	1.2	1.2	1.2
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>237.9</b>	<b>224.9</b>	<b>224.9</b>	<b>224.9</b>	<b>224.9</b>	<b>224.9</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other Interagency Receipts	237.9	224.9	224.9	224.9	224.9	224.9
<b>TOTAL</b>	<b>237.9</b>	<b>224.9</b>	<b>224.9</b>	<b>224.9</b>	<b>224.9</b>	<b>224.9</b>

Estimate of any current year (FY2006) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time	2	2	2	2	2	2
Part-time						
Temporary						

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

This bill makes a number of complex changes to existing law regarding juvenile rights and responsibilities. This fiscal note addresses the changes made to AS 34.50 and AS 47.12 that would cause the state to be liable, in the same way that parents would be, for restitution related to property destruction committed by a juvenile while the juvenile was in state custody.

The Department of Law state foresees that it will be required to defend against many of these claims." Additionally, if an injured party recovers compensation through insurance, this bill provides a potential avenue for the insurers to litigate against the state to try to recoup what they paid out to their insureds or third parties. This fiscal note anticipates an additional caseload equivalent to as much as one attorney and a half-time para-professional to handle matters that would arise if this legislation were to pass. The source of funds for this fiscal note is interagency receipts that would be paid to the

Prepared by: Kathryn Daughhete, Director Phone 465-3673  
Division: Administrative Services Division Date/Time 2/7/06 3:29 PM  
Approved by: Kathryn Daughhete for David Márquez, Attorney General Date 2/7/2006  
Agency: Department of Law

**FISCAL NOTE**

**STATE OF ALASKA  
2006 LEGISLATIVE SESSION**

**BILL NO. CSSB10**

**ANALYSIS CONTINUATION**

Department of Law from the Department of Administration, Division of Risk Management's Catastrophic Reserve Fund.

A further fiscal impact, which is not reflected in any fiscal note, will be the increase in amounts the state will be seeking to pay for damages or settlements in the annual supplemental appropriation bill. These additional requests will come about because of the additional liability to the state for acts committed by juveniles in state custody (children in foster care, institutionalized juveniles, and certain other instances where children are at large, but are technically in state custody). Also not included in a fiscal note will be the further depletion of the Catastrophic Reserve Fund to pay for additional legal support reflected in this fiscal note. The impact of that will also be felt in increases to the annual supplemental appropriation bill to pay for damages or settlements, a portion (typically 20%) of which are currently paid from the Catastrophic Reserve.

Calculation of this fiscal note is in accordance with the Department of Law's approved timekeeping and billing rate for FY 2007. The rate recovers personal services costs for a new attorney and overhead costs such as leased space, computer network and telephones, offices supplies, equipment depreciation and support staff. One-time costs of \$6,500 are included in the first year and eliminated thereafter. The Department of Law prefers not to add part-time positions, so two full-time positions are requested.

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: \_\_\_\_\_  
 ( ) Publish Date: \_\_\_\_\_  
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction): \_\_\_\_\_

Title PROPERTY DAMAGE BY MINORS, MINORS  
DRIVING AND RESTITUTION

RDU Juvenile Justice  
 Component Probation Services

Sponsor GUESS

Requester SENATE (JUD)

Component No. 2134

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES (0)</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2006) cost: \_\_\_\_\_

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

The intent of this bill is to allow civil courts, juvenile courts and the department (through informal adjustment) to hold minors and parents financially responsible for the full amount of the damage when juveniles commit property offenses, especially vandalism. In addition, it adds the requirement to revoke a juvenile's driver's license when s/he has been adjudicated (or informally adjusted) of any misdemeanor, felony or similar municipal violation. Further, the bill sets a length of time for license revocation, including an expanded length of time for revocation when there is repeat or habitual minor consuming, in possession or control, whether the offense is handled formally or informally adjusted.

We do not anticipate that this bill will have a budgetary impact for the Division of Juvenile Justice.

Prepared by: Patty Ware, Director  
 Division: Juvenile Justice  
 Approved by: Karleen Jackson, Commissioner  
 Agency: Department of Health and Social Services

Phone 465-2112  
 Date/Time 01/18/2006  
 Date 01/19/2006



**STATE OF ALASKA  
OFFICE OF THE GOVERNOR**

**BILL ANALYSIS**

<b>DEPARTMENT</b> Health & Social Services	<b>DIVISION</b> Finance and Management Services	<b>BILL NUMBER</b> CS SB 10 (HES)	<b>SPONSOR</b> GUESS
<b>SHORT TITLE OF BILL</b> PROPERTY DAMAGE BY MINORS, MINORS DRIVING AND RESTITUTION			
<b>DEPARTMENT POSITION</b> Support with proposed amendments			
<b>PREPARED BY</b> Karen Forrest	<b>DATE</b> 01/13/2006	<b>COMMISSIONER'S SIGNATURE</b> Karleen Jackson	<b>DATE</b> 01/19/2006

**SUMMARY**

<b>OTHER AGENCIES AFFECTED BY BILL</b> Department of Law Alaska Court System Department of Administration Division of Motor Vehicles	<b>CONSTITUENT GROUP(S) AFFECTED BY BILL</b> Victims, Juveniles, Parents, Guardians, Schools
<b>ORGANIZATIONAL SUPPORT FOR BILL</b> Unknown	<b>ORGANIZATIONAL OPPOSITION TO BILL</b> Unknown

**FISCAL IMPACT**       NONE       FISCAL NOTE ATTACHED

**BACKGROUND/LEGISLATIVE INTENT**

The intent of this bill is to allow civil courts, juvenile courts and the Dept. (through informal adjustment) to hold minors and parents financially responsible for the full amount of damage when juveniles commit property offenses, especially vandalism. In addition, it adds the requirement to revoke a juvenile's driver's license when s/he has been adjudicated (or informally adjusted) of any misdemeanor, felony or similar municipal violation. Further, the bill sets a length of time for license revocation, including an expanded length of time for revocation when there is repeat or habitual minor consuming, in possession or control, whether the offense is handled formally or informally adjusted.

**ANALYSIS OF BILL/PROGRAM EFFECTS**

This bill expands AS 04.16.050 (Possession, control, or consumption by persons under the age of 21) to allow for a greater length of time of driver's license revocation if a juvenile is adjudicated of repeat or habitual minor consuming, in possession or control. It also expands AS 28.15.185 (Court revocation of a minor's license to drive) to allow for license revocation of youth age 13-17 when adjudicated for any misdemeanor, felony or similar municipal violation; whereas current statute revokes for an offense involving the illegal use or possession of a firearm or misconduct involving a controlled substance (age 13-20). In addition, Title 28 is revised to set the length of time of revocation up to two years (or 18 yrs of age), dependent on whether the youth is adjudicated for a misdemeanor, felony, or similar municipal violation and whether it is a first or second offense.

**AMENDMENTS PROPOSED**

Delete proposed language to AS 28.15.185(a)(2), AS 47.12.060(b)(5) and AS 47.12.120(k) which propose driver's license revocations for formally and informally adjusted felonies and misdemeanors. (First choice).

OR Limit driver's license revocations to only felony cases that have been adjudicated.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

## BILL ANALYSIS

STATE OF ALASKA  
2006 LEGISLATIVE SESSION  
ANALYSIS CONTINUATION

BILL NO. CS SB 10 (HES)

Civil statutes, 35.50.020(b) would be amended so as to set amounts of damages and court costs minor and parents would be severally responsible for when a juvenile has damaged or destroyed real or personal property. The youth would be liable for the first \$5,000 in damages, the parents liable for the next \$15,000 and the youth liable for the total damages beyond the parent's \$15,000. This sets a civil cap on parental responsibility for damages that does not exist in the juvenile delinquency system and adds civil liability for potentially large amounts on youth into adulthood, including those who may have limited ability to pay. It does not allow a court to consider a youth's ability to pay. Placing the civil responsibility on youth and not parents may serve to limit recovery of damages by victims.

Amends AS 47.12 Delinquent Minors statutes to revise the informal juvenile process by increasing the length of license revocation for habitual minor consuming. The bill significantly changes the nature of informal adjustment by requiring mandatory license revocation for all informal adjustments on any level of offense, whether misdemeanor or felony. This requirement is not limited to property crimes. It creates a requirement that all informal adjustments for property crimes must include restitution for damages and requires notice that informal adjustment is not completed until all restitution is paid.

This bill sets specific levels of restitution that the juvenile and parent are responsible for, as proposed in the civil statute above and prohibits the Department from considering a youth's ability to pay under informal adjustment. Parents of runaways, hard-to place children and legal guardians other than parents are exempted from liability. Again, limiting parental responsibility may limit the amount of restitution actually paid to victims over time. It is unlikely to have any other impact on the informal juvenile process since most juveniles responsible for larger property damages are handled through the formal court process.

AS 47.12.120 Judgments and orders is amended to create separate restitution orders in the formal court process for crimes against a person and property offenses. It again exempts parents of runaways, hard-to-place youth and legal guardians from liability in property offenses. Courts are required to revoke the drivers license for an extended period of time for youth adjudicated of habitual minor consuming, possession or control or any other misdemeanor or felony. New subsections are proposed to require restitution for damages for property offenses (again, youth and parent liability as set out with above limits) with a prohibition to consider ability to pay.

The bill requires a restitution payment schedule be set in informal and formal processes. Setting a precise payment schedule may be cumbersome and reduce a victim's ability to collect damages if a payment is not yet due. In the past, there may have been instances of PFD's not being encumbered because a particular payment on a set payment schedule was not yet due.

The proposed license revocation in sections AS 28.15.185(a), AS 47.12.060(b) and AS 47.12.120(k) of the bill is extremely broad and not linked to either the

## BILL ANALYSIS

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seriousness of an offense or to the level of decision-making within the existing juvenile system. Thus, a youth who has committed a minor property crime, poses a low level of risk to reoffend and handled in the system through an informal adjustment process is treated in the same manner as a youth committing a serious crime who has been adjudicated delinquent via the formal court process due to the much higher level of risk. The Division has spent the past few years focusing and investing heavily in the use of research-based approaches to work with youth, including adopting a new risk-need assessment tool, to ensure that case decisions are made on the basis of data. Legislation that imposes far-reaching punitive measures without regard to whether the proposal has been linked to reduction in offenses is inconsistent with the mission of the division and the approach adopted in the past few years. Additionally, the Department has concerns that loss of license for the majority of juvenile offenders, again not related to the offense, will reduce the likelihood of youth success in the community, which is intimately linked to their ability to work. For many youth, this requires a license to get them to and from the job site. Finally, given that the focus of the bill is on maximizing restitution, it is unclear how this will occur when the primary source of income for youth is working, which again, normally requires a vehicle.



ALASKA STATE LEGISLATURE  
SENATOR GRETCHEN GUESS  
SENATOR FRED DYSON

## Sectional Explanation

### CS Senate Bill 10:

*"An Act relating to civil liability for damage to or destruction of property by minors; relating to court revocation of a minor's privilege to drive, relating to restitution for certain acts of minors; and amending Rule 60, Alaska Rules of Civil Procedure."*

#### Driver's License Provisions

**Sections 1-4:** Amends current statute on the revocation of a minor's driver's license to include all misdemeanor and felony offenses rather than just offenses involving misconduct with a controlled substance and illegal use or possession of a firearm.

Except for the existing statutes on repeat and habitual minor consumption or possession of alcohol, the court will revoke a minor's license for up to 90 days for a first misdemeanor, up to one year for subsequent misdemeanors, up to 180 days for a first felony, and up to two years or age 18 (whichever is longer) for subsequent felonies.

**Section 5:** Amends current statute allowing court issuance of a provisional driver's license to enable a person to earn a livelihood.

#### Provisions on Civil Liability for a Minor's Destruction of Property

**Section 6:** Amends current statute on civil liability for the destruction of property by unemancipated minors with the following provisions.

- For any knowing or intentional act by a minor that damages or destroys property, the child is liable for the first \$5,000 of harm, parents are liable for the next \$15,000 of harm and the child is liable for any amount remaining. These specified monetary amounts will be adjusted to account for inflation.
- The amount of parental restitution will be apportioned between the parents without regard to legal custody but with due consideration for the actual care and custody of the minor provided by each parent.
- This section does not apply to shoplifting, which is covered in AS 09.68.110.

**Section 7:** Creates the following two new subsections on payment of civil liability for the destruction of property by unemancipated minors.

- The court will set a payment schedule for each individual liable for damages according to their ability to make payments. The payment schedule will separately address payments the minor may have to make after turning 18.
- The court may order an individual who is liable for damages to apply for a Permanent Fund Dividend.
- The court may modify these payment schedules if financial circumstances change.
- *Note exemptions from liability for legal guardians other than parents, persons other than parents with legal custody, parents of a runaway or missing minor, and adoptive parents of a hard-to-place children already exist in this statute.*

#### **Permanent Fund Dividend Provisions**

**Section 8:** Amends current statute to clarify that 100 percent of a parent's or minor's PFD can be taken to satisfy their required debt under this bill. *Note current law allows taking 100 percent of PFDs to satisfy restitution, but isn't clear whether it applies to minors as well as parents.*

#### **Provisions on Informal Juvenile Justice Process for a Minor's Destruction of Property**

**Section 9:** Amends current statute on the informal juvenile justice process to distinguish between crimes against a person and all other crimes (crimes against property), and to reference the driver's license provisions in sections three and four of this bill. For crimes against property, section nine creates the requirement for notice that an informal adjustment is not successfully completed until restitution is paid.

**Section 10:** Creates new subsections on informal adjustments for a minor's crimes against property, specifying the following.

- Informal adjustment must include full restitution for damages resulting from the act of a minor, unless expressly waived by the victim.
- In determining the amount of restitution, the department may not consider the minor's or parent's ability to pay and must take into account the public policy that favors requiring compensation for damages and injury that results from criminal acts, the financial burden placed on the victim, and the amount and type of restitution that has already been made for the act.
- The child is liable for the first \$5,000 of harm, parents are liable for the next \$15,000 of harm, and the child is liable for any amount remaining. These specified monetary amounts will be adjusted to account for inflation.

- The amount of parental restitution will be apportioned between the parents without regard to legal custody but with due consideration for the actual care and custody of the minor provided by each parent.
- Parents are liable only if they have legal custody when the act was committed. This section exempts from liability legal guardians other than parents, persons other than parents with legal custody, parents of a runaway or missing minor, and adoptive parents of a hard-to-place children. *Note substantially similar exemptions currently exist in law regarding civil liability for a minor's destruction of property and in other areas of juvenile delinquency law.*
- The court will set a payment schedule for each individual liable for damages according to their ability to make payments and may modify these payment schedules if financial circumstances change. The payment schedule must provide for payments adequate to fulfill the total restitution amount by the time the minor turns 18. *Note enforcement of agreements made in the informal adjustment process relies on jurisdiction for criminal adjudication. In other words, failure to comply with the terms of an informal agreement results in criminal adjudication. Consequently, collection of restitution specified in an informal adjustment would be impossible after the offender's 18<sup>th</sup> birthday and payment schedules must provide for full payment by age 18. If this cannot be accomplished (e.g. offender is age 17.5 at the time of the vandalism), the informal adjustment process is not an option and the case will be handled through formal criminal adjudication, where the payment plan can continue long after the 18<sup>th</sup> birthday because the court retains jurisdiction to collect payments.*
- The court may order an individual who is liable for damages to apply for a Permanent Fund Dividend.

### **Provisions on Criminal Adjudication for a Minor's Destruction of Property**

**Section 11:** Amends current statute on criminal adjudication of a minor to distinguish between crimes against a person and all other crimes (crimes against property). For crimes against property, section 11 creates subsections with the following provisions.

- The court will order the minor and the minor's parent to make suitable restitution (see section 13) and may not refuse to make an order of restitution.
- Exempts from liability legal guardians other than parents, persons other than parents with legal custody, parents of a runaway or missing minor, and adoptive parents of a hard-to-place children. *Note substantially similar exemptions currently exist in law regarding civil liability for a minor's destruction of property and in other areas of juvenile delinquency law.*
- The court may order the minor and the minor's parent to submit financial information for the purpose of establishing the amount of restitution payments

and enforcing an order of restitution. *Note section 13 prohibits consideration of ability to pay in determining the total amount of restitution.*

**Section 12:** Amends current statute on criminal adjudication to include the driver's license provisions in sections three and four of this bill.

**Section 13:** Creates new subsection on criminal adjudication for a minor's crimes against property.

- Adjudication of a delinquent minor must include restitution for damages resulting from the act of a minor, unless expressly waived by the victim.
- In determining the amount of restitution, the court may not consider the minor's or parent's ability to pay and must take into account the public policy that favors requiring compensation for damages and injury that results from criminal acts, the financial burden placed on the victim, and the amount and type of restitution that has already been made for the act.
- The child is liable for the first \$5,000 of harm, parents are liable for the next \$15,000 of harm, and the child is liable for any amount remaining. These specified monetary amounts will be adjusted to account for inflation.
- Parents are liable only if they have legal custody when the act was committed. *Note the other exemptions for legal guardians other than parents, persons other than parents with legal custody, parents of a runaway or missing minor, and adoptive parents of hard-to-place children appear in section 11.*
- The amount of parental restitution will be apportioned between the parents without regard to legal custody but with due consideration for the actual care and custody of the minor provided by each parent.
- The court will set a payment schedule for each individual liable for damages according to their ability to make payments and may modify these payment schedules if financial circumstances change. The payment schedule will separately address payments the minor may have to make after turning 18.
- The court may order an individual who is liable for damages to apply for a Permanent Fund Dividend.

#### **Miscellaneous Provisions**

**Section 14:** Makes a conforming change to current statute on court dispositional orders.

**Section 15:** Amends current statute on court records to require the amount of unpaid restitution ordered during the criminal adjudication process and still owed by an individual age 18 or older to be public record.

- Section 16:** Makes a conforming change to current statute on court records.
- Section 17:** Makes a conforming change to current statute on court records.
- Section 18:** Makes a conforming change to current statute on community dispute resolution centers.
- Section 19:** Repeals existing statute on the civil liability of parents for the destruction of property by unemancipated minors. Language repealed reads as follows, "If a parent has an insurance policy that would compensate a claimant for civil damages described under (a) of this section, and the policy limits are in excess of \$15,000, civil damages may be recovered under (a) of this section in an amount not to exceed the policy limits or \$25,000, whichever amount is lower."
- Section 20:** The new subsection on civil actions created in section three of this bill amends Rule 60 of the Alaska Rules of Civil Procedure relating to modifications of payment schedules set in actions involving liability for the knowing or intentional acts of unemancipated minors.
- Section 21:** Severability. If any provision of this act is held invalid, the remainder of the act are not affected.