

11829

SENATE

JUDICIARY

STATE OF ALASKA
Boards and Commissions

*Legislative
Confirmation*

VIOLENT CRIMES COMPENSATION

BOARD: Violent Crimes Compensation Board

BOARD IDENTIFICATION NUMBER: 103

DEPARTMENT: Department of Administration

AUTHORITY: AS 18.67.020

STATUS: Active

SUNSET DATE:

REQUIREMENTS: Legislative Confirmation

PROHIBITIONS: None

TERM: 3 years

DESCRIPTION: 3 members appointed by Governor: at least 1 medical or osteopathic physician licensed in Alaska; 1 licensed attorney; Governor designates chair; serve at pleasure of Governor.

FUNCTION: Facilitates and permits payment of compensation to innocent victims of violent crimes.

CHAIR: Governor selects.

SPECIAL FACTS: Quasi-judicial; may be removed for cause; annual report to Governor/Legislature

COMPENSATION: Standard Travel and Per Diem. No additional compensation.

MEETINGS: 4-6 times per year.

FOR FURTHER INFORMATION CONTACT:

Ms. Susan Browne
Administrator Violent Crimes Comp Board
ADM, P.O. Box 110230 M/S 0230
Juneau, AK 99811-0230
Phone: (907) 465-3040, FAX: (907) 465-2379
E-MAIL ADDRESS: susan_browne@admin.state.ak.us
WEBSITE: www.state.ak.us/admin/Vccb

STATE OF ALASKA - OFFICE OF THE GOVERNOR

Boards and Commissions Office

Membership Roster

VIOLENT CRIMES COMPENSATION (103)

Member	Date Appointed	Reappointed	Term Expires
Seat Designation Address			
LeRoy J. Barker, Esq. Attorney P. O. Box 112367 Anchorage, AK 99511-2367 leroybarker@aol.com Home Phone - (907) 345-3329 FAX - (907) 279-1959	2/19/2003	3/23/2005	3/1/2008
Gerad G. Godfrey Chair Public P.O. Box 1254 Valdez, AK 99686 gndfreyG@alaska-pipeline.com Home Phone - (907) 835-2329 Work Phone - (907) 834-6480	2/19/2003 4/25/2003	4/6/2004 4/6/2004	3/1/2007 3/1/2007
David G. Ingraham, M.D. Physician Medical Director Providence ER 2526 Arlington Drive Anchorage, AK 99517 Ding@gci.net Home Phone - (907) 278-1515 Work Phone - (907) 261-3111 FAX - (907) 278-9485	7/16/2003		3/1/2006

APP / VCC / 103

ROBERTSON, MONAGLE & EASTAUGH

ATTORNEYS AT LAW

Jupiter • Anchorage • Washington

**PERSONAL RECORD OF
LEROY J. BARKER**

1400 W. Benson Boulevard
Suite 315
Anchorage, Alaska 99503
Phone: 907-277-6693
Fax: 907-279-1959
E-Mail: ljbarcker@romea.com

BOARDS & COMMISSIONS

FEB 07 2003

EDUCATION

- 1952-56 University of Southern California. Graduated, Bachelor of Science in Business Administration, June, 1956.
- 1958-61 University of California at Berkeley, School of Law. Graduated, Bachelor of Laws, June 1961.

BAR ASSOCIATIONS

- Ninth Judicial Circuit Court - admitted to practice, 1962
- California Bar - admitted to practice, 1962 (inactive)
- Alaska Bar - admitted to practice, 1963
- United States District Court, District of Alaska - admitted to practice, 1963
- United States Supreme Court - admitted to practice, 1987

EXPERIENCE

- 1974 to Present Presently in private practice in Anchorage as a director in Robertson, Monagle & Eastaugh, Anchorage, Alaska.

Substantial experience in construction litigation, professional liability (including architects and engineers), product liability, and general commercial litigation.
- 1970-74 Practiced law with Robison, McCaskey, Strachan & Hoge, Anchorage, Alaska; engaged in general practice of law.

ROBERTSON, MONAGLE & EASTAUGH

ATTORNEYS AT LAW

Juneau • Anchorage • Washington

- 1964-1970 Assistant District Attorney in both Alaska and California; extensive litigation experience; numerous felony cases including several high profile murder and fraud cases.
- 1961-1964 Department of Law, State of Alaska. Worked in Juneau, Ketchikan, and Anchorage as an Assistant Attorney General and Assistant District Attorney; represented the Department of Public Works and Highways; participated in various civil cases involving these two departments.
- 1956-59 U.S. Navy, LTJG, Legal Officer, San Diego Group, Pacific Reserve Fleet; graduated with distinction from Naval Justice School, Newport, Rhode Island.

PROFESSIONAL ACTIVITIES

1. Member (and former state chair) of the public contract section of the American Bar Association.
2. Experience as a discovery master for the State Superior Court and the Federal District Court.
3. Member, Board of Governors, Alaska Bar Association, 1974 -1977.
4. Alaska Bar Association Professionalism Award 1990.
5. Fellow (and past state chair) American College of Trial Lawyers, 1990 to date.
6. Lawyer representative, United States Court of Appeals for the Ninth Circuit 1986 - 1988.

**CONFIRM.
VIOLENT
CRIMES
BOARD,
REGINA
CHENAULT,
1/31/06**

ALASKA STATE SENATE



Session:
State Capitol
Juneau, Alaska 99801-1182
(907) 465-2327
(907) 465-5241 Fax

Interim:
119 N. Cushman, Suite 201
Fairbanks, Alaska 99701
(907) 456-8161
Senator_Ralph_Seekins@legis.state.ak.us

SENATE JUDICIARY COMMITTEE

Senator Ralph Seekins, Chairman

REPORT ON RECOMMENDATION OF APPOINTMENT

January 31, 2006

The Honorable Ben Stevens
President of the Senate
State Capitol
Juneau, Alaska 99801-1182

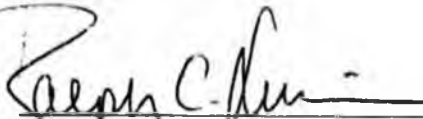
Dear President Stevens:

In accordance with AS 39.05.080, the Senate Judiciary Committee reviewed the following and recommends the appointment be forwarded to the Senate floor or to a joint session (whichever applies) for consideration:

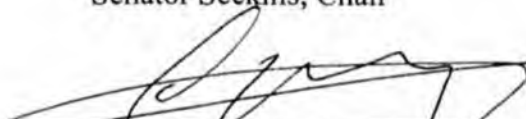
Violent Crimes Compensation Board: Regina C. Chennault

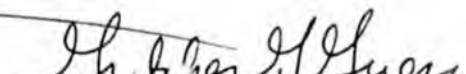
This does not reflect an intent by any of the members to vote for or against the individual during any further session(s).


Respectfully,


Senator Seekins, Chair


Senator French


Senator Huggins


Senator Guess


Senator Therriault

Sep-26-05 04:50P Dr Regina S Chennault

P.02



STATE OF ALASKA
OFFICE OF THE GOVERNOR
P.O. Box 110001, Juneau, AK 99811-0001
Phone: (907) 465-3500 Fax: (907) 465-3532

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BOARDS AND COMMISSIONS APPLICATION FORM

INSTRUCTIONS

A separate application is required for each position for which you apply. Complete and specific answers will aid in rapid and accurate processing of your resume. Please type or print legibly in ink. Forward to the above address. Be sure your answers are true. A willfully false answer may result in your disqualification or removal from office if you are appointed.

Board or Commission and seat for which I am applying: Medical/Phar/Occupational Ther.
(For example, Board of Agriculture, public seat)

Please list any other State Boards or Commissions on which you currently or previously have served:

Name: Regina Christine Sutton Chennault, M.D.
Mailing Address: P.O. Box 1129 Soldotna, Alaska 99669
Residence Address: Soldotna, Alaska 99669
City, State and Zip Code: Soldotna, Alaska 99669
Home or Message Telephone: 907-260-2045
Fax Number: 907-260-2047 Cell Phone: _____
Email address: _____

AS 39-05-100 requires that a person appointed to a state board or commission be a registered voter prior to the last general election:

Are you a registered voter: YES NO Voter Registration Number (Optional): _____

Social Security Number (Optional, required if appointing for travel reimbursement etc.): _____

Have you ever been convicted of a misdemeanor within the past five years or a felony within the past ten years?

YES NO If "YES", explain the circumstances on a separate sheet of paper and attach it to this application. A conviction is not necessarily grounds for disqualification. The number of convictions, nature, recency, and relationship to the board position applied for, will be evaluated and a determination will be made after a review of all relevant facts.

CONFLICTS OF INTEREST: Certain boards and commissions require full disclosure of personal financial data under AS 39.30.010. If required for the board or commission for which you are applying, are you willing to do so?

YES NO

Could you or any member of your family be affected financially by decisions to be made by the board or commission for which you have applied? YES NO

If YES, explain:

Sep-26-05 04:50P Dr Regina S Chennault

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TRAINING AND EXPERIENCE: (If resume attached, it is not necessary to complete items A-D)

A. List any professional licenses, certifications, or registrations and dates obtained that may be used as qualifying criteria:

M.D. Degree 1993

B. List both formal and informal education and training experiences: (Use additional paper if necessary).

General Surgery residency 5 years

C. List any community service, municipal government, and state positions held, and any awards received. Include both compensated and uncompensated positions (such as president of a service organization or a mayor). Include length of time serviced.

Vice Chairman, State of Alaska, Federal Committee on Trauma

D. Employment work history - paid, unpaid or voluntary: (Use additional paper if necessary).

Private practice surgeon Soldotna, Alaska

The Office of the Governor and the State of Alaska have an Affirmative Action Equal Employment Opportunity Program. To remain in the program, you are asked to voluntarily answer the following questions to provide the information necessary for reporting purposes. Under State and Federal law, the information you provide will not be used to illegally discriminate against you.

DATE OF BIRTH: _____ SEX: FEMALE MALE

ETHNICITY: Alaska Native ___ American Indian ___ Asian or Pacific Islander ___ Black ___ Hispanic ___ White ___

MILITARY SERVICE (if applicable, give dates): None

CERTIFICATION: I swear the information I have entered on this form is true to the best of my knowledge. I understand that if I deliberately conceal or enter false information on the form my application may be rejected, I may be removed from the list of eligible candidates, or I may be removed from the position. I agree that the Office of the Governor may contact present or former employees or other persons who know me to obtain an additional information about my skills and abilities. I understand that the information on this application is public information and may be released through a legal request for such information.

Signature (in ink):

Dr Regina S Chennault

Date:

9-26-05

Please attach a current resume with your application.

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 # _____


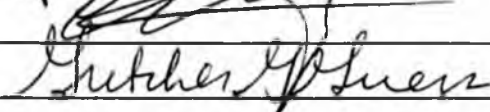
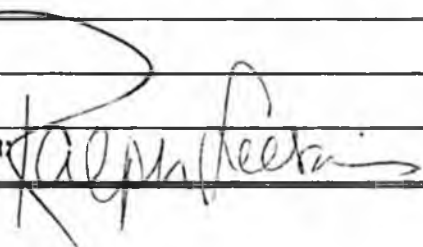
NEW FISCAL NOTE(S):

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

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

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

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

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

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