

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 86/2

2431.10 SCOMM 101A: CIVIL JUSTICE/TORT REFORM - HB 58, 1997 572

AMENDMENT

47 ✓

L-14

OFFERED IN THE HOUSE

BY REPRESENTATIVE KUBINA

TO: CSSH(B)(FIN) 58

Page 3, line 31:

delete ":", insert "; or"

Page 5, after line 31:

insert a new subsection to read,

"(F) the collapse, structural failure, or unsafe condition in any child care facility."

AMENDMENT

#48 ✓

L-15

OFFERED IN THE HOUSE

BY REPRESENTATIVE KEMPLER

TO: CSSH(B) 58

Page 3, line 31:

delete “.”, insert “; or”

Page 5, after line 31:

insert a new subsection to read,

“(F) the collapse, structural failure, or unsafe condition in any home for the elderly, convalescent center, or nursing home.”

AMENDMENT #49 ✓

OFFERED IN THE HOUSE

REP. CROFT

TO: CSSSHB 58(FIN) ("L" Version, Dated 3/14/97)

1 Page 1, line 3:

2 Delete "and 95"

3 Insert "95, and 100"

4 Page 12, following line 27:

5 Insert a new bill section to read:

6 "** Sec. 26. AS 09 is amended by adding a new chapter to read:

7 Chapter 42. Alternative Dispute Resolution.

8 Sec. 09.42.010. Findings; purpose. The legislature finds that providing a
9 formalized program of alternative dispute resolution procedures within the existing
10 civil litigation system can promote the timely and efficient resolution of many civil
11 disputes. The purpose of this chapter is to provide for an initial pilot program of
12 alternative dispute resolution of certain civil cases filed in the superior court on or
13 after January 1, 1998.

14 Sec. 09.42.020. Pilot program for alternative dispute resolution. (a) The
15 supreme court shall provide for a pilot program under this chapter for the submission
16 of civil cases filed in the superior court, third judicial district, to alternative dispute
17 resolution procedures. The program shall begin January 1, 1998, and operate for at
18 least five years.

19 (b) The following types of cases may not be included in the pilot program:

20 (1) divorce and dissolution;

21 (2) adoption, custody, support, visitation, and emancipation of children;

22 (3) children in need of aid cases under AS 47.10 or delinquent minors
23 cases under AS 47.12;

24 (4) domestic violence protective orders under AS 18.66.100 -

1 18.66.180;

2 (5) estate, guardianship, and trust cases filed under AS 13;

3 (6) cases when no answer to the complaint or petition is filed by any
4 party to the case with the court.

5 **Sec. 09.42.030. Structure of pilot program.** (a) The supreme court shall
6 provide criteria for the screening of covered cases under the program to determine if
7 the cases are appropriate for referral to alternative dispute resolution. The criteria
8 shall be constructed so that at least 50 percent of the estimated number of covered
9 cases filed in a calendar year are referred to alternative dispute resolution.

10 (b) The supreme court shall establish minimum qualifications for a person to
11 be listed to conduct alternative dispute resolution procedures under this chapter. The
12 supreme court shall establish a list of persons determined to meet those qualifications
13 and the current schedule of fees charged by the person listed.

14 (c) For a case referred under the program, the parties may mutually agree to
15 select a person to conduct the alternative dispute resolution procedure regardless of
16 whether the person appears on the list established under (b) of this section or whether
17 the person meets the minimum qualifications to be selected for the list. If an
18 agreement cannot be reached, the trial court judge assigned the case shall appoint a
19 person from the list. A person selected or appointed under this subsection has judicial
20 immunity for conducting the alternative dispute procedure to the same extent as a
21 judge. The person shall abide by applicable rules of confidentiality related to
22 alternative dispute resolution procedures established by the supreme court.

23 (d) Fees and costs to conduct an alternative dispute resolution procedure under
24 this chapter shall be shared equally among the parties to the case being referred unless
25 the court finds a party indigent and orders payment at public expense. The supreme
26 court shall establish guidelines for the determination of indigency under the program.
27 Fees and costs borne at public expense under this subsection constitute a lien on any
28 recovery in the case by that party and shall be paid first from the recovery.

29 (e) The superior court shall establish standards for the timely referral to and
30 the conclusion of the alternative dispute resolution procedure required under this
31 program. The standards must include that the alternative dispute resolution procedure

32 (1) shall terminate no more than 100 days after the defendant's answer

1 is served unless the trial court grants a time extension in an exceptional case and for
2 good cause shown; and

3 (2) be limited to no more than 12 hours for the procedure unless the
4 parties mutually agree to a longer period.

5 **Sec. 09.42.040. Evaluation of pilot program.** (a) The Alaska Judicial
6 Council shall evaluate annually the efficacy of the pilot program. Among other
7 factors, the evaluation shall address the speed with which cases are resolved, the
8 satisfaction of the parties to the cases, the expenditures made by the parties to the
9 cases, and the expenditure of court resources.

10 (b) The council shall work with the court system to create a system for
11 efficient collection of information needed to evaluate the program. The council shall
12 report the results of its evaluation to the governor and legislature each year by
13 March 31.

14 **Sec. 09.42.050. Definitions.** In this chapter,

15 (1) "alternative dispute resolution procedure" includes mediation and
16 early neutral evaluation;

17 (2) "covered cases" means civil cases described in AS 09.42.020(a)
18 and not excluded from participation in the program by AS 09.42.020(b);

19 (3) "program" means the alternative dispute resolution pilot program
20 established in AS 09.42.020."

21 Renumber the following bill sections accordingly.

22 Page 25, lines 2 - 17:

23 Delete all material.

24 Insert a new bill section to read:

25 **"* Sec. 64.** AS 09.42, as enacted by sec. 26 of this Act, has the effect of amending Alaska
26 Rule of Civil Procedure 100 by making the mediation process mandatory for certain civil
27 cases in the superior court, third judicial district, and by expanding the scope of the rule to
28 include other forms of alternative dispute resolution in addition to mediation."

AMENDMENT #50 ✓

L-16

OFFERED IN THE HOUSE

BY REPRESENTATIVE BERKOWITZ

TO: CSSSHB(FIN) 58

Page 5, lines 20-25:

delete all material

renumber the following bill sections accordingly

AMENDMENT

#51

582

BY REPRESENTATIVE CROFT

OFFERED IN HOUSE

TO: CSSSHB 58 (FIN)

Page 5, lines 28 - 29 following "not exceed":

Delete "three"

Insert "four"

Page 5, line 29 following "awarded or":

Delete "300,000"

Insert "500,000"

Page 6, line 1 following "not exceed":

Delete "four"

Insert "six"

Page 6, line 2 following "or":

Delete "600,000"

Insert "1,000,000"

AMENDMENT, #52 ✓

58-7

BY REPRESENTATIVE BERKOWITZ

OFFERED IN HOUSE

TO: CSSSHB 58 (FIN)

Page 6, line 4, following "gain;":

Delete "and"

Insert "or"

AMENDMENT: #53 ✓

BY REPRESENTATIVE CROFT

OFFERED IN HOUSE JUDICIARY

TO: CSSSHB 58 (FIN)

Page 5, line 19 following "section":

Insert ", unless as a result of one or more of the multiple injuries the claimant, over time, is injured to the extent described in (c)(1) or (2)"

AMENDMENT

#54 ✓

D-6

OFFERED IN THE HOUSE

BY REPRESENTATIVE DAVIES

TO: CSSSHB 58 (FIN)

Page 25:

Delete lines 20 - 22

AMENDMENT

#55 ✓

L-20

OFFERED IN THE HOUSE

BY REPRESENTATIVE CROFT

TO: CSSSHB(FIN) 58

Page 16, line 12 following "hospital" through page 17, line 12:

delete all material

insert "may not escape liability for the actions or inactions of emergency room physicians by contractual device, change in employment status, or purported notice to or waiver by emergency room patients. Nothing in this section is intended to modify the standard of care for emergency room physicians or apply to a physician that is independently hired and not associated with the hospital's provision of emergency services."

AMENDMENT

#56 ✓

L-21

OFFERED IN THE HOUSE

BY REPRESENTATIVE CROFT

TO: CSSH(B) 58

Page 17, line 2:

following "least", delete "\$500,000"

insert "\$1,000,000"

L-29

AMENDMENT #57 ✓

OFFERED IN THE HOUSE

BY REPRESENTATIVE BERKOWITZ

TO: CSSH(B)(FIN) 58

Page 4, line 3:

following "shorter", insert "or longer"

AMENDMENT #58 ✓

OFFERED IN THE HOUSE

BY REPRESENTATIVE CROFT

TO: CSSSHB(FIN) 58

Page 11, line 13:

following "is" delete "at least five, less", insert "not more"

Page 11, lines 14-17:

following "offer,"

delete "the offeree, whether the party making the claim or defending against the claim, shall pay all costs as allowed under the Alaska Rules of Civil Procedure and shall pay reasonable actual attorney fees incurred by the offeror from the date the offer was made,"

insert "the interest awarded under AS 09.30.070 and accrued up to the date judgment is entered shall be adjusted"

Page 11, line 20 through page 12, line 15:

delete all material

Page 11, line 20:

insert "(1) if the offeree is the party making the claim, the interest rate shall be adjusted as follows:"

(A) if the offer was served no later than 30 days after both parties made the disclosures required by Alaska Rule of Civil Procedure 26(a)(1), the interest rate shall be reduced by five percent;

(B) if the offer was served more than 30 days after both parties made the disclosures required by Alaska Rule of Civil Procedure 26(a)(1), but more than 90 days before the trial began, the interest rate shall be reduced by three percent;

(C) if the offer was served 90 days or less but more than 10 days before the trial began, the interest rate shall be reduced by two percent [REDUCED BY FIVE PERCENT A YEAR];

(2) if the offeree is the party defending against the claim, the interest rate shall be adjusted as follows:

(A) if the offer was served no later than 30 days after both parties made the disclosures required by Alaska Rule of Civil Procedure 26(a)(1), the interest rate shall be increased by five percent;

(B) if the offer was served more than 30 days after both parties made the disclosures required by Alaska Rule of Civil Procedure 26(a)(1), but more than 90 days before the trial began, the interest rate shall be increased by three percent;

(C) if the offer was served 90 days or less but more than 10 days before the trial began, the interest rate shall be increased by two percent [REDUCED BY FIVE PERCENT A YEAR]."

Renumber the following bill sections accordingly

AMENDMENT #59 ✓

L-32

OFFERED IN THE HOUSE

BY REPRESENTATIVE BERKOWITZ

TO: CSSSHB(FIN) 58

Page 5, line 8:

following "for"

delete "all", insert "any"

AMENDMENT #60 ✓

D-7

By Representative Davies

OFFERED IN THE HOUSE

TO: CSSSHB 58 (FIN)

Page 25, following line 22:

Add a new section to read:

"Sec. 66. Section 5 of this act becomes effective 90 days after the Alaska Judicial Council has submitted a written report to the Alaska State Legislature on the tenth day of the regular legislative session following enactment of this legislation. The report shall evaluate the necessity of the provisions of this section.

AMENDMENT

#61 ✓

L-25

OFFERED IN THE HOUSE

BY REPRESENTATIVE KUBINA

TO: CSSH(B) 58

Page 2, lines 5-7:

delete all material

AMENDMENT

#62 ✓

L-34

OFFERED IN THE HOUSE

BY REPRESENTATIVE **BERKOWITZ**

TO: CSSSHB(FIN) 58

Page 5, line 24:

following "rights",

insert "or reckless indifference to the interests of others"

AMENDMENT #63 ✓

By Representative Davies

OFFERED IN THE HOUSE

TO: CSSSHB 58 (FIN)

Page 25, following line 22:

Add a new section to read:

"Sec. 66. Section 9 of this act becomes effective 90 days after the Alaska Judicial Council has submitted a written report to the Alaska State Legislature on the tenth day of the regular legislative session following enactment of this legislation. The report shall evaluate the necessity of the provisions of this section.

AMENDMENT #64 ✓

OFFERED IN THE HOUSE

BY REPRESENTATIVE BERKOWITZ

TO: CSSH(B) 58

Page 5, line 27 through page 6, line 13:

delete all material and insert,

- "(b) At a separate proceeding to determine the amount of punitive damages to be awarded, the fact finder may consider**
- (1) the likelihood at the time of the misconduct that serious harm would arise from the defendant's misconduct;**
 - (2) the degree of the defendant's awareness of that likelihood;**
 - (3) the amount of financial gain the defendant gained or expected to gain as a result of the defendant's misconduct;**
 - (4) the duration of the misconduct and any intentional concealment of it;**
 - (5) the attitude and conduct of the defendant upon discovery of the misconduct;**
 - (6) the financial condition of the defendant; and**
 - (7) the total deterrence of other damages and punishment imposed upon the defendant as a result of the misconduct, including compensatory and punitive damage awards to persons in situations similar to those of the plaintiff and the severity of the criminal penalties to which the defendant has been or may be subjected.**
- (c) At the conclusion of the separate proceeding under (b) of this section, the fact finder shall determine the amount of punitive damages to be awarded and the court shall enter judgment for that amount.**
- (d) Unless that evidence is relevant to another issue in the case, discovery of evidence that is relevant to the amount of punitive damages to be determined under (b)(3) or (b)(6) of this section may not be conducted until after the fact finder has determined that an award of punitive damages is allowed under (a) of this section. The court may issue such orders as necessary, including directing the parties to have the information relevant to the amount of punitive damages to be determined under (b)(3) or (b)(6) of this section available for production immediately at the close of the initial trial, so as to minimize the delay between the initial trial and the separate proceeding to determine the amount of punitive damages.**
- (e) Except as provided in (f) or (g) of this section or otherwise provided by law, an award of punitive damages may not exceed the greater of**
- (1) three times the amount of compensatory damages awarded to the plaintiff in the action; or**
 - (2) the sum of \$500,000.**
- (f) Except as provided in (g) of this section or otherwise provided by law, if the fact finder finds that the conduct proven under (a) of**

this section was motivated by financial gain, it may award an amount of punitive damages not to exceed the greatest of

(1) the amount calculated under the limitation in (e) of this section

(2) the average net annual income earned by the defendant for the five years before the date the trial began; or

(3) two times the amount of financial gain that the defendant received or expected to receive as a result of the defendant's misconduct.

(g) Notwithstanding (f) of this section and except as otherwise provided by law, if the fact finder finds that the conduct proven under (a) of this section was employment-related, an award of punitive damages may not exceed

(1) the amount calculated under the limitations of (e) of this section, if the conduct of the employer affected only one employee; or

(2) the greater of the amounts calculated under the limitations of (e) or (f) of this section, if the employer engaged in a pattern or practice affecting more than one employee.

(h) Punitive damages may not be awarded against a person or an entity that is immune by law from an award of punitive damages.

(i) In this section, "employment-related" includes the conduct of hiring, firing, transferring, promoting, demoting, or terminating an employee by an employer."

AMENDMENT

#65 ✓

By Representative Davies

D-9

OFFERED IN THE HOUSE

TO: CSSSHB 58 (FIN)

Page 25, following line 22:

Add a new section to read:

"Sec. 66. Section 10 of this act becomes effective 90 days after the Alaska Judicial Council has submitted a written report to the Alaska State Legislature on the tenth day of the regular legislative session following enactment of this legislation. The report shall evaluate the necessity of the provisions of this section.

AMENDMENT

#66 ✓

L-26

OFFERED IN THE HOUSE

BY REPRESENTATIVE CROFT

TO: CSSSHB(FIN) 58

Page 2, lines 8-10:

delete all material

AMENDMENT # 67 ✓

D-10

By Representative Davies

OFFERED IN THE HOUSE

TO: CSSSHB 58 (FIN)

Page 25, following line 22:

Add a new section to read:

"Sec. 66. Section 22 of this act becomes effective 90 days after the Alaska Judicial Council has submitted a written report to the Alaska State Legislature on the tenth day of the regular legislative session following enactment of this legislation. The report shall evaluate the necessity of the provisions of this section.

AMENDMENT

#68 ✓

L-27

OFFERED IN THE HOUSE

BY REPRESENTATIVE CROFT

TO: CSSH(B)(FIN) 58

Page 3, line 7:

following "AS 09.10.040"

insert ", the provisions of this section ^{may be} ~~are~~ waived by contract,"

AMENDMENT # 69 ✓

By Representative Davies

OFFERED IN THE HOUSE

TO: CSSSHB 58 (FIN)

Page 25, following line 22:

Add a new section to read:

"Sec. 66. Section 37 of this act becomes effective 90 days after the Alaska Judicial Council has submitted a written report to the Alaska State Legislature on the tenth day of the regular legislative session following enactment of this legislation. The report shall evaluate the necessity of the provisions of this section.

AMENDMENT

#70

L-24

OFFERED IN THE HOUSE

BY REPRESENTATIVE CROFT

TO: CSSSHB(FIN) 58

Page 2, lines 1-4:

delete all material

AMENDMENT #71

L-23

OFFERED IN THE HOUSE

BY REPRESENTATIVE CROFT

TO: CSSSHB(FIN) 58

Page 1, line 14:

following "positive" insert "big"

AMENDMENT

72 ✓

L-22

OFFERED IN THE HOUSE

BY REPRESENTATIVE CROFT

TO: CSSSHB(FIN) 58

Page 1, line 9:

following the second occurrence of "litigation",

delete "without", insert "by"

AMENDMENT

#73 ✓

BY REPRESENTATIVE DAVIES**OFFERED IN HOUSE****TO: CSSSHB 58 (FIN)****Page 5, line 7 following "(c)":****Insert "or (e)"****Page 5, line 10:****Delete "In"****Insert "Except as provided under (e) of this section, in"****Page 5, following line 19:****Insert a new subsection to read:**

"(e) On January 1 of each year, the amounts specified under (b) and (c) of this section shall be changed to reflect inflation, if any. The Department of Labor shall adopt a regulation on or before December 31 of each year announcing the change in dollar amounts required by this subsection. In this subsection, "inflation" means the change in the Consumer Price Index for Anchorage, All Items Index, compiled by the Bureau of Labor Statistics, United States Department of Labor."

AMENDMENT #74 ✓

OFFERED IN THE HOUSE

BY REPRESENTATIVE CROFT

TO: CSSH(B)(FIN) 58

Page 4, lines 11-18:

delete all material,

insert "(a) A person may not bring an action (1) for libel, slander, assault, battery, seduction, false imprisonment, or for any injury to the person or rights of another not arising on contract and not specifically provided otherwise; (2) for taking, detaining, or injuring personal property, including an action for its specific recovery; (3) upon a statute for a forfeiture or penalty to the state; or (4) [(3)] upon a liability created by statute, other than a penalty or forfeiture; unless the action is commenced within two years."

AMENDMENT

#75 ✓

L-3

OFFERED IN THE HOUSE

BY REPRESENTATIVE

TO: CSSH(B) 58

NICHOLIA

Page 5, line 9:

following "exceed",

delete "\$300,000", insert "\$500,000"

Page 5, line 11:

following "section",

delete "may not exceed \$500,000", insert "are not limited"

HOUSE AMENDMENT # 76 ✓

TO: CSSS/HB (Fin)

BY: Elton

Page 25 Line 19 following "Act.":

Insert

"Sec. 65. This Act sunsets if, on July 1, 2007, the director of the Division of Insurance certifies to the lieutenant governor and the revisor of statutes that the liability insurance rates filed with the Division of Insurance have not been held to a level at least 10 percent less than the average national increase since January 1, 1997. In this section, "liability insurance" means insurance described under AS 21.12.070(a)(2).

Submit original amendment to the Chief Clerk.

It will then be numbered and duplicated.

Amendment # 77



OFFERED IN THE HOUSE
TO CSSS HB 58 (FIN)

REPRESENTATIVE
HODGINS

PAGE 15

SECTION # 35.

INSERT NEW SUBSECTION (a)
TO READ:

Anytime prior to final appeal
either DEFENDANT OR PLAINTIFF may
elect not to pay attorney for
services rendered for any reason.

IF ATTORNEY objects, ATTORNEY
MUST IMMEDIATELY POST \$25,000.00
NONREFUNDABLE BOND AND DO
3,000 hours of community service

✓
AMENDMENT # 78

OFFERED IN THE HOUSE

TO: CSSSHB 58 (FIN)

DAVIES

Page 1, line 6:

Delete through page 2, line 26

✓
AMENDMENT #79

OFFERED IN THE HOUSE

TO: CSSSHB 58 (FIN)

DAVIE

Page 10, line 21:

Delete through page 11, line 1

✓
AMENDMENT #80

OFFERED IN THE HOUSE

DAVIES

TO: CSSSHB 58 (FIN)

Page 11, line 2:

Sec. 22

Delete through page 12, line 2

✓
AMENDMENT #81

OFFERED IN THE HOUSE

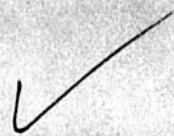
DAVIES

TO: CSSSHB 58 (FIN)

Page 12:

Delete lines 3 - 15

AMENDMENT #82



OFFERED IN THE HOUSE

TO: CSSSHB 58 (FIN)

DAVIES

Page 17, line 13:

Delete through page 18, line 12

✓
AMENDMENT #83

OFFERED IN THE HOUSE

TO: CSSSHB 58 (FIN)

DAVIES

Page 20:

Delete lines 9 - 14

L-5

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVES

TO: CSSSHB(FIN) 58

Page 5, line 17:

delete ".", insert "; or"

Page 5, after line 17:

insert a new subsection to read:

"(3) is totally blind."

Deal 3/17/97

- ① L-5 - Blink
- ② L-6

me
do.
Deleting
insert
being done

③ L-7

④ Elim tax deduction

⑤ Amend as periodic amt.
\$100K or total of - - -

⑥ Apportionment. Start of Repose
Exception.

① put wst out

① Switch: US:

① nonecon. Damage =
"per claimant"

②: If ~~the~~ a trial

Sub Allocated fault to Arch/Sy/Es
{ where

AMENDMENT**BY REPRESENTATIVE DAVIES****OFFERED IN HOUSE JUDICIARY****TO: CSSH 58 (FIN)**

Page 5, line 7 following "(c)":

Insert "or (e)"

Page 5, line 10:

Delete "In"

Insert "Except as provided under (e) of this section, in"

Page 5, following line 19:

Insert a new subsection to read:

"(e) On January 1 of each year, the amounts specified under (b) and (c) of this section shall be changed to reflect inflation, if any. The Department of Labor shall adopt a regulation on or before December 31 of each year announcing the change in dollar amounts required by this subsection. In this subsection, "inflation" means the change in the Consumer Price Index for Anchorage, All Items Index, compiled by the Bureau of Labor Statistics, United States Department of Labor."

AMENDMENT

BY REPRESENTATIVE CROFT

OFFERED IN HOUSE JUDICIARY

TO: CSSSHB 58 (FIN)

Page 6, line 4, following "gain;":

Delete "and"

Insert "or"

AMENDMENT**BY REPRESENTATIVE CROFT****OFFERED IN HOUSE JUDICIARY****TO: CSSSHB 58 (FIN)****Page 5, line 27 through page 6, line 13:****Delete all material.****Insert new subsections to read:**

"(b) Except as provided in (c) of this section, the court shall require deposit into the general fund of 50 percent of that portion of the punitive damages award that is equal to or less than the greater of three times the amount of compensatory damages or \$300,000.

(c) The court shall require deposit into the general fund of 50 percent of that portion of the punitive damages award that is equal to or less than the greater of four times the amount of compensatory damages awarded or \$600,000, if

(1) the wrongful conduct or omission arose in connection with a commercial activity motivated by financial gain; and

(2) the likelihood of death or serious bodily injury from the commercial activity was previously known by the person responsible for making policy decisions relating to the commercial activity and the knowledge was gained from previous instances of death or serious bodily injury arising from the same wrongful conduct or omission, regardless of where the previous wrongful conduct or omission occurred.

(d) If a court or jury awards punitive damages under (a) of this section, the court shall requires that 100 percent of the punitive damages award that exceeds the maximum amounts described under (b) or (c) of this section, as applicable, be deposited into the general fund or the Alaska permanent fund under AS 37.13.010. The party paying the punitive damages shall elect which fund shall receive the money required to be paid under this subsection.

(e) The provisions of this section do not grant the state the right to file or join a civil action to recover punitive damages."

Page 15, line 30, following "damages":**Delete "due the state under AS 09.17.020(d)"****Insert "required to be deposited under AS 09.17.020"****Page 24, line 4, following "fund":****Insert "or the Alaska permanent fund"**

AMENDMENT

BY REPRESENTATIVE

OFFERED IN HOUSE JUDICIARY

TO: CSSH B 58 (FIN)

Page 5, line 19 following "section":

Insert ", unless as a result of one or more of the multiple injuries the claimant, over time, is injured to the extent described in (c)(1) or (2)"

AMENDMENT

BY REPRESENTATIVE CROFT

OFFERED IN HOUSE JUDICIARY

TO: CSSSHB 58 (FIN)

Page 6, line 30 following "of" to line 31:

Delete "a party"Insert "both parties"

Page 24, line 10, following "by":

Delete "a party"

Insert "both parties"

AMENDMENT

BY REPRESENTATIVE CROFT

OFFERED IN HOUSE JUDICIARY

TO: CSSSHB 58 (FIN)

Page 7, line 1 following "exceed":

Delete "100,000"

Insert "250,000"

AMENDMENT

BY REPRESENTATIVE CROFT

OFFERED IN HOUSE JUDICIARY

TO: CSSSHB 58 (FIN)

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

A handwritten signature, possibly "CROFT", is written next to the text "Periodic prints".

Delete all material.

Renumber following bill sections accordingly.

Page 24, lines 8 - 13:

Delete all material.

Renumber following bill sections accordingly.

AMENDMENT

BY REPRESENTATIVE CROFT

OFFERED IN HOUSE JUDICIARY

TO: CSSSHB 58 (FIN)

Page 8, line 9 through page 9, line 8:

Delete entire section.

*Child
Benefits*

Renumber the following bill sections accordingly.

*out AT
PAGE to
PAGE*

AMENDMENT

BY REPRESENTATIVE

OFFERED IN HOUSE JUDICIARY

TO: CSSSHB 58 (FIN)

Page 8, line 12, following "claimant":

**Delete ", or that with reasonable probability will be received in the future by
the claimant,"**

AMENDMENT**BY REPRESENTATIVE****OFFERED IN HOUSE JUDICIARY****TO: CSSSHB 58 (FIN)**

Page 9, line 9 through page 10, line 11: *Delete all our*
Delete all material. *Alaskan language.*

Re-number following bill sections accordingly.

Page 20, lines 15 through 24:
Delete all material.

W.C. Lien Reduction -

Re-number following bill sections accordingly.

Page 24, lines 17 through 21:
Delete all material.

Re-number following bill sections accordingly.

AMENDMENT

BY REPRESENTATIVE

CROFT

15

OFFERED IN HOUSE JUDICIARY
TO: CSSSHB 58 (FIN)

Page 25, line 19 following "Act.":

Insert "*Sec. 65. This Act sunsets if, on July 1, 2000, the director of the Division of Insurance certifies to the lieutenant governor and the revisor of statutes that the liability insurance rates filed with the Division of Insurance have not been reduced by at least 10 percent from those filed on January 1, 1997. In this section, "liability insurance" means insurance described under AS 21.12.070(a)(2).

Renumber the following bill section accordingly.

NO

§ 9

AMENDMENT

L-1

Berkowitz

OFFERED IN THE HOUSE

BY REPRESENTATIVE

TO: CSSSHB(FIN) 58

Page 5, lines 1-19:

delete all material

renumber the following bill sections accordingly

DELETES NONECONOMIC
DAMAGE ~~AND~~ CAPS

§9

AMENDMENT

L-2

OFFERED IN THE HOUSE

BY REPRESENTATIVE

Beck

TO: CSSSHB(FIN) 58

Page 5, after line 19:

insert a new subsection to read,

"(e) The amounts in sections (b) and (c) of this section shall be adjusted for inflation on June 1 of each year. In this subsection, "inflation" means the change in the consumer price index for the United States city average, all urban consumers, all items indices, compiled by the Bureau of Labor Statistics, United States Department of Labor."

*Attempts to put a CPI
ESCALATOR TO OUR
SECTION 9 (NONECONOMIC
DAMAGES CAP).*

89

AMENDMENT

L-3

OFFERED IN THE HOUSE

BY REPRESENTATIVE

TO: CSSSHB(FIN) 58

BERK.

- ① Page 5, line 9: ~~INCREASES OUR \$300K CAP~~
following "exceed", ~~ON NONECONOMIC DAMAGES TO~~
~~\$500,000.~~
delete "\$300,000", insert "\$500,000"

- ② Page 5, line 11:

following "section",

delete "may not exceed \$500,000", insert "are not limited"

Attempts to REMOVE ANY
CAP ON NONECONOMIC
DAMAGES IN SEVERE CASES.

89

L-4

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE

TO: CSSSHB(FIN) 58

Page 5, line 13:

following "(1)",

delete "is a hemiplegic, paraplegic, or quadriplegic and has permanent functional loss of one or more limbs resulting from injury to the spine or spinal cord"

insert "suffers disfigurement or severe physical impairment"

EXISTING LAW puts NO CAP ON). ←

This will ~~make~~ MAKE
DISFIGUREMENT, etc SUBJECT
TO 500K CAP.

§9

L-5

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE

TO: CSSSHB(FIN) 58

Berk

Page 5, line 17:

delete ":", insert "; or"

Page 5, after line 17:

insert a new subsection to read,

"(3) is blind in one or both eyes."

Allows \$500K cap to
apply to blindness in
one or both eyes,
(close to initiative).

*Arian
Perry OK*

§ 9

L-6

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE

TO: CSSSHB(FIN) 58

BERK

Page 5, line 17:

delete ".", insert "; or"

Page 5, after line 17:

insert a new subsection to read,

"(3) has third degree burns over one half or more of the claimant's body."

Allows \$500K CAP to
Apply to severe BURN
cases, (same as
initiative).

Brian
Sey OK

89

L-7

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE

TO: CSSSHB(FIN) 58

Berk

Page 5, line 17:

delete ".", insert "; or"

Page 5, after line 17:

insert a new subsection to read, *lost functional use of*
or has lost
"(3) has lost both arms or both legs or an arm and a leg."

*Allows \$500K cap
for loss of limbs.
(But not for loss
of 1 limb)*

*Inconsistent
w/ #1*

35

L-8

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE

TO: CSSH(B)(FIN) 58

Bernie

Page 3, line 10:

following "within",

delete "eight", insert "ten"

Page 3, line 12:

following "within",

delete "eight", insert "ten"

Increases statute of Repose
to 10 years.

NO

35

L-9

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE

TO: CSSH(B)(FIN) 58

BERK

Page 3, line 25:

following "to",

insert "a"

following "hazardous",

delete "waste", insert "substance"

stat. of repose not apply
if injury resulted from
"prolonged exposure to a
hazardous substance."

Q: what "hazardous substances"
does he have in mind
that are not a "hazardous
waste"? 2

85

L-10

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE

TO: CSSH(B)(FIN) 58

BERK

Page 3, line 25:

following "(A)",

delete "prolonged"

STAT. of Repose not
apply if there is ANY
exposure to hazardous
waste, even if for a
few seconds.

NO

85

there is no ~~amendment~~

L-11

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE

TO: CSSH(B)(FIN) 58

BERK

Page 3, line 31:

delete "." insert "; or"

?

Page 5, after line 31:

insert a new subsection to read,

"(F) the collapse, structural failure, or unsafe condition in an elementary or secondary school."

cuts the statute of repose
by excepting "(F)".

85

AMENDMENT

L-12

OFFERED IN THE HOUSE

BY REPRESENTATIVE

TO: CSSSHB(FIN) 58

BEAL

Page 3, line 31:

delete ".", insert "; or"

Page 5, after line 31:

insert a new subsection to read,

"(F) the collapse, structural failure, or unsafe condition in a church, synagogue, or other house of worship."

Guts the statute of repose,
by excepting "(F)"

85

AMENDMENT

L-13

OFFERED IN THE HOUSE

BY REPRESENTATIVE

TO: CSSH(B)(FIN) 58

BERK

Page 3, line 31:

delete ".", insert "; or"

Page 5, after line 31:

insert a new subsection to read,

"(F) the collapse, structural failure, or unsafe condition in any hospital or medical facility."

Cuts the Statute of Repose,
by excepting "(F)".

§5

L-14

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE

TO: CSSSHB(FIN) 58

BERK.

Page 3, line 31:

delete ".", insert "; or"

Page 5, after line 31:

insert a new subsection to read,

"(F) the collapse, structural failure, or unsafe condition in any child care facility."

SAME objection.

85

L-15

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE

TO: CSSH(B)(FIN) 58

BECK

Page 3, line 31:

delete ".", insert "; or"

Page 5, after line 31:

insert a new subsection to read,

"(F) the collapse, structural failure, or unsafe condition in any home for the elderly, convalescent center, or nursing home."

same objection.

CORRECTION

**THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION**



Central Microfilm Services
Department of Education & Early Development
State of Alaska

85

L-15

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE

TO: CSSSHB(FIN) 58

BECK

Page 3, line 31:

delete ":", insert "; or"

Page 5, after line 31:

insert a new subsection to read,

"(F) the collapse, structural failure, or unsafe condition in any home for the elderly, convalescent center, or nursing home."

same objection.

§10

AMENDMENT

L-16

OFFERED IN THE HOUSE

BY REPRESENTATIVE

TO: CSSH(B)(FIN) 58

BERK

Page 5, lines 20-25:

delete all material

renumber the following bill sections accordingly

Deletes our Amendment
to existing punitive damage
statute.

Deletes requirement
of showing "malice or
conscious acts".

NO
✓

321

Expert Witness Qualification

L-17

AMENDMENT

OFFERED IN THE HOUSE

TO: CSSSHB(FIN) 58

BECK
BY REPRESENTATIVE

① Page 10, lines 25-26:

delete all material

①

REQUIREMENT THAT WITNESS BE
LICENSED ANYWHERE IN WORLD IS
DELETED.

② Page 10, line 27:

preceding "trained" delete "(2)"

②

DELETE ALL REQUIREMENTS
OTHER THAN THE
EXPERT WITNESS
BE TRAINED AND
EXPERIENCED IN
THE SAME AREA.

Page 10, line 28:

following "issue" delete "; and", insert ".

Page 10, line 29 through page 11, line 1:

delete all material

322. offers of Judgment L-18

AMENDMENT

OFFERED IN THE HOUSE

BEK
BY REPRESENTATIVE

TO: CSSSHB(FIN) 58

① Page 11, line 13:

following "is" delete "at least five, less", insert "not more"

② Page 11, lines 14-17:

following "offer,"

② substitutes interest for attorney fees.
delete "the offeree, whether the party making the claim or defending against the claim, shall pay all costs as allowed under the Alaska Rules of Civil Procedure and shall pay reasonable actual attorney fees incurred by the offeror from the date the offer was made,"

insert "the interest awarded under AS 09.30.070 and accrued up to the date judgment is entered shall be adjusted"

③ Page 11, line 20 through page 12, line 15:

delete all material

Page 11, line 20:

④ insert "(1) if the offeree is the party making the claim, the interest rate shall be adjusted as follows:"

③ Guts our Bill.
④ TASK FORCE APPROACH: interest Rates.
(A) if the offer was served no later than 30 days after both parties made the disclosures required by Alaska Rule of Civil Procedure 26(a)(1), the interest rate shall be reduced by five percent;

(B) if the offer was served more than 30 days after both parties made the disclosures required by Alaska Rule of Civil Procedure 26(a)(1), but more than 90 days before the trial began, the interest rate shall be reduced by three percent;

(C) if the offer was served 90 days or less but more than 10 days before the trial began, the interest rate shall be reduced by two percent [REDUCED BY FIVE PERCENT A YEAR];

(2) if the offeree is the party defending against the claim, the interest rate shall be adjusted as follows:

(A) if the offer was served no later than 30 days after both parties made the disclosures required by Alaska Rule of Civil Procedure 26(a)(1), the interest rate shall be increased by five percent;

(B) if the offer was served more than 30 days after both parties made the disclosures required by Alaska Rule of Civil Procedure 26(a)(1), but more than 90 days before the trial began, the interest rate shall be increased by three percent;

(C) if the offer was served 90 days or less but more than 10 days before the trial began, the interest rate shall be increased by two percent [REDUCED BY FIVE PERCENT A YEAR]."

Renumber the following bill sections accordingly

§37 Civil liability of Hospitals

L-19

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE

TO: CSSH(B)(FIN) 58

Page 16, line 10 through page 17, line 12:

delete all material

renumber the following bill sections accordingly

Gets over §37.

§ 37

L-20

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE

TO: CSSH(B)(FIN) 58

Page 16, line 12 following "hospital" through page 17, line 12:

delete all material

insert "may not escape liability for the actions or inactions of emergency room physicians by contractual device, change in employment status, or purported notice to or waiver by emergency room patients. Nothing in this section is intended to modify the standard of care for emergency room physicians or apply to a physician that is independently hired and not associated with the hospital's provision of emergency services."

Another way to put
our § 37c

§ 37.

L-21

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE

TO: CSSSHB(FIN) 58

Perk

Page 17, line 2:

following "least", delete "\$500,000"

insert "\$1,000,000"

RAISES EMERGENCY ROOM
DOCTORS' LIABILITY INSURANCE
FROM \$500K TO \$1M.

M

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE

TO: CSSSHB(FIN) 58

Page 1, line 9:

following the second occurrence of "litigation",

delete "without", insert "by"

Cheap shot!
makes legislative intent
to increase efficiency of
civil justice system ^{by}
diminishing the protection
of innocent Alaskans' rights
to compensation.

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE

TO: CSSSHB(FIN) 58

Page 1, line 14:

following "positive" insert "big"

Another cheap shot.

"BIG BUSINESS"

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE

TO: CSSH(B)(FIN) 58

Page 2, lines 1-4:

delete all material

shot at unlikely to control the
increase of liability insurance rates to
individuals - - - .

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE

TO: CSSSHB(FIN) 58

Page 2, lines 5-7:

delete all material

cheap shot.
Deletes our "self-reliance"
and "personal responsibility" —
personal accountability
(language)

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE

TO: CSSH(B)(FIN) 58

Page 2, lines 8-10:

delete all material

Deletes our "Alleviate the
high cost of malpractice insurance"
for professionals.

(shortened statute of limitations
will help lawyers).

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE

TO: CSSSHB(FIN) 58

Page 3, line 7:

following "AS 09.10.040"

insert ", the provisions of this section are waived by contract,"

Specifies that three year statute
of limitations for contract
actions may be waived
by contract.

I think this one might be OK.

OK